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Andrew Paine

Indiana University School of Law

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Religious Fundamentalism and Legal Systems: Methods and Rationales in the Fight to Control the Political Apparatus

ANDREW PAINE

Religious fundamentalism has become a worldwide phenomenon. While many contend that fundamentalist movements only exist in North American Protestantism and in Middle Eastern Islam, fundamentalist groups can be found in every region of the globe and among all of the world's religions. In addition to becoming a global phenomenon, fundamentalist groups exert considerable social, cultural, and political pressure within the nations they inhabit. Shiite Islamic fundamentalists in Iran and the Christian Coalition in the United States are only two examples of fundamentalist groups that have risen to prominence in their nations.

In this note, I will explore one narrow aspect of religious fundamentalist movements, namely the relationship between fundamentalists and legal systems. This note will seek to uncover why fundamentalists believe they must control the fashioning of law and legal systems within the societies they inhabit. In addition, I will explore why fundamentalists feel it is imperative that laws be crafted by them and not by other groups within their societies. In short, I will explore why fundamentalists feel they need law, and why they feel law needs fundamentalists.

To answer these questions and obtain a grasp of a wide range of fundamentalist movements, I will present three case studies: the Jewish haredim in Israel; the Muslim Brotherhood in Egypt; and the Buddhist fundamentalists in Sri Lanka. By examining these movements, it becomes apparent that the reasons fundamentalists become interested in legal systems and the methods they use to control them are dictated first by the precepts of

* J.D., 1998, Indiana University School of Law, Bloomington; B.A., 1995, University of Michigan. The author wishes to thank Professor Raymond Grew at the University of Michigan for his invaluable guidance in the author's studies of fundamentalist movements. The author would also like to thank Associate Professor Aviva Orenstein at Indiana University for her helpful comments and patient assistance.
the religion they follow, and most importantly, by where they view themselves existing within the societies they inhabit.

I. A DEFINITION OF FUNDAMENTALISM

Before embarking on an analysis of the relationship between fundamentalists and legal systems, it is necessary to define what a fundamentalist movement is and to understand the forces that create it. The term fundamentalist often carries a negative connotation. Many scholars and the public-at-large often paint fundamentalists as maniacal, wholly unreasonable religious fanatics who remind us of our unenlightened past. Fundamentalists are not unreasonable or crazy. Many scientists, professors, and other extremely educated and well-respected people are members of fundamentalist sects. In order to understand fundamentalists, it is necessary to dispel the myths and preconceived notions and to see fundamentalists for what they are—modern people trying to cope with modernization.

In their essence, fundamentalist movements are a religious response to modernity. Most scholars see the first major expression of modernity in the Enlightenment, when thinkers rejected centralized and divinely sanctioned authority and instead relied on critical reason. They looked not to religion but to science and material progress which would bring an inevitable modern secular era, an era that honored human reason over superstition. Most importantly, the secular rationalists stressed individualism over community. For the secular rationalists, human reason and experimentation were superior to all other forms of knowledge. They held that a culture of critical reason should dominate hierarchical and centralized authority. Many of the assumptions held by these secular rationalists influenced the policies of the colonizing powers of the West and persist to this day in the way Westerners and liberal governments think of themselves.

Because fundamentalists focus on tradition, many people believe that fundamentalists are not modern, but instead are dinosaurs fighting to return the


2. See id. at 14.

3. See id. at 11.

4. Id.

5. See id. at 15.

6. Id. at 11.
world to a bygone age. To be modern is different from being a modernist. To be modern is to experience personal and social life in a maelstrom, to have one’s world in constant flux, ambiguity, and contradiction. Fundamentalists, like all other moderns, recognize that they exist in this maelstrom, and that their identity is constantly shifting. For fundamentalists and all moderns, there is a gap between where they are and where they want to be. This maelstrom known as modernity can best be described in terms of increasing levels of differentiation in society. In other words, as a society develops and experiences modernization, its various institutions become more clearly articulated. Its systems become more complex and interdependent. However, problems arise when society and culture do not develop equally. If the two systems are no longer aligned, the society may experience such problems as uneven economic growth and extreme bouts of inflation and deflation. Fundamentalism is a way of combating and coping with the uneven social and cultural development modernization inevitably brings. Fundamentalists anchor themselves to a selected set of religious fundamentals or precepts in an attempt to battle the maelstrom. Fundamentalists differ from modernists in that modernists make themselves at home in the maelstrom. They try to make its currents their own as they search for truth and reason.

The religious precepts on which a fundamentalist movement chooses to focus are in large part dictated by the path modernism has taken in its community. Fundamentalism is a reaction to a perceived crisis. It is impossible for any religious movement to give every religious text or event equal emphasis. Fundamentalists pick those religious precepts that are going to best enable them to keep their enemies at a distance and keep their people together. In short, they pick ideas that will best combat modernism.

9. See id. at 2.
10. Winston Davis, Fundamentalism in Japan: Religious and Political, in FUNDAMENTALISMS OBSERVED 782, 784 (Martin Marty & R. Scott Appleby eds., 1992). FUNDAMENTALISMS OBSERVED is part of a six volume compilation of essays on religious fundamentalism put together as part of the Fundamentalism Project sponsored by the American Academy of Arts and Sciences. Because of its breadth and its contributions from many renowned writers, the series is considered the premiere source of information on religious fundamentalism.
11. See BERMAN, supra note 7, at 345-46.
13. See MARTY & APPLEBY, supra note 1, at 25.
Observers often confuse fundamentalists with religious conservatives or orthodox believers. Traditionalists or orthodox communities try to keep modernism at bay by wrapping themselves in a religious cocoon. Fundamentalists, however, fight back against modernism. Instead of simply protecting themselves, fundamentalists want to reclaim a place in their society that they feel has been taken from them. They want to actively ensure their future in a world of their own defining.

As we have seen, fundamentalists are products of the modern world. It is impossible to speak of pre-modern fundamentalists because the pre-modern era lacked the forces against which fundamentalists are fighting. What makes each fundamentalist movement unique is that each nation, in fact each community of people, has been exposed to modernity at different times and in different forms. Because modernism has touched all regions of the globe, fundamentalism has become a global phenomenon. Like other reactions to modernity, fundamentalism has cut across racial, ethnic, and religious lines and is now found in every region of the world.

II. THE HAREDIM IN ISRAEL

Hidden in the shadow of the Middle Eastern peace process boils another conflict. This conflict is not between Arabs and Israelis, but is between secular and ultra-Orthodox Jews. The ultra-Orthodox Jews, or haredim, have increasingly exerted pressure on the secular Jewish community in an attempt to make secular Jews conform to their traditionalist mandates. To limit their exposure to the profane outside world, the haredim quickly try to turn their neighborhoods into enclaves of Jewish traditionalism, limiting all behavior that is not in strict adherence to the laws of Judaism. Haredim have been known to stop traffic and spit on people who attempt to offend their celebration of the Sabbath by driving through haredi neighborhoods. Many secular Jews are moving out of the holy city of Jerusalem because of harassment from the haredim, and some fear the city will become a bastion of ultra-Orthodox power. It might not take long for the haredim to take over. Their birthrate

14. Id. at 17.
15. Id.
16. LAWRENCE, supra note 8, at 2-3.
18. Id.
19. Id.
is three times that of secular Jews, and already fifty-five percent of kindergartners in state-run schools in Jerusalem are ultra-Orthodox. As the haredim continue to grow, it is important to understand the possible political ramifications their rise to power could bring.

The term haredim is not used to describe a single monolithic organization like the Muslim Brotherhood, but instead represents a number of diverse subgroups. Each of these groups is led by a different charismatic leader, and each has a slightly different view on political and theological matters. While they may disagree on interpretation, all haredi Jews agree that the only response to God’s word is total devotion to it. This devotion is best expressed by studying the word of God in the Torah and in the rabbinical commentaries, especially the Talmud.

In Hebrew the term haredim means those who tremble at the word of God. However, the haredim do not use this name to describe themselves. They most often call themselves erlicher Yidn, Yiddish for "virtuous Jews". They do not see themselves as a separate sect of Judaism, but as the special group of Jews that has stayed with the true faith while the rest of Judaism has departed. The haredim stress two central themes. First and foremost, they stress tradition. For the haredim what is new can never be as good as what came before. To them their ancestors will always be better than they and what their ancestors did must serve as a model of how life should be lived. Secondly, the haredim all share a fear that Judaism will not be able to survive under the pressures of modernism. They see themselves in an endless battle to hold back the modern world. They look around at the catastrophes of secular culture and fear for the survival of the Jewish faith.

Orthodox movements in Judaism began in Europe during the eighteenth century in response to the forces of industrialization and urbanization that were sweeping across Europe. In industrial societies, traditions were considered

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20. Id.
21. MARTY & APPLEBY, supra note 1, at 95.
22. Id.
24. HEILMAN, supra note 23, at 12.
25. Id. at 13.
26. Id.
27. Id. at 14.
28. Id.
outdated and faith was expected to give way to reason. People began to think of themselves as individuals and not as members of a tribe or religious group.\textsuperscript{29} Industrialization and urbanization provided new opportunities, causing many Jews to leave the traditional communities. This movement came to be known as the emancipation.\textsuperscript{30} The Jews who left quickly realized there was a moral cost in leaving their enclosed communities. In order to enter mainstream society, they had to diminish their Jewish identity, or at least make it secondary. Many shed their Jewish identity altogether while others tried to find some middle ground that would allow them to be loyal citizens and maintain old religious ties.\textsuperscript{31}

The \textit{maskilim}, or enlightened Jews, selected this middle road. The \textit{maskilim} promoted cultural contact without complete absorption.\textsuperscript{32} Practically this meant becoming literate in the language of the host society, having friends outside the Jewish community, and perhaps pursuing a profession that was not strictly Jewish.\textsuperscript{33} The \textit{maskilim} ideal was expressed by a popular aphorism of the time, "[b]e a person when you go out in the street and a Jew in your home."\textsuperscript{34}

Contra-acculturation Orthodox Jews rejected the distinction between life in the street and life at home. They asserted that one had to always remain fully a Jew.\textsuperscript{35} They believed that even the partial assimilation of the \textit{maskilim} was a forewarning of complete assimilation. Dual identity eventually steered Jews toward the ultimate evil—complete absorption.\textsuperscript{36} Intertwined with this belief was Orthodox pessimism concerning the ability of Judaism to survive in the face of the outside world. The Orthodox believed that if Judaism and the outside culture were to come into contact, Judaism would lose unless one was diligent in his or her protection of the traditions.\textsuperscript{37} The Orthodox often pointed to the Book of Leviticus where God warned the Israelites that those

\begin{thebibliography}{9}
\item\textsuperscript{29} Samual C. Heilman & Menachem Friedman, \textit{Religious Fundamentalism and Religious Jews}, in \textit{Fundamentalisms Observed}, \textit{supra} note 10, at 197, 200.
\item\textsuperscript{30} See id.
\item\textsuperscript{31} Heilman, \textit{supra} note 23, at 15.
\item\textsuperscript{32} Id.
\item\textsuperscript{33} Id. at 15-16.
\item\textsuperscript{34} Id. at 16.
\item\textsuperscript{35} Id. at 17.
\item\textsuperscript{36} Id.
\item\textsuperscript{37} Id.
\end{thebibliography}
who strayed from the ancient ways "shall be lost among the goyim, and the land of your enemies shall eat you up."38

For these Jews, the particulars of Jewish practice constituted the shield by which they kept modernism at bay. Ritual, reading of the Jewish texts, and observance of ceremonial custom were not peripheral aspects of Judaism, but were the very core of what it meant to be Jewish.39 In addition to these efforts at a positive culture, the contra-acculturationists worked most vigorously to construct barriers between themselves and the outside world. They created a school system to keep their impressionable youth out of non-Jewish schools.40 They did not speak the language of the country they lived in and they refused to wear fashionable clothes.41 They maintained the idea that they were the chosen people and that they should be separated from the other nations. Jews had to remember that they were still in exile.42

While the forerunners of the haredim were fractured during the debates between Hasidism and Misnagdim in the nineteenth century, the two groups resolved their differences in the early twentieth century so that they could battle against the large number of Jews who were leaving the fold and assimilating into the larger culture.43 Both Hasidic and Misnagdic movements believed that Jewish culture was superior to anything that non-Jewish contemporary culture could offer. The conviction that a culture shaped by the nonreligious could provide nothing of value to Judaism was to be the cornerstone of contra-acculturationist thinking. In 1912, various European Orthodox groups came together to form a political union called Agudat Israel.44 While Agudat Israel did not pretend to be a political party, it did provide an opportunity for Orthodox leaders to come together and share ideas on combating secularity.45 The contra-acculturationist community was now for the most part united, and it was possible to speak of a group called the haredim.

38. Id.; Leviticus 26:38.
39. HEILMAN, supra note 23, at 18.
40. See id. at 19.
41. Id.
42. Id. at 18.
43. Id. at 25-26. For a description of the Hasidic and Misnagdic movements see generally Heilman & Friedman, supra note 29, at 206-210. While both groups are now indistinguishable to many, it is still possible to talk of haredim that follow Hasidic or Misnagdic teachings. Id.
44. HEILMAN, supra note 23, at 27.
45. See id.
As the twentieth century progressed, two events influenced the haredim perhaps more than any others: modern secular Zionism and the Holocaust. Haredi Jews are vehemently opposed to the notion of a Jewish state founded without divine intervention. The haredim believe that the state of Israel transgresses the commandment in Jeremiah: “[u]nto Babylon shall they be carried and there should remain until the day I think of them, says the Lord.” To the haredim, the secular Jewish state is a heretical rebellion against the kingdom of God. The Zionists are seeking to hasten the end of the exile through their own sinful actions and not by the work of God. The haredim also oppose secular Zionism because it reduces the Jews to a common nation like any other and removes some of their unique status as God’s people.

The Holocaust had perhaps the most devastating effect on the haredim. Because the haredim stressed not assimilating into the wider culture, they were easier for the Nazis to target. Entire haredi enclaves were decimated throughout Eastern Europe. The Holocaust forced the haredim out of their traditional neighborhoods that had been the centers of their cultural and religious lives. While they may not have agreed with the idea of a secular Jewish state, Palestine was the safest place for the haredim. In Palestine, one could be more haredi than any place else. The death and dislocation of the Holocaust, together with the Zionist fervor that overtook Judaism after the formation of Israel in 1948, only made the haredim stronger in their convictions. Preservation of tradition in the face of all this adversity became more and more the moving force behind the haredim.

In the late 1940s, the haredim who immigrated to Palestine were forced to make some difficult political decisions concerning the new Israeli state. Agudat Israel remained the dominant political voice for the haredim in the Jewish community, but was unsure of what position to take toward the Zionists. The reactionary group Neturei Karta refused to have any dealings with the new state, going so far as not voting in elections. Agudat Israel did

46. See id. at 29.
47. Jeremiah 27:22.
48. HEILMAN, supra note 23, at 29.
49. Id.
50. Id. at 33.
51. Id.
52. Id. at 34.
53. Id.
54. Heilman & Friedman, supra note 29, at 234.
55. Id. at 234, 262-63 & n.66.
not feel it could go that far. The leaders of the group reasoned that only as part of the political system could they fight against attacks on orthodoxy.\textsuperscript{56} Agudat Israel moved from a political action group to a political party.

Agudat Israel's a-Zionist stance worked very well. They received concessions from the government safeguarding the Sabbath as a day of rest, providing religious education as an alternative to state-run schools, and receiving military service exemptions for students in the yeshivas—the haredim-run religious schools.\textsuperscript{57} One demand that Agudat Israel never pursued was the implementation of Jewish law as the legal system of Israel.\textsuperscript{58} While all the religious parties have paid lip service to the notion of a state ruled in accordance with Jewish law, they all realize that implementing such a system would be impossible. Even if Agudat Israel and the other religious parties were ever to garner enough votes, the application of Jewish law to a modern state would require so much interpretation and so many changes that many rabbinical leaders have shied away from the project.\textsuperscript{59}

Just as Agudat Israel was beginning to dominate the haredi political scene, in the 1980s the party fractured.\textsuperscript{60} The Hasidic and the Mesnagdic elements of the haredim had once again come into conflict. The Hasidic Lubavitch movement had for the first time put its support solidly behind Agudat Israel.\textsuperscript{61} This swing toward Hasidism alienated the Mesnagdic elements of the party, resulting in the formation of the Degel Ha Torah Party.\textsuperscript{62} In addition, during the 1950s, many Jews from Muslim countries immigrated to Israel. Many of the Sephardi Jews were pulled toward the haredi way of life and many became part of Ashkenazic Jewish communities.\textsuperscript{63} In the early 1980s, the Sephardi Jews split from Agudat Israel and formed their own political party, Shas.\textsuperscript{64} By the election of 1988, there were three different parties representing haredi interests. In addition, many young, radical haredi Jews voted for the pro-Zionist National Religious Party which was heavily supported by the pro-Zionist fundamentalist group, Gush Emunim.\textsuperscript{65}

\textsuperscript{56} Id. at 235.
\textsuperscript{57} Id.
\textsuperscript{59} Id.
\textsuperscript{60} Heilman & Friedman, \textit{supra} note 29, at 247.
\textsuperscript{61} Id. at 247-48.
\textsuperscript{62} See id. at 249.
\textsuperscript{63} Id. at 244-45.
\textsuperscript{64} Id. at 246.
\textsuperscript{65} Id. at 250. For a discussion of the Gush Emunim movement see Gideon Aran, \textit{Jewish Zionist
Primarily, the haredim are not concerned with large national issues but with protecting themselves from outside culture. This is often best achieved not through national politics but through local, extra-political action. The haredim want to surround and squeeze the non-haredi elements out of their neighborhoods. They pick non-Orthodox inhabitants or institutions and then wage a war of attrition that includes economic sanctions and violent harassment until they leave the neighborhood. For instance, the haredim once tried to close Sabbath Square in Jerusalem on the Sabbath because it bordered the haredi neighborhood of Mea Shearim.

There are several reasons the haredim are more apt to participate in local political or extra-political activities as opposed to becoming swept up in the national political melee. First and foremost are religious concerns. The haredim believe that God alone can redeem his chosen people from exile. It is heresy to believe that man can create the Jewish homeland, and that any group that tries is offending God and his direct edicts. As a result of this belief, the haredim must walk a fine line in their dealings with the secular Jewish state. While some haredim allow no contact with the Jewish state, most haredim in Israel have come to the conclusion that some interaction is necessary, but only in defense of their interests. The haredim generally feel that the extent of their political action should be solely in defense of their interests.

Furthermore, the haredim shun involvement with modern secular culture because they are worried that it will overwhelm them. Because they are pessimistic about the ability of traditional Judaism to withstand the onslaught of modernism, they have adopted an enclave mentality. While some fundamentalist groups seek to mold the world in their image, the haredim are simply trying to protect themselves. There is no requirement that they must go out and prepare the world for the coming of the Messiah; they must simply wait and hold true to their traditions.

The measures that the haredim took in the wake of the no confidence vote of 1990 provide an excellent example of their narrow political goals. On March 15, the Knesset passed a no confidence vote against the government of

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Footnotes:

66. Heilman & Friedman, supra note 29, at 239.
67. Id. See also Contreras, supra note 17, at 32 (discussing examples of haredi pressure tactics).
68. Heilman & Friedman, supra note 29, at 240.
the Likud Party led by Prime Minister Shamir. As the bargaining continued, the eighteen votes held by religious parties became the swing votes. Shimon Peres and the Labor Party needed to secure six of the eighteen votes from the religious parties to form a narrow government. Prime Minister Shamir needed thirteen of the votes to form his government. While most of Israel viewed this election as a vote to determine the direction of the Middle East peace process, the *haredi* parties saw the impasse as an opportunity to secure more of their defensive religious goals. Agudat Israel was swayed by promises from Shamir that the government would create a religious radio station, establish laws on the sale of pork products, and establish a joint committee to study decreasing Sabbath desecration. The leaders of Degal Ha Torah issued a statement that the rest of the world would make Israel give up the West Bank and Gaza despite Israel’s efforts; therefore, the issue was moot. Degal Ha Torah joined the Likud party simply because they believed that the Labor Party was less in line with Jewish law. According to many observers the *haredi* parties had an excellent opportunity to influence the course of the Israeli government, but they instead pursued their own defensive religious goals.

The *haredim* also maintain purely pragmatic concerns about political involvement. They are significantly outnumbered by the secular majority, only fifteen percent of Israel’s 4.5 million Jewish citizens identify themselves as *haredi*. The *haredim* always live in fear of a secular backlash if their demands become too extreme. They realize their government subsidies and military exemptions exist at the will of the state and could be wiped out at any time the majority sees fit. In fact, in 1988, when the number of seats held by religious parties in the Knesset increased from thirteen to eighteen, many secular Israelis became worried and called for the curtailing of special privileges for the *haredim*. Israeli newspapers warned about the impending religious take-over of the school system and the censorship of the press. In addition to fearing a majority backlash, the *haredim* also share a strong belief

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69. Liebman, supra note 58, at 82.
70. Id.
71. Id.
72. Id. at 83.
73. Id.
74. See id. at 85.
75. Contreras, supra note 17, at 32.
76. Liebman, supra note 58, at 77.
in Jewish unity. While they may have their own personal goals for their communities, it is important that the Israeli state as a whole stay together and united. Often it is better to preserve peace than to press for further political concessions.

The political future of the haredim could be changing. As mentioned in the opening paragraph of this section, the haredim are growing and are increasingly taking over the city of Jerusalem. It is possible that early in the next century the haredim may be able to take control of the city and dominate its city government. Much will depend on whether the haredim will choose to work within the current city structure, or as is more likely, they will try to break down that structure and form a society more in line with Jewish law. More importantly, will the Israeli government allow them to do it, or will the haredim be a religious majority prohibited by conviction from touching the city government that rules them?

III. THE MUSLIM BROTHERHOOD IN EGYPT

The Muslim Brotherhood, or al-Ikhwan al-Muslimun, more than any other Islamic organization, has been the ideological and institutional center of fundamentalism in the Arab world. The Muslim Brotherhood was formed in 1928 by Hasan al-Banna, an elementary school teacher who was ashamed of the moral degradation sweeping Egypt and the Arab world. In its infancy, the Brotherhood was a purely religious society. Its members formed Islamic societies, published Islamic newspapers, and preached to the public. Its goals were to raise the youth in line with proper Islamic ethics and to spread the merits of Muhammadan prophecy including moral virtues, chastity, and good social relations. The full extent of its political activism is in its network of social welfare services. The Brotherhood created schools for girls and boys as well as trade schools for adults. It provided assistance to displaced rural

77. Id. at 76-77.
79. MARTY & APPLEBY, supra note 1, at 148-49.
81. Id.
82. Voll, supra note 12, at 361.
immigrants in urban areas, going beyond what the government agencies or Sufi brotherhoods provided.  

With the passage of time and its increased activism, the Brotherhood was required to better define its ideology on a number of issues. Over time the ideology of al-Banna and the Brotherhood evolved to include these elements: first, the oneness of the religious world and the lay world; second, the belief in pan-Islamism in the face of secular nationalism; and third, the establishment of an Islamic government as its final goal. The goal of establishing an Islamic government was certainly not radical in Islamic thought. In Islam, unlike Christianity, the separation of faith (din) from the state (dawlah) is unacceptable. The shari'ah is the will and law of Allah as expressed in the Qur'an and the sunnah. The sunnah is the recorded practices of the Prophet Muhammad which are used as exemplars of how Allah's will and law should be applied. The shari'ah is a complete scheme of life. It deals not only with the believer's relationship to Allah but with the relationship among believers as well.

While the shari'ah does appear to be a fixed set of divinely revealed laws, as a social code it is designed to be adaptable in varying times and places. Islamic jurists did recognize the validity of equity and custom where they did not contravene the shari'ah. Through the process of ijtihad, where qualified jurists or mujahids deduced the law from various sources, custom and local preference could be incorporated into Islamic law. As a result, Islamic law was often different among various religious sects and among people from various regions.

As the Muslim Brotherhood became more popular and solidified its ideology behind al-Banna, it was ready to pursue its goal of an Islamic state based on the shari'ah. The Brotherhood soon had become the first Islamic organization to appear in modern Egypt with the goal of seizing power. According to al-Banna, it was a religious crime not to become involved in politics. The Brotherhood shifted its activities from the religious centers and

83. Id.
84. Ramadan, supra note 80, at 155.
85. Dekmejian, supra note 78, at 41.
87. See id. at 288.
88. Id. at 243.
89. Id. at 83-85.
90. Ramadan, supra note 80, at 155.
91. Id.
its work among the poor to the secular universities and the educated elite.\textsuperscript{92} It no longer looked to religious leaders to lead Egypt to an Islamic state, but instead looked to Egypt's educated middle and upper classes.\textsuperscript{93} The Brotherhood came to believe that only its return to the political field would lead to a revival of the Islamic nation. It traced the causes of Egypt's social, economic, and political problems to the government's failure to apply the \textit{shari'ah}.\textsuperscript{94} \textit{Al-Da'wa}, the Brotherhood's newspaper decreed, "[r]eturn to the rule of God. Nothing else you have will ever save you, only this and nothing else."\textsuperscript{95}

However, al-Banna did not advocate the violent overthrow of the government.\textsuperscript{96} The fact that Sunni legal theory lacked an explicit doctrine of revolution was of great influence to al-Banna.\textsuperscript{97} The Sunni \textit{ulama} had counseled obedience to the state while limiting \textit{jihad} to non-Islamic foes.\textsuperscript{98} Al-Banna believed that the transformation of society had to come from the people and organizations within society, not from armed revolution.\textsuperscript{99} While al-Banna acknowledged that the power to transform came from political power, he insisted that the Brotherhood stood for social reform and not the direct exercise of political might.\textsuperscript{100}

During World War II, the Brotherhood led massive demonstrations against government corruption and the British occupation.\textsuperscript{101} Relations between the government and the Brotherhood became increasingly tense as the two sides competed for popular influence.\textsuperscript{102} The conflict boiled over in 1948 when Egyptian Prime Minister Nuqrashi Pasha, sensing the increasing influence and radicalization of the Brotherhood, attempted to dissolve the group and detained its most important leaders.\textsuperscript{103} Brotherhood radicals struck back by assassinating the prime minister. In 1949, al-Banna was murdered in retaliation.\textsuperscript{104} Hasan al-Hudaybi took over as the Supreme Guide of the

\begin{footnotes}
\textsuperscript{92} Id.
\textsuperscript{93} Id.
\textsuperscript{94} Id. at 166.
\textsuperscript{95} Id.
\textsuperscript{96} Voll, \textit{supra} note 12, at 366.
\textsuperscript{97} See DEKMEJIAN, \textit{supra} note 78, at 86.
\textsuperscript{98} Id.
\textsuperscript{99} See Voll, \textit{supra} note 12, at 366.
\textsuperscript{100} Id.
\textsuperscript{101} Id. at 363.
\textsuperscript{102} Id. at 362.
\textsuperscript{103} MARTY \& APPLEBY, \textit{supra} note 1, at 152.
\textsuperscript{104} Id.
\end{footnotes}
Brotherhood and quickly allied himself with several young officers in the military who were planning to overthrow the government. In 1952, the Free Officers led by Gamal Abdel Nasser, with whom al-Hudaybi had allied, took control of Egypt. Nasser wanted to mobilize all of Egyptian society from top to bottom. He wanted to free the country of colonialism and make it a modern nation. For Nasser, mobilizing society required first and foremost that all dissident voices be silenced. As a result, in January of 1953, he outlawed all political parties. In the beginning, the Brotherhood had supported Nasser but, increasingly, tensions mounted. Nasser was anxious for the support of the Brethren during the revolution, but now they could only be a thorn in his side. In October of 1954, a member of the Brotherhood attempted to assassinate Nasser. The assassination attempt gave Nasser the excuse he needed to wipe out the group. Its headquarters were burned down, and its leaders were arrested and tortured. Six of the leaders were hanged from the gallows. The arrests and executions abruptly ended twenty-five years of increasing influence and political activism.

The imprisonment of the Brotherhood’s leaders sent the movement underground. In the prisons a rift developed within the Brotherhood’s leadership. Al-Hudaybi and the older leadership of the Brotherhood continued to advocate a nonrevolutionary strategy. The younger members of the group began to gravitate to a new, more radical leader, Sayyid Qutb. In 1964, Qutb and many of the remaining leaders were released from prison, presumably to exert right wing pressure on the radical left in Egypt who wanted Nasser to go further in his policy of socialization. Soon after his release, Qutb began plotting Nasser’s assassination and the overthrow of the government with his cadre of young radicals. However, their plot was discovered. Qutb was executed and many more people were imprisoned.

105. See Ramadan, supra note 80, at 155.
106. DEKMEJIAN, supra note 78, at 77.
108. Id.
109. Id. at 26-27.
110. DEKMEJIAN, supra note 78, at 77.
111. Id. at 373.
112. See id. at 371-72.
113. Id. at 371.
114. Id.
Qutb’s death resulted in the splintering of the radical wing of the Muslim Brotherhood. Many of his followers went off to form their own organizations, collectively called the Takfir Groups.115

In 1970, Nasser died and Anwar al-Sadat came to power.116 Sadat wanted to liberalize the country and tear down the socialist apparatus Nasser had constructed, but he needed help.117 In an effort to gain support for his programs and to overwhelm Nasser’s supporters, Sadat released the Muslim Brethren from prison.118 In order to hold the support of the Islamic traditionalists, Sadat attempted to stress the Islamic legitimacy of the state. Most importantly, Sadat identified the shari‘ah as one source of legislation.119 While Sadat was not ready to make the shari‘ah the sole source of legislation, his stand did go a long way initially in encouraging the Brethren.120

The older leadership had suffered greatly under Nasser’s regime and they had learned from their collisions with the government in 1954 and 1965.121 The Brotherhood was determined to avoid making the same mistakes again—a new pragmatism characterized the organization. The leaders spoke out more forcibly against the violent overthrow of the government.122 The Brotherhood stood against wrecking the foundations of the government because it would destroy the property of the people. Violent clashes with the authorities wasted the people’s efforts and ultimately only benefited the enemies of the nation.123

In the Sadat era, the Brotherhood attempted to work within mainstream political channels to achieve its goals. In 1976, Salih Abu Ruqayaq, a prominent leader in the Brotherhood became General Secretary in the ruling Center Party.124 Later that year, six Brotherhood members were selected in the new multiparty elections to serve in the People’s Assembly. They also were chosen to hold positions of leadership in the Center Party and in the Assembly.125 In the short time since their release from prison, the leaders of the Muslim Brotherhood had come to exert significant political power. Still,

115. See generally Ramadan, supra note 80, at 157-64 (describing some of the different Takfīr Groups that spun off in the 1970s from Sayyid Qutb’s teachings).
116. Dekmejan, supra note 78, at 79.
117. Id. at 80.
118. Id.
119. Id.
120. Voll, supra note 12, at 377.
121. Ramadan, supra note 80, at 168-69.
122. Id. at 168.
123. Id.
124. Id. at 166-67.
125. Id. at 167.
the Brotherhood continued to be an illegal organization that existed in the open
only as long as Sadat allowed it.

In the early 1980s, the Brotherhood embarked on an ambitious new plan
to solidify its leadership among the Islamic organizations. It formed the
Permanent Islamic Congress for the Propagation of Islam which encouraged
the Takfir Groups and the Muslim Brotherhood to come together for a
dialogue on political and social issues.\textsuperscript{126} The formation of the Congress
scared Sadat because he believed that the Muslim Brotherhood was radical.
Relations between Sadat and the Brotherhood were already strained over
Sadat's agreement with Israel in the Camp David Accords. In an attempt to
head off a feared Islamic takeover, Sadat arrested the leaders of all the Islamic
groups and put them in prison.\textsuperscript{127}

When Sadat was murdered in 1981, the new president Hosni Mubarak
released most of the Islamic dissidents except those who were associated with
Sadat's assassination.\textsuperscript{128} Once out of prison, the Brotherhood assumed an
increasingly active role in Egyptian politics and society. In 1984, the
Brotherhood joined the New Wafd Party for the national elections.\textsuperscript{129} The
classification won sixty-five of 450 seats in the People's Assembly to become the
largest opposition group.\textsuperscript{130} In 1987, the Brotherhood joined the Socialist
Labor Party and the Liberal Party, further solidifying its power by combining
with the two other parties.\textsuperscript{131} The Brotherhood was still not a legal
organization, but with careful alliances with legal political parties the
Brotherhood became the largest single opposition group to the Egyptian
government.\textsuperscript{132} In both elections, the Brotherhood ran on a platform that
centered around the implementation of the \textit{shari'ah} as the main source of
legislation. In addition to this core demand, it called for the Islamization of
the mass media and of the educational institutions.\textsuperscript{133} For the first time, the
Brotherhood experienced political success as a group. In 1976, the
Brotherhood relied on the personalities of particular candidates, but in 1984
and 1987 it drew votes based on its religious platform.\textsuperscript{134}

\begin{itemize}
\item \textsuperscript{126} Id. at 170.
\item \textsuperscript{127} Id. at 172.
\item \textsuperscript{128} Voll, supra note 12, at 384.
\item \textsuperscript{129} Ramadan, \textit{supra} note 80, at 174.
\item \textsuperscript{130} Voll, \textit{supra} note 12, at 386.
\item \textsuperscript{131} Id.
\item \textsuperscript{132} See id.
\item \textsuperscript{133} Id. at 387.
\item \textsuperscript{134} See Ramadan, \textit{supra} note 80, at 174.
\end{itemize}
The political goals of the Muslim Brotherhood have been dictated in great measure by the fact that it is an Islamic organization. All Islamic groups that claim to be following the precepts of Islam would actively advocate the formation of a government that was predicated on the shari'ah. While every Islamic fundamentalist group calls for the return to the shari'ah, each group advocates different tactics to reach this goal. It is important to remember that Islam does allow some flexibility in interpreting the divine law through the process of *ijtihad*. *Ijtihad* allows competing fundamentalist groups to construct different paths to the same goal. While both the Muslim Brotherhood and the Takfir Groups agree that Egypt's government must be brought back to the shari'ah, they do not agree on how it should be accomplished.

The Muslim Brotherhood and the Takfir Groups believe it is the ultimate objective of Islam to include the entire world under the law of Allah. In order to implement the shari'ah worldwide, it is necessary to engage in *jihad* to overcome the nonbelievers. To many non-Muslims the term *jihad* connotes a violent struggle to exterminate one's enemies. According to Islamic philosophy *jihad* does not require violence or a holy war. *Jihad* can be accomplished by "[t]he heart, the tongue, and the hands, as well as the sword." In fact, it is possible to speak of an internal *jihad* to rid yourself of your inner passions and imperfections. Both the Muslim Brotherhood and the Takfir Groups believe that they must engage in *jihad* to return Egypt to the shari'ah. They differ on whether the *jihad* they wage is with the sword or with the heart.

In Islamic fundamentalism, the political goals of a group are strictly laid out by the precepts of Islam, while the path to those goals, or the type of *jihad* that must be waged, is in large part dictated by the political realities that face the group. The Muslim Brotherhood's political participation has been characterized by a strategy of moderation, gradualism, and a willingness to work within Egypt's constitutional framework. From 1928 until its conflict with Nasser in 1954, the Brotherhood was much more likely to support movements that challenged the political mainstream. During World War II,

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136. See id. at 502.
137. Id.
138. Id.
139. Voll, supra note 12, at 387.
it led demonstrations against the government and gave vital support to Nasser and the military in overthrowing the government. The imprisonment of the leaders of the Brotherhood in 1954 until 1970 took a great toll on the group and had a profound effect on its tactics. When they were released, the leaders spoke out more vehemently against the overthrow of the government. Sixteen years in prison and the execution of countless numbers of their comrades taught the Brotherhood that it was better to work within existing political frameworks instead of attacking the government. In the first multiparty elections in 1976, Brotherhood leaders ran for elected positions with great success. In the elections of 1984 and 1987 it constituted the largest opposition group.

The Brotherhood’s shift toward the political mainstream also made it more popular in the eyes of many Egyptians. The 1980s witnessed the increasing Islamitization of Egyptian society. Many people rejected the ideas of modern liberalism and sought to return to the tenets of Islam. Most of the radical Islamic Takfir Groups were not accessible to the public. They resided in small cells to protect themselves from being infiltrated by the government. The Muslim Brotherhood had become the only significant Islamic organization that was accessible to the public. It monopolized the public’s hunger for a return to Islam. The years of experience in managing political affairs during the administrations of Sadat and Mubarak created a leadership group that was prepared to take advantage of the opportunities that the late 1980s and 1990s provided.

IV. THERAVADA BUDDHIST FUNDAMENTALISTS IN SRI LANKA

The Theravada Buddhist fundamentalist movement differs significantly from the haredi Jewish groups and the Muslim Brotherhood in that Theravada fundamentalists are intimately intertwined with ethnic nationalism. While the haredim and the Muslim Brotherhood shun nationalism, Theravada fundamentalists have incorporated a strong nationalist element into their ideology. Sri Lanka is divided among two ethnic groups. Seventy-five percent of the fifteen million people that live on the island are Sinhalese

140. See id. at 363.
141. See Ramadan, supra note 80, at 155.
142. Voll, supra note 12, at 386.
143. Id. at 386-87.
Buddhists. The remaining twenty-five percent are either Muslim or Hindu Tamils. Sri Lanka has a long and proud Buddhist past. In the third century BC, missionaries from Indian King Asoka brought Theravada Buddhism to Sri Lanka. Despite its long history, Buddhism in Sri Lanka has remained remarkably similar to the original Theravada strain brought to the island.

Basic to Theravada Buddhism is the distinction between the false mundane world of the ordinary senses and the transmundane reality attained through overcoming one’s desires and ambitions. Also central to the Theravada tradition is the concept of karma—an inexorable law of cause and effect which rewards bad or good acts by an actor with equally bad or good acts against him. Karma is the moral calculus at the center of a morally just universe that rewards the good and punishes the evil. The Buddhist ethic that lays out appropriate behavior is contained in the dhamma and the vinaya. The dhamma focuses on the domain of legislation and social organization and applies to both monks and lay people, while the vinaya deals mostly with rules for the monks or sangha. The different parts of the ideal Buddhist community are held together in a reciprocal and interlocking relationship with the state. The state provides national defense and internal order, while the sangha provide a moral exemplar for the people and advise the state on implementing the dhamma to ensure the state’s legitimacy. The Buddhist monarchy was based on the concept of righteousness. To maintain his political authority, the king was required to follow the dhamma. If he did not maintain his authority, the social and physical well-being of his people would be in danger. If the king did not follow the dhamma the people had a right to overthrow him, therefore, it was imperative that the king worked with the sangha to faithfully implement the dhamma.
In 1505, the Portuguese landed on Sri Lanka and in 1656 the Dutch replaced them. In 1796, the British took over and they vigorously set about to control the island. While the Portuguese and Dutch had only controlled the coast, the British attempted to conquer the whole island, and in 1815 they deposed the final remnant of Sinhalese independence, the King of Kandy. In addition, the British worked to solidify their rule by undermining the traditional position of Buddhism in Sinhalese society. The British privileged Christian converts in the government civil service, and they set up a state run educational system that removed the *sangha* from their traditional place as educators, weakening the ties between the monks and the laity. Upwardly mobile Sinhalese found it desirable, if not necessary, to drop their Sinhalese culture and Buddhist traditions.

In the 1890s the charismatic leader Anagarika Dharmapala rose to fill the vacuum created by the abandonment of Sinhalese culture. Dharmapala formulated a simplified Buddhist ideology aimed almost exclusively at restoring national pride as opposed to strict religious orthodoxy. Dharmapala used a select retrieval of norms from canonical Buddhism. He formulated a code of lay conduct that emphasized moral purity and etiquette in the family and most importantly, he looked to the past glories of Sinhalese culture as described in the Buddhist chronicles to foster a new nationalist identity. Dharmapala’s new vision of Buddhism has often been called “Protestant Buddhism” because it mimicked many of the tactics of the Protestant missionaries then working in Sri Lanka. Dharmapala believed the Sinhalese could overcome the exploitation at the hands of the British and the economically powerful Tamils if they worked hard, were thrifty, and civilized themselves. Drawing from the Protestant work ethic, Dharmapala rejected the idea of the monk as being the central link to enlightenment and instead encouraged a spiritual egalitarianism which emphasized individual

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156. Id. at 57.
158. Id.
159. See id. at 637.
162. Id. at 213.
responsibility and self-scrutiny. Because religion was universalized, it applied to all people in all contexts. It was the duty of the Sinhalese Buddhist to spread Buddhism and permeate their whole society with it. Dharmapala’s efforts to simplify and demystify Buddhism appealed greatly to a new class of educated Sinhalese businessmen, civil servants, and professionals who felt stifled under English rule.

In 1933, Dharmapala died. However, in 1934, S.W.R.D. Bandaranaike replaced him as the informal head of Sinhalese Buddhist revivalism by forming the conservative political group Sinhala Maha Sabha (SMS). In 1931, the British government allowed universal adult franchise, and the SMS soon became the party representing Sinhalese interests. Despite the newly acquired right to vote, political participation was relatively low until Sri Lankan independence and the first general election in 1947. In the late 1940s, the SMS and the other political leaders who had come together to fight for independence formed the United National Party (UNP) for the purpose of forming the first parliamentary government.

Under the auspices of encouraging stability, the English observers pushed the upper class Anglicized elite to the leadership of the government and left the other leaders out. The new government sought to balance the various religious and ethnic interests in the country, which only alienated the Sinhalese nationalists. In 1951, Bandaranaike and the SMS broke away from the UNP and formed the Sri Lankan Freedom Party (SLFP).

In 1956, labor troubles, economic dislocation, and the rhetoric of the Sinhalese nationalists swept Bandaranaike and the SLFP into power. Bandaranaike was elected on a pro-Buddhist, pro-Sinhalese ticket, promising to make Sinhalese the national language and Buddhism the national religion. He astutely realized that the needs of the middle class were not met by the liberal, pluralistic UNP, so he shaped his platform to their needs. With the end of the colonial government in 1947, considerable economic and social change.

163. Id. at 215-16.
164. Id. at 216.
165. See PHADNIS, supra note 155, at 112.
166. See id. at 111-13.
167. See id. at 109.
168. Swearer, supra note 144, at 640.
169. See id.
170. Id.
171. Id.
172. Id.
was expected from the government. There was a resurgence in the study of classic Sri Lankan history, and the middle class looked more and more to Sri Lanka’s pre-colonial past for guidance. The resulting frustration with the lack of development under the UNP only fueled the fires of ethnic nationalism. Furthermore, the Sinhalese were invigorated by a strange millennialism surrounding the 2,500 year anniversary of the birth of the Buddha. Many on the island had come to believe that the celebration was the beginning of a new era of Buddhist resurgence led by Bandaranaike and the SLFP.

The first legislation the Bandaranaike government submitted was a proposal to make Sinhalese the official language of the country. Because of political realities, Bandaranaike was forced to compromise with the Tamil minority in parliament. The compromise enraged the radical United Monks Front who staged massive demonstrations against the compromise and eventually forced Bandaranaike to take a hard line against the Tamils. The Tamils flooded the streets in protest in what became known as the Language Riots of 1957. In these first ethnic riots after Sri Lankan independence, the damage was light compared to the scale of destruction that was to occur in the near future.

In the 1970s and 1980s, Sri Lanka became increasingly authoritarian and economically and socially divided. In 1977, the UNP party was elected to power under the guidance of J. R. Jayawardena. The UNP reversed the socialist policies of the SLFP and moved toward a strict market-oriented economy. The new economic policies created greater economic disparity as the wealthy capitalists became increasingly rich and the rural poor slipped further into poverty. The UNP also discriminated heavily against the Tamils. During the agricultural development projects in the Dry Zone, Sinhalese peasants were given most of the land in an area that the Tamils considered their homeland. In response to Tamil protests, Jayawardena became

174. See Swearer, supra note 144, at 640.
175. Id.
176. Tambiah, supra note 160, at 597.
177. Swearer, supra note 144, at 641.
178. Id.
179. Id. at 641-42.
180. Tambiah, supra note 160, at 598.
181. Swearer, supra note 144, at 643.
182. Id.
183. Tambiah, supra note 160, at 605-06.
increasingly authoritarian. In the October 1982 parliamentary elections, the UNP won fifty-two percent of the vote. Unsatisfied with the extent of the UNP’s majority, Jayawardena declared the election invalid and reshuffled the election returns to distance the opposition and solidify his own position.\textsuperscript{184} Jayawardena tried to further protect himself and justify his authoritarian behavior with fundamentalist Buddhist ideals. Jayawardena promised to implement a society focused on the \textit{dhamma}, thereby making an attack on him equal to an attack on those lofty Buddhist principles.\textsuperscript{185}

During the 1970s and 1980s, the radical Tamils began to organize paramilitary groups, like the Liberation Tigers, for the purpose of an armed attempt at establishing an independent homeland.\textsuperscript{186} Throughout the two decades, these groups clashed with state security forces. During the elections of 1981, Tamil groups disrupted polling places and the army responded with arrests and violent reprisals.\textsuperscript{187} In 1983, tensions came to a head when thirteen Sinhalese soldiers were ambushed by Tamil rebels and killed.\textsuperscript{188} The Sinhalese populace took to the streets in the largest riots of Sri Lanka’s history. Between 350 and 2,000 people were killed and close to 100,000 were left homeless by the riots.\textsuperscript{189} In the years that followed, the violence only escalated as the Tamil rebels began to attack civilians and sacred sites.\textsuperscript{190} In 1987, India was forced to step in, signing the Indo-Sri Lanka Agreement and bringing 55,000 Indian troops to the island to control the violence.\textsuperscript{191}

The case of Theravada Buddhist fundamentalists differs from the cases involving the \textit{haredi} Jews and the Muslim Brotherhood. Instead of religious fundamentalism driving the movement for the Sinhalese Buddhists, nationalism catalyzes the movement and religion is simply the moral justification. In a world of scarce resources, it is necessary that nationalist movements employ a moral justification for taking possession of the land or exerting control over those who currently inhabit it. To defend their claim against competing groups, nationalists must construct an independent moral justification that will help explain why they deserve the land others claim.\textsuperscript{192}

\textsuperscript{184} Swearer, \textit{supra} note 144, at 643.
\textsuperscript{185} Id.
\textsuperscript{186} Id. at 645.
\textsuperscript{187} Tambiah, \textit{supra} note 160, at 607.
\textsuperscript{188} Id.
\textsuperscript{189} Id.
\textsuperscript{190} Id. at 608.
\textsuperscript{191} Id.
\textsuperscript{192} Lea Brilmayer, \textit{Propter Honoris Respectum: The Moral Significance of Nationalism}, 71 \textit{NOTRE..
For Sinhalese nationalism, the fundamental tenants of Buddhism provide the required moral justification. Dharmapala and other Sinhalese nationalists recognized the strong role Buddhism could play in a national reawakening. Sri Lankan Theravada Buddhism was arguably one of the purest strains of Buddhism in the world. Brought over from India in the third century BC, it remained largely uninfluenced by other religious and political movements as compared to Buddhism in other Asian countries. In addition to its purity, Theravada Buddhism played an important role in the powerful Sinhalese dynasties that ruled Sri Lanka before colonial intervention in the sixteenth century. Any nationalist group that looked back to the Sinhalese golden age would recognize the importance of Buddhism in their nationalist rhetoric. Most importantly, as a religion, Buddhism provides the ideal moral justification. Instead of appealing to often changing notions of right and wrong that spring from modern ideologies such as Marxism or Western liberalism, Sinhalese nationalists could look to the ancient Buddhist cannons to support their cause.

V. INTERNATIONAL TRENDS AND THE FUTURE OF POLITICAL FUNDAMENTALISM

One of the paramount concerns of the ruling elite in a government is political legitimacy. A government acquires legitimacy when the citizens of a nation believe that the political institutions of the country are right and proper and that the government's decisions and rules should be accepted and obeyed. Therefore, it is imperative that the government try to maximize its legitimacy, since political legitimacy allows the government to achieve its goals without resorting to violence or coercive pressure. Legitimacy may be derived from two possible sources, consummatory values and instrumental values. Consummatory values are derived from moral principles, often found in the traditions or religion of the culture. Consummatory values can probably best be expressed as the moral justification for supporting the state.

DAME L. REV. 7, 11-12 (1995). Professor Brilmayer has labeled this theory the analysis of underlying moral claims.

193. See Swearer, supra note 144, at 630. See also, GOMBRICH & OBEYESEKERE, supra note 161, at 4.
194. Swearer, supra note 144, at 630.
196. See id. at 236.
Instrumental values, however, are derived from the government's ability to provide for the economic and social well-being of the people. While instrumental values indicate the ability of the government to provide for its people, consummatory values represent the group solidarity that brings people to embrace the government as their own.

All political opposition groups, whether they be fundamentalist or secular, challenge the legitimacy of the ruling political apparatus. Boiled down to its most basic elements, fundamentalist efforts to control legal systems are an effort to weaken the legitimacy of the existing political structure. While most political opposition groups challenge a government's instrumental values or its success in providing for the social and economic well-being of the people, religious fundamentalists are unique in that they spend most of their energy challenging the consummatory values of a government and its political institutions. Fundamentalists who are not part of the ruling political apparatus challenge the moral and traditional underpinnings of the nation's laws. They directly attack the legitimacy of the state and try to show how the state would be more legitimate if it was molded according to certain religious precepts.

An excellent example of this kind of activity can be seen among the haredi Jews in Israel. Many haredim vehemently oppose the secular state of Israel. They believe that only God can bring the Jews out of exile and any human attempt to hasten God's work is heresy. As a result, the haredim constantly challenge the legitimacy of the government by trying to avoid contact with it. The reactionary group Neturei Karta even refuses to participate in national elections and has sought to aid the PLO during the Middle East peace talks. The haredim make few statements addressing social or economic issues, but instead center their political activity on keeping the Zionist state from contaminating their communities.

Fundamentalist groups have difficulty in challenging the legitimacy of governments because they usually represent only a small minority of the population. Governments seek to maximize legitimacy by appealing to a large segment of the population. Fundamentalist groups espousing ideas that are vastly different from the ideology of the majority find it difficult to attain widespread support to challenge the political status quo and implement their
own political agenda. Again, the haredim provide an excellent example of the
problems fundamentalist groups can encounter. The haredim have taken a
very contentious position in challenging the Zionist state. To most Israelis and
Jews around the world, Israel is a sign of independence and national pride,
especially after the displacement and destruction caused by the Holocaust. In
the wake of haredi election success in 1988, several mass demonstrations were
held calling for reform of the electoral system to minimize the haredi influence
in the government. Many secular Jews were worried that because the haredi
parties were needed to form a coalition government, they would be allowed to
dictate the course of the Israeli state. In addition to their political activity,
many Israelis also disagree with haredi extra-political activities as well.
Israelis object strongly to the physical intimidation and economic sanctions
used by the haredim to drive other Jews from their neighborhoods. While
some Israelis may be concerned about the haredi influence, they should realize
that until the haredim moderate their response and attempt to endear
themselves to a greater section of the public they will not have any major
impact on the Israeli state.

Fundamentalists are aware that their message often does not appeal to a
wide enough audience, but they frequently adapt by popularizing their
message to help attract a larger portion of the population. In spite of their
emphasis on tradition, one should not believe that fundamentalists are
inflexible. While they may call for the absolute authority of texts or ritual,
fundamentalist realize that they live in a worldwide marketplace of ideas,
where they must compete with other ideologies for the hearts and souls of the
people. The Muslim Brotherhood provides an excellent example of the
adaptability of fundamentalist movements. In the Brotherhood’s infancy,
Hasan al-Banna realized that the best way to reach out to the people of Egypt
was through social service. Before the Brotherhood sent a single candidate to
the National Assembly, it had a large network of primary schools, trade
schools, and hospitals. These organizations put the Brotherhood in the
public eye and cast them in a positive light in the minds of the people. When
the Brotherhood decided it wanted to become a part of the political

201. Liebman, supra note 58, at 77-78.
202. See id. at 78.
203. Contreras, supra note 17, at 32.
204. Voll, supra note 12, at 361.
mainstream, it modified its tactics to broaden its appeal, reaching out to the educated middle class as well.205

The Brotherhood also moderated its stance toward political violence. In the 1950s, the Brotherhood was a more radical organization than it is now. In 1952, it helped overthrow the government and install Nasser, and a mere two years later, a member of the Brotherhood attempted to assassinate Nasser.206 In the 1970s, when many Islamic fundamentalists were flocking to violent radical sects, the Brotherhood tempered its radicalism, realizing that it was not in its best interest to advocate violence. First, violence only hurt the people of Egypt and made the government expend money to contain it.207 Second, violence always resulted in arrests or executions, which tended to hurt the leadership of the group and drive the rest of the group underground.208 The Brotherhood recognized that it could achieve its goals by taking a more moderate stance and working within the mainstream political channels.

Whether a fundamentalist group will choose to popularize its ideology is, in most part, dictated by its underlying goals and world view. The haredim have been very static and absolute in their ideology because they have taken on a defensive enclave mentality, as opposed to the Muslim Brotherhood which sees itself as actively leading all of Islam to a new golden age. The world view adopted by a particular group is influenced in large part by the fundamentals they choose to stress and is not inherent within the religion itself. This helps to explain why the haredim, who are defensive and who try to preserve their way of life, and the Gush Emunim, who are active and militant, can both claim to be upholding the strict letter of Jewish law.

The fundamentals that a group selects are dictated for the most part by the outside modernist threat and as a result also depend on the timing and the conditions of the group’s interaction and conflict with modernity.209 Let us return to the example involving the haredim and the Gush Emunim (GE). The haredi Jewish movement grew during the eighteenth and nineteenth centuries in Europe and was created in response to the industrialization and migration that were dispersing Jewish communities and moving more and more Jews away from a life dedicated wholly to Judaism.210 The haredim responded to

205. See Ramadan, supra note 80, at 155.
206. KEPEL, supra note 107, at 26-27.
207. Ramadan, supra note 80, at 168-69.
208. Id.
209. See Voll, supra note 12, at 365.
the fracture of their communities by creating Jewish enclaves and stressing the ritual practices of their forefathers.\textsuperscript{211} In contrast, the GE is a very recent development, forming in the wake of the Six-Day War in 1967.\textsuperscript{212} Members of the GE believe that the conquest and settlement of the territory constituting the biblical nation of Israel are necessary for redemption and can in fact hasten the coming of the Messiah.\textsuperscript{213} The GE is a response in large part to the Arab-Israeli conflict and its periods of activity or dormancy can be traced to corresponding periods of conflict or peace between the Arabs and Israelis.\textsuperscript{214}

Because the \textit{haredim} and the GE arose at different times and under different circumstances, their responses to modernity have been different as well. The GE was formed during a time when the nations of the Middle East were embroiled in armed conflict, so their tactics and methods have focused on that conflict. By contrast, the \textit{haredim} were formed during a time when intellectual movements and social change were challenging the integrity of Jewish communities. It is only natural that their tactics have centered around the preservation of the Jewish community. In order then to predict the direction of a fundamentalist group, it is necessary to investigate the forces acting on it. If the region around the group is embroiled in ethnic conflict, expect the group to choose those elements of its religion that allow it to best cope in that environment. Only when you understand the context in which a fundamentalist group arises can you hope to discover the path it plans to take.

Fundamentalist groups are also extremely vulnerable to state repression, and their tactics and ideology can be influenced by repeated pressure from the government. The Muslim Brotherhood is only one example of a group that has been influenced by government pressure. The leadership of the Muslim Brotherhood suffered greatly under the rule of Nasser. In 1954 and again in 1965, Nasser imprisoned and executed a great number of the Brethren.\textsuperscript{215} This act had a profound impact on the group. When the survivors were released from prison by Sadat in 1970, they embraced a new pragmatism that advocated working within the existing political system and avoiding violent opposition to the government.\textsuperscript{216}

\begin{enumerate}
\item \textsuperscript{211} See Heilman, \textit{supra} note 23, at 12-14.
\item \textsuperscript{212} See Aran, \textit{supra} note 65, at 271.
\item \textsuperscript{213} See \textit{id.} at 291-92.
\item \textsuperscript{214} See \textit{id.} at 275, 285.
\item \textsuperscript{215} See Kepel, \textit{supra} note 107, at 26-35.
\item \textsuperscript{216} Ramadan, \textit{supra} note 80, at 168-69.
\end{enumerate}
One of the most critical aspects of fundamentalism for the world community to understand is the relationship between fundamentalism and nationalism. Increasingly, nationalist movements are looking toward religious fundamentalism to provide the moral justification for their movements. As discussed earlier, every nationalist movement must develop an independent moral justification for the course of action it plans to take—whether it be securing an independent homeland or taking control of existing political structures. Religion provides the ideal moral justification for nationalists because religions are not only well respected and acknowledged moral systems, but are often intertwined with a nation's history. As a result, religion can serve as an effective rallying point for nationalist feelings.

In the case of nationalist movements, the fervor of nationalism supplants fundamentalism, making fundamentalism subservient to it. When nationalism harnesses fundamentalism, fundamentalism is no longer the driving force behind the movement, but instead is used by the nationalists in their drive toward solidifying their national identity. The search for national identity, not religious truth, is primary, and it conditions the fundamentals stressed and how they are used. The fundamentals extracted from sacred texts or rituals are more reflective of the nationalist rhetoric than any particular religious world view. In other words, the religious character of the texts or rituals is subservient to the personal identity affirmed by the religious items. In these movements, cultural identity is transformed into a religious fetish that takes on sacred and magical properties of its own.

To further illustrate this point, take for example the Theravada Buddhist fundamentalists in Sri Lanka. Dharmapala, the first Sinhalese nationalist, tried to simplify Buddhist ideology while stressing Sinhalese cultural achievement under the Buddhist kings. His view differed from traditional Buddhist practice in several key areas. He sought to reduce the influence of the monks and instead emphasized individualism and self-reliance. Most importantly, in his attempt to simplify Buddhism, he removed much of the philosophical complexity and ritual variety in the religion. By stressing the core teachings,

217. See Swearer, supra note 144, at 650. For examples of the interaction of nationalism and fundamentalism from Kasmir and Northern Ireland see generally T.N. Madan, The Double-edged Sword: Fundamentalism and the Sikh Religious Tradition, in FUNDAMENTALISMS OBSERVED, supra note 10, at 594; Steve Bruce, Fundamentalism, Ethnicity and Enclave, in FUNDAMENTALISM AND THE STATE, supra note 58, at 50, 50-59.
218. Brilmayer, supra note 192, at 11-12.
219. Swearer, supra note 144, at 650.
he ignored the essential dynamic between the mundane and the transmundane that was at the center of Buddhism.\textsuperscript{220} He replaced the philosophical center of Buddhism that supported the core teachings with nationalist rhetoric that incorporated the core ideas into a broader context of ethnic renewal. Dharmapala shunned local folk traditions, but he embraced the major Buddhist pilgrimages and festivals because they served to reinforce Sinhalese national identity.\textsuperscript{221} To Dharmapala, it was not the content of the festivals that warranted concern, but whether the festivals would detract from the "worship" of the Sinhalese nation-state.

Obviously it becomes important to distinguish between those fundamentalist movements that are standing on their own and those that form part of a larger nationalist program. Those movements, like the Muslim Brotherhood and the haredi Jews, that are not part of any nationalist movement are going to be centered around a religious world view as opposed to any nationalist rhetoric. The fundamentals they stress will center around personal salvation and purity, and they will look to a future that is more righteous and holy than the times we live in now. Fundamentalist movements that have been captured and exploited by nationalist movements stress different elements. They look to religious texts and rituals that are going to solidify national unity and provide the moral justification for their claims. They are not as concerned with living life in line with divine mandate, as much as they are solidifying cultural superiority.

Another issue of particular interest is the relationship between fundamentalist groups and violence. Initially one might believe that fundamentalist groups would be against violence; religions generally tend to abhor violent conflict and the killing of other human beings. Fundamentalist groups are adaptable though, and almost any religious text can be interpreted to allow violent conflict with an evil outside force. The crucial factor that determines whether a fundamentalist group will resort to violence is whether the country they inhabit is a sectarian or secular state.\textsuperscript{222} In a sectarian state, like Iran, Egypt, or Sri Lanka, there are many partial communities, including communities based on ethnicity, nationalism, and religion.\textsuperscript{223} Although fundamentalist groups almost always begin as a peripheral element, the
religious communities share crucial basic beliefs that allow the fundamentalists to recruit members from the mainstream and interact with those religious communities in power.\textsuperscript{224} Because fundamentalists can draw on the core values of the larger religious communities, their potential for influence is greater.

The patterns and forms that religious violence takes in a sectarian state depend on whether the state contains a dominant religious community.\textsuperscript{225} In countries like Sri Lanka, where there is a dominant religious community, fundamentalists will resort to intense and persistent violence to achieve their goals. Fundamentalists surrounded by a dominant religious community have a broader base from which to derive support and are better able to wage a destructive and prolonged engagement against their enemies. In countries like Egypt, where the religious community is not as powerful, fundamentalists engage in violence that is only sporadic and occasional because they lack the support from a large portion of the population.\textsuperscript{226} This distinction between nations that have dominant or nondominant religious communities helps to explain why Sri Lanka has had almost constant violence since 1956, while Egypt has experienced assassinations but little communal bloodshed.

In secular nation-states like Israel and the United States the major religious communities that feed fundamentalist groups have much less political potential than their counterparts in sectarian states.\textsuperscript{227} As a result, fundamentalists in secular states must pursue limited political concerns in ways by which they can obtain secular support.\textsuperscript{228} As a result, fundamentalists in secular states must pursue limited political concerns in ways by which they can obtain secular support.\textsuperscript{228} An example is the methods the Israeli \textit{haredim} utilize in securing political concessions from the government. The \textit{haredim} realize that they cannot exert substantial political pressure, so they wait until the political mainstream needs them to form a coalition government and then present their concerns. In a secular state the goal of overtaking the state is simply not credible, so fundamentalist groups must use other means. The resulting pattern that can be discerned from this dichotomy makes it important to determine what kind of political system a nation employs. If a fundamentalist group resides in a sectarian state that has a dominant religious community, the group will be much more likely to resort to violence than if it resides in a secular nation-state.

\textsuperscript{224} \textit{Id.} at 433.

\textsuperscript{225} \textit{Id.}

\textsuperscript{226} \textit{See id.} at 455.

\textsuperscript{227} \textit{See id.} at 437.

\textsuperscript{228} \textit{Id.}
Fundamentalists, perhaps better than most groups, realize the strange relationship between law and power. On one hand, law is power's voice that legitimizes its brute force; on the other hand, power is law's indispensable condition without which law has no legitimacy or muscle. Any movement in the modern era realizes that in order to control its destiny it must be able to manage power and legal systems. If it does not, it exists at the will of outside decisionmakers. Fundamentalists are aware that they must control law and legal systems in order to achieve their goals, but they also are aware that without the support of the populace any legal system they create will lack legitimacy. It is important to remember that fundamentalist groups are extremely diverse and adaptable. Because they represent a reaction to modernity they are going to meld and bend in ways that allow the group to best cope in the modern era. Fundamentalists are never static and to see them as such is an underestimation of their power and persuasiveness. Fundamentalists understand the correlation between law and power and the role they play in a modern nation-state.

To most outside observers, the most troubling aspects of fundamentalist movements are their ties to nationalism and violence. Fundamentalism maintains a strange relationship with nationalist movements. While in most contexts, the fundamentals extracted from a religion stand on their own as the core beliefs of the group, in nationalist movements the fundamentals extracted are more in tune with national identity than any discernible spiritual or religious view. Fundamentalist religion provides an excellent moral justification for nationalism. The absolute character of religious truth espoused by fundamentalists can be easily directed toward cultural identity, making national identity an absolute as well. It is only natural that the nationalist leaders would look toward fundamentalist tactics to aid their groups.

The relationship between violence and fundamentalist groups has much to do with the character of the nation in which they reside. Because fundamentalist groups are religious groups, they are going to be greatly influenced by the role religious communities take in managing the state. If a

fundamentalist organization resides in a sectarian nation that has very vocal and powerful religious communities, the organization is more likely to resort to violence. If the fundamentalist organization resides in a secular nation-state that distances religious groups from the decisionmaking process, then fundamentalist groups are going to resort to much less violence. Fundamentalist violence then depends little on the religion or socioeconomic status of its members, but is much more keenly influenced by a religious group’s access to the political and decisionmaking apparatus. The natural question arises of whether fundamentalist groups will continue to exist in our global culture that continually attempts to homogenize religion and ethnicity. As long as the forces of modernization and the uneven political, social, and economic growth that come with it exist, there will be fundamentalist groups. Only when our societies stabilize and are able to provide the solid footing so many people crave will fundamentalism disappear.