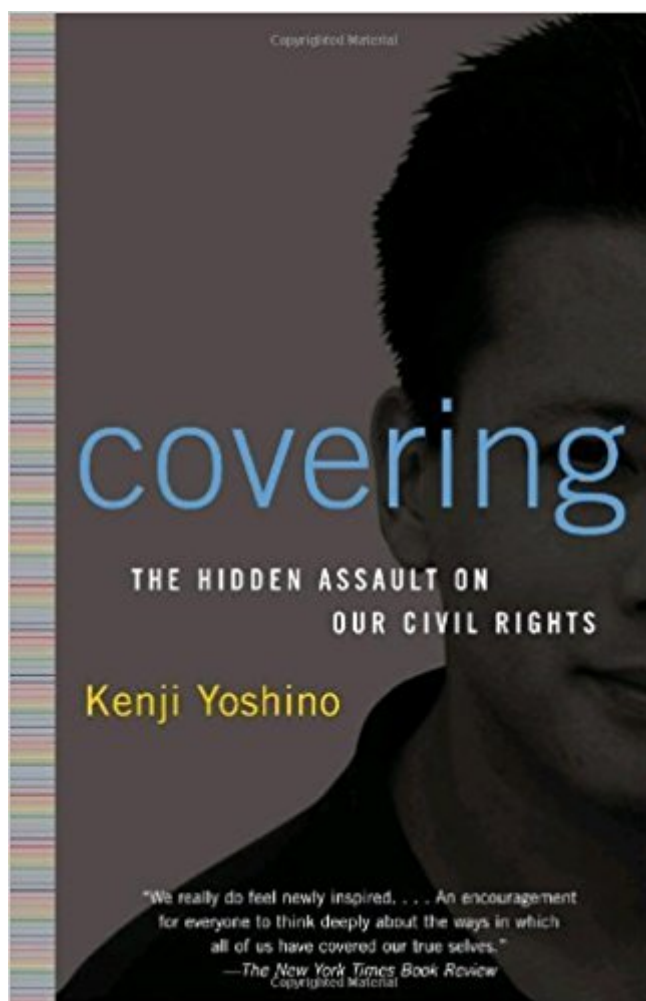


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# Covering: The Hidden Assault On Our Civil Rights



## Synopsis

In this remarkable and elegant work, acclaimed Yale Law School professor Kenji Yoshino fuses legal manifesto and poetic memoir to call for a redefinition of civil rights in our law and culture. Everyone covers. To cover is to downplay a disfavored trait so as to blend into the mainstream. Because all of us possess stigmatized attributes, we all encounter pressure to cover in our daily lives. Given its pervasiveness, we may experience this pressure to be a simple fact of social life. Against conventional understanding, Kenji Yoshino argues that the demand to cover can pose a hidden threat to our civil rights. Though we have come to some consensus against penalizing people for differences based on race, sex, sexual orientation, religion, and disability, we still routinely deny equal treatment to people who refuse to downplay differences along these lines. Racial minorities are pressed to “act white” by changing their names, languages, or cultural practices. Women are told to “play like men” at work. Gays are asked not to engage in public displays of same-sex affection. The devout are instructed to minimize expressions of faith, and individuals with disabilities are urged to conceal the paraphernalia that permit them to function. In a wide-ranging analysis, Yoshino demonstrates that American civil rights law has generally ignored the threat posed by these covering demands. With passion and rigor, he shows that the work of civil rights will not be complete until it attends to the harms of coerced conformity. At the same time, Yoshino is responsive to the American exasperation with identity politics, which often seems like an endless parade of groups asking for state and social solicitude. He observes that the ubiquity of the covering demand provides an opportunity to lift civil rights into a higher, more universal register. Since we all experience the covering demand, we can all make common cause around a new civil rights paradigm based on our desire for authenticity—a desire that brings us together rather than driving us apart. Yoshino’s argument draws deeply on his personal experiences as a gay Asian American. He follows the Romantics in his belief that if a human life is described with enough particularity, the universal will speak through it. The result is a work that combines one of the most moving memoirs written in years with a landmark manifesto on the civil rights of the future. “This brilliantly argued and engaging book does two things at once, and it does them both astonishingly well. First, it’s a finely grained memoir of young man’s struggles to come to terms with his sexuality, and second, it’s a powerful argument for a whole new way of thinking about civil rights and how our society deals with difference. This book challenges us all to confront our own unacknowledged biases, and it demands that we take seriously the idea that there are many different ways to be human. Kenji Yoshino is the face and the voice of the new civil rights.” —Barbara Ehrenreich, author of *Nickel and Dimed* “Kenji Yoshino has not only

given us an important, compelling new way to understand civil rights law, a major accomplishment in itself, but with great bravery and honesty, he has forged his argument from the cauldron of his own experience. In clear, lyrical prose, *Covering* quite literally brings the law to life. The result is a book about our public and private selves as convincing to the spirit as it is to the mind.

—Adam Haslett, author of *You Are Not A Stranger Here*

“Kenji Yoshino’s work is often moving and always clarifying. *Covering* elaborates an original, arresting account of identity and authenticity in American culture.

—Anthony Appiah, author of *The Ethics of Identity* and Laurance S. Rockefeller University Professor Of Philosophy at Princeton University

“This stunning book introduces three faces of the remarkable Kenji Yoshino: a writer of poetic beauty; a soul of rare reflectivity and decency; and a brilliant lawyer and scholar, passionately committed to uncovering human rights. Like W.E.B. DuBois’s *The Souls of Black Folk* and Betty Friedan’s *The Feminine Mystique*, this book fearlessly blends gripping narrative with insightful analysis to further the cause of human emancipation. And like those classics, it should explode into America’s consciousness.

—Harold Hongju Koh Dean, Yale Law School and former Assistant Secretary of State for Human Rights

“*Covering* is a magnificent work - so eloquently and powerfully written I literally could not put it down. Sweeping in breadth, brilliantly argued, and filled with insight, humor, and erudition, it offers a fundamentally new perspective on civil rights and discrimination law. This extraordinary book is many things at once: an intensely moving personal memoir; a breathtaking historical and cultural synthesis of assimilation and American equality law; an explosive new paradigm for transcending the morass of identity politics; and in parts, pure poetry. No one interested in civil rights, sexuality, discrimination - or simply human flourishing - can afford to miss it.

—Amy Chua, author of *World on Fire*

“In this stunning, original book, Kenji Yoshino demonstrates that the struggle for gay rights is not only a struggle to liberate gays---it is a struggle to free all of us, straight and gay, male and female, white and black, from the pressures and temptations to cover vital aspects of ourselves and deprive ourselves and others of our full humanity. Yoshino is both poet and lawyer, and by joining an exquisitely observed personal memoir with a historical analysis of civil rights, he shows why gay rights is so controversial at present, why *covering* is the issue of contention, and why the *covering* demand, universal in application, is the civil rights issue of our time. This is a beautifully written, brilliant and hopeful book, offering a new understanding of what is at stake in our fight for human rights.

—Carol Gilligan, author of *In a Different Voice*

## Book Information

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## Customer Reviews

Starred Review. Seldom has a work of such careful intellectual rigor and fairness been so deeply touching. Yoshino, a law professor at Yale and a gay, Asian-American man, masterfully melds autobiography and legal scholarship in this book, marking a move from more traditional pleas for civil equality to a case for individual autonomy in identity politics. In questioning the phenomenon of "covering," a term used for the coerced hiding of crucial aspects of one's self, Yoshino thrusts the reader into a battlefield of shifting gray areas. Yet, at every step, he anticipates the reader's questions and rebuttals, answering them not only with acute reasoning, but with disarming humility. What emerges is an eloquent, poetic protest against the hidden prejudices embedded in American civil rights legislation—legislation that tacitly apologizes for "immutable" human difference from the white, male, straight norm, rather than defending one's "right to say what one is." Though Yoshino recognizes the law's potential to further (and hinder) liberty's cause, he admits that his "education in law has been an education in its limitations." Hence, by way of his unsparing accounts of self-realization, he reveals that the struggle against oppression lies not solely in fighting an imagined, monolithic state but as much in intimate discourse with the mother, the father and the colleague who constitute that state. As healing as it is polemical, this book has tremendous potential as a touchstone in the struggle for universal human dignity. (Jan. 24) Copyright © Reed Business Information, a division of Reed Elsevier Inc. All rights reserved. --This text refers to an out of print or unavailable edition of this title.

Yoshino's memoir-cum-treatise combines a provocative examination of the current state of civil

rights with an account of his experiences as a gay Japanese-American. Arguing that discrimination now targets "the subset of the group that fails to assimilate to mainstream norms," Yoshino describes a phenomenon that he calls "covering": the pressure exerted on racial minorities to "act white," the social acceptance offered to gays as long as they don't "flaunt" their identities, the ways women in the workplace are expected to camouflage their lives as mothers. Exploring the history of civil-rights litigation in the United States, Yoshino concludes that courts have too often focussed on individuals' capacity to assimilate, rather than on the legitimacy of the demand that they do so.

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While I am interested in this book's subject, I'll admit that part of the reason I picked it up was the strength of its back-cover recommendations: Barbara Ehrenreich, Kwame Anthony Appiah, and (Tiger Mom) Amy Chua. That is a very impressive and diverse lot. So, the book must be good. And it was. Here, law professor Kenji Yoshino discusses the idea of covering, and how the demand (generally toward minority groups) to cover is in some way a violation of people's rights to liberty. What is covering? If 'passing' is the demand that people pass for something other than they are (blacks with light skin passing as white, gays pretending to be straight), 'covering' is the idea that, while you don't have to pass, you do have to keep your differences with others under wraps (blacks not acting "too black," or gays making sure not to "act too gay" in "polite company"). To discuss how covering makes life quite difficult, Yoshino gets quite autobiographical, discussing and dissecting his own experience as a gay man who, at first, had to admit to himself that he was gay and, after that, had to navigate a world that might allow him to be gay but not allow him to (even inadvertently) draw attention to his homosexuality. So, while it has always been perfectly acceptable for straight couples to hold hands or walk arm-in-arm in public - without anyone accusing them of drawing attention to their own heterosexuality - gays who do the same thing will be readily accused of flaunting their homosexuality. Hence, while one might be allowed to be openly gay, whether to be openly gay in one's actions (and not just one's words) is often a pretty thorny question. Hence, the social demands to cover. As the book progresses, Yoshino gets less autobiographical and more academic, discussing reports that others have of covering demands and how they affect many types of people, as well as cases in the law where the courts generally allow employers to enforce covering demands on the job. As to the former, Yoshino reports cases where women have been asked not to talk so much about responsibilities of motherhood in the workplace, and even to refrain from displaying pictures of their kids at their desks (where men generally are not asked to do this),

the lengths the disabled often go to to hide their disabilities for fear of prejudgment by others, etc. As to the latter, Yoshino's conclusion is that while courts are generally good about barring employers from overt forms of discrimination around who one is (black, female, disabled, etc), the courts are generally content to allow employers to discriminate regarding what one does (wearing one's hair in cornrows, talking in a certain dialect, etc). Yoshino, though, questions whether and to what extent who one is can be separated meaningfully from what one does. Yoshino concludes that the burden of proof should be on employers to give reasons why covering demands on employees are justified; they should have to give "reason-forcing arguments" in Yoshino's words, as to why covering demands shall be necessary. This is one of the few spots where I disagree with Yoshino, and I do so for two reasons. First, what is and isn't a good reason is a very fuzzy, if not a subjective, thing. If an employer wants, say, to prohibit employees from wearing cornrows because, say, they simply want their employees to look relatively 'mainstream,' could the court really find some objective way to determine whether this is a good reason? Indeed, if we follow Yoshino's opinions, he would almost never see a reason for a covering demand to be good. Second, and more simply, we live within a legal system that puts the burden of proof on the plaintiff, not the defendant. Yoshino's idea would mean that every covering demand is guilty until the employer proves it innocent. But Yoshino is also reluctant to use law as a way to remedy these things, mostly because he (rightly, I think) surmises that it would be VERY hard to get our legal system to change course, to allow judges to dig that far into employee-employer relations, and also, because he understands that covering is a social phenomenon, not just one confined to workplaces. And we can't (or shouldn't) likely expect the law to expand its scope of authority to all social interactions. Anyhow, this is a really well written, and a very thoughtful, book. Ehrenreich, Chua, and Appiah were correct. Yoshino draws attention to a very little noticed (for those in the majority) phenomenon that anyone who cares about liberty in a pluralistic world should care about.

A former English scholar, law student, and now professor at Yale, Kenji Yoshino beautifully articulates the unfortunate phenomena of "covering," a term used to describe an individual's attempt at minimizing or hiding a fundamental part of one's self or identity that others may see as inferior. The law is clear that protecting people's differences based on race, sex, gender, sexual orientation, religion, age, and (dis)ability, is a fundamental part of our civil liberties. Despite this, however, we still routinely deny equal treatment to people who refuse to downplay differences along these lines. Racial minorities are pressed to "act white" by changing their names,

languages, or cultural practices. A case study he examines is about a black woman who worked for American Airlines and fired for defiantly wearing cornrows. She sued arguing that wearing cornrows were an intrinsic part of her race/culture but lost. Women are told to “play like men” in white collar workplaces but simultaneously expected to be feminine and dress sexy. We see this often; a double standard and usually a catch-22. Gays are asked not to engage in public displays of same-sex affection. Yoshino recounts a story of a woman who was offered a job at a law firm but immediately had the offer rescinded after being found out that she was lesbian and planning to marry. She sued and lost because courts deemed that the “flaunting” of her sexuality is not legally discriminatory. It’s a very fine line. It may be illegal to refuse to hire or fire someone for being gay but it is completely legal to regulate and discriminate against certain behavior. Since the courts do not see behavior (a black woman wearing cornrows or a gay man having overtly effeminate mannerisms) as an immutable aspect of ourselves, they are not protected under equal protection laws. We can be gay, but just not act gay. How asinine.

This is a beautifully written and thought-provoking book. It has been several weeks since I’ve finished it and I still find myself thinking of it frequently, evaluating my behavior against the insights in the book, and even discussing it in the context of diversity and inclusion efforts at my workplace. As we move from simply “tolerating” others to a truly inclusive society, this book shows a potential path.

Yoshino calls on us to be authentic. He vigorously argues against coerced covering, or being forced to hide disfavored identities. He argues, rightly, that being coerced to hide our true selves is a violation of our civil liberties. Wonderfully written. If you have any interest in social justice and creating a better world, this is a good one to read.

An amazing look at the subtle and not so subtle ways we learn how to assimilate into the wider culture, what we give up when we do that, and how past legal decisions in the US have helped or hurt. If you’re interested in the cross-point of personal change and social change, read this.

A beautiful, analytical and lyrical book about the law. There aren’t many books that meet that description. Yoshino is brilliant.

As a queer identified person, this book speaks to the heart of the journey of LGBT people. As a political science student with a fascination for the law this book spoke to my inner geek. It is almost poetic how Yoshino combines the political and personal into one powerful story.

This is a thoughtful, well-written and insightful conceptualization of the impact of conversion, passing, and covering - the process that most not in the majority culture deal with, consciously or unconsciously, as we attempt to find a place in this country.

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