

# Comment on Koppelman and Leiter

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Andrew Koppelman has offered a challenge to Brian Leiter's view that the proper public attitude toward religion is one of tolerance rather than active respect. Let us explore the nature of that challenge and offer a few observations on the topic.

Koppelman begins by questioning Leiter's definition of religion. Leiter defines religion in terms of propositions accepted on faith rather than evidence and issuing in categorical commands.<sup>1</sup> Koppelman argues that this is an impoverished conception of the nature of religion.<sup>2</sup> People often engage in religious practices for reasons that have very little to do with the acceptance of official dogma and that the participants do not think of as being compulsory.

It is not to be denied that some people who are fundamentally nonbelievers still derive value from participation in religious rituals. Such participation can provide a variety of benefits, such as bonding with existing members of a valued community and with ancestors who followed similar practices. At a limit, one could imagine a community of former believers who continued to participate in the same rituals even though *everyone* involved had abandoned belief in any propositions once articulated by the religious leaders. The acid test of Koppelman's critique would be whether we would want to continue to characterize this community as a religion. I think the most accurate description is that

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1. Brian Leiter, *Foundations of Religious Liberty: Toleration or Respect?*, 47 SAN DIEGO L. REV. 935, 944 (2010).

2. Andrew Koppelman, *How Shall I Praise Thee? Brian Leiter on Respect for Religion*, 47 SAN DIEGO L. REV. 961, 962 (2010).

the once-religious community has continued as an ethnicity or social club but that it has ceased to have a religious character.

For a “religion” to exist, it clearly is not necessary that each participant accept the truth of each item of official dogma, but Leiter’s point that the acceptance of faith-based propositions of some sort is fundamental to religion seems plausible. A church might engage in a variety of activities having nothing directly to do with religious propositions: running schools, hospitals, day care centers, and community dances. Still, those activities are considered part of a religion because they are believed by at least some community members to be connected, however loosely, to the teachings of the church. A church would simply become another secular service organization if its activities were no longer seen by anyone to be connected with propositions of faith.

I do believe that Leiter’s definition of religion needs to be qualified in at least one respect, although he might regard this as a friendly amendment. Leiter says that religious belief “issue[s] in *categorical* demands on action, that is, demands that must be satisfied, no matter what an individual’s antecedent desires and no matter what incentives or disincentives the world offers up.”<sup>3</sup> Actual religions may tend to impose categorical obligations, but this seems to be a contingent rather than a necessary fact about religion. Some religious ethical precepts take a softer and less categorical form than, say, the Ten Commandments. They speak of particular Virtues that a person should strive to embody or Deadly Sins (character flaws?) that should be avoided. Or they offer standards such as the Golden Rule that arguably translate into determinate rules only when made sensitive to the complete context of action.

Rather than stressing the categorical nature of religious ethical teaching, it is more helpful to say that religions involve prescriptions that purport to be *authoritative*. In other words, the religion’s prescriptions, however soft and contextual they may be, are intended to supersede contrary intuitions and ethical judgments of the individual. Again, there may be plenty of room for interpretation of vague religious standards and for deciding the best way to embody virtues and the absence of vices in one’s behavioral repertoire. But a belief system that issued in ethical rules or standards that were regarded as entirely optional would be hard to recognize as a religion.

There is one additional element that probably should be added to the definition of religion. The authoritative nature of the religious prescriptions needs to be connected in some way with the faith-based factual propositions.

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3. Leiter, *supra* note 1, at 944.

The nature of that connection can vary. One might say that the ethical rules and standards are authoritative because of their divine origin, or because of the divine rewards and punishments that can be applied. But it would be very hard to recognize a religion that had propositions of faith and ethical commands but did not see those two elements as connected. Such an organization would seem to be more like a university with hermetically separated departments of theology and philosophy than like a practicing religion.

Leiter's question can thus be rephrased: should there be public respect, or merely tolerance, for an institution defined, or at least overwhelmingly characterized, by faith-based propositions connected with authoritative ethical prescriptions? Here it seems essential to distinguish two ways in which such an institution might deserve respect in the sense of favorable appraisal. One might have *epistemic* respect for such an institution as having accessed important truths otherwise unavailable to us. Or one might have respect for the *effects* of such an institution.

Koppelman acknowledges the difference in principle between epistemically warranted beliefs and beliefs that can serve existential functions even when epistemically unwarranted, but he tends to slur the two together. Regarding the first topic, he offers a kind of agnostic defense of the epistemic legitimacy of religion because nonbelief "is also a kind of faith: there is no basis for confidence in the *rejection* of a transcendent frame of reference, either."<sup>4</sup> In the end, he asks, "How can you *know* that there is no transcendent frame? What epistemic warrant is there for that bold claim? It is possible to be a strong religious adherent while fully acknowledging one's lack of epistemic certainty."<sup>5</sup>

Perhaps the claim is that neither religion nor its absence can be proven correct, in the way that one might prove a mathematical theorem. But proof is a very strong requirement. One cannot prove that there are no unicorns walking the Earth, but that does not make belief in their presence or absence equally reasonable from an epistemic point of view. It is reasonable to believe in entities that we have seen or otherwise directly experienced with our senses. It is also reasonable to believe in unseen entities if they help us to explain things we have seen in ways that would be difficult to explain in other ways. The question is whether

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4. Koppelman, *supra* note 2, at 979.

5. *Id.* at 979–80.

religious belief might be defended as epistemically reasonable along these grounds.

I certainly do not mean to offer a definitive answer on this topic, but it must be acknowledged that the explanatory case for postulating religious entities has become harder to make over time. At one time, the world was full of unexplained mysteries. There were the various “acts of God,” such as plagues, earthquakes, and lightning bolts from the sky. One by one these phenomena have yielded to ordinary scientific explanations. There is of course the enormous mystery of how something as complex as an advanced animal could possibly have arisen without a designing intelligence, but the theory of evolution has put that view on the defensive as well. Perhaps one can cite various miracles that are hard to explain, but the pages of the *Skeptical Inquirer* are often quite persuasive in recreating various alleged paranormal phenomena with simple magic tricks. As for the alleged goodness of the world as evidence of a benevolent Creator, the sheer magnitude of twentieth-century evil is a serious counterexample.

Perhaps religious experiences, first person or reported by others, provide some epistemic warrant for religious belief. Again, the question is whether postulating unseen entities helps to explain things we experience more directly. The case would be strongest if the religious experiences left interpersonally accessible physical traces, perhaps measurable effects on the electromagnetic spectrum. Even if the evidence is purely psychological, it would be possible that religious experience reports might have some hard-to-explain quality, perhaps a uniformity of surprising experiences of people from different faith traditions. On the other hand, it must be conceded that if all we experience in church is the truth of whatever we were taught on our mother’s knee, then that is not very impressive.

To be sure, there are still things that cannot be explained. In many ways it appears that the universe had to have parameters within a tiny range of their actual value for stars and planets to be able to form. And the Earth had to have parameters within a tiny range of their actual value for life to form. These Goldilocks phenomena of so many things being “just right” might supply some rational reason to believe in a benevolent cosmic order. But less exotic hypotheses are also possible. Life on a planet is made less miraculous if, as now seems likely, there is a very large number of planets, and of course the observations will be made from the ones that got lucky. Similarly, the observed universe is less miraculous if, as much current theory implies, it constitutes one of many universes with different physical parameters, where again it would not

be anomalous that questions are asked about that multiverse from within the small portion of it where the physical parameters made questioners possible.

Although it cannot be claimed that the unseen entities of religion have no potential explanatory role, it does seem accurate to describe that role as diminishing over time. It does not appear to be a progressive research program that uses its entities to come up with new explanations and new predictions of things that can be seen and verified. One must ask the question of the epistemic reasonableness of religious belief against this track record. Again, if anything that cannot be proven false is reasonable to believe, then reason provides precious little guidance for our intellectual lives.

This brings us to the view that religious belief might be functional despite its arguable lack of epistemic warrant. Leiter finds this to be a rather unlikely coincidence of good coming from bad, but in fact it is not at all implausible.<sup>6</sup> Religion is an institution with great survival value, and if the beliefs are not epistemically reasonable it seems quite likely that they serve some other function for the persons or societies who believe in them. Koppelman cites a number of these functions,<sup>7</sup> and I have no desire to take issue with his views. Religion provides a rationale for hope and an antidote against existential despair. It offers consolation for death and suffering. It creates a sense of identity that facilitates communal bonds across people and generations. It provides a reason to behave decently when no one is looking. I would add that it often provides an excellent bulwark against believing in goofy contemporary pseudoreligions that have not proven capable of sustaining societies that adhered to them. Science has no real alternative way of supplying any one of these functions, much less all of them. Together they constitute a powerful case for the law and society to accord appraisal respect and not mere tolerance to religious institutions.

The paradox, of course, is that religion is able to perform all of its functions because people believe it is true rather than merely useful. That paradox is one of the genuine mysteries of our age.

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6. See Leiter, *supra* note 1, at 945–46.

7. Koppelman, *supra* note 2, at 981–82.

