



1-1-2007

Book Review [Covering: The Hidden Assault on Our Civil Rights]

Santa Clara Law Review

Follow this and additional works at: <http://digitalcommons.law.scu.edu/lawreview>



Part of the [Law Commons](#)

Recommended Citation

Santa Clara Law Review, Book Review, *Book Review [Covering: The Hidden Assault on Our Civil Rights]*, 47 SANTA CLARA L. REV. 187 (2007).

Available at: <http://digitalcommons.law.scu.edu/lawreview/vol47/iss1/6>

This Book Review is brought to you for free and open access by the Journals at Santa Clara Law Digital Commons. It has been accepted for inclusion in Santa Clara Law Review by an authorized administrator of Santa Clara Law Digital Commons. For more information, please contact sculawlibrarian@gmail.com.

BOOK REVIEW

COVERING DISCRIMINATION: A REVIEW OF KENJI YOSHINO'S *COVERING: THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS*

Harvey Gee*

I. INTRODUCTION

America's exposure to homosexual lifestyles has never been greater, as evidenced by the continued upsurge of gay characters in the media,¹ and particularly the 2005 release of *Brokeback Mountain*, a film focused on the romance between two gay cowboys.² However, as indicated by the fiery debates over same-sex marriage and adoptions by same-sex couples,³ the prevalence of homosexuality in the media does not mean Americans have fully accepted homosexuality, though many have learned to tolerate it.⁴ Accordingly, many gays feel pressured to "cover"⁵ in their day-to-day lives. From this

* The author is a Denver attorney. He was previously in private practice in Washington, D.C. LL.M, The George Washington University Law School; J.D., St. Mary's University School of Law; B.A., Sonoma State University.

1. KENJI YOSHINO, *COVERING: THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS* 83-84 (2006) (citing television shows such as *The L Word*, *Will and Grace*, and *Queer Eye for the Straight Guy*, gay musicians like k.d. lang and Elton John, and gay authors such as Barnes and Wilde) [hereinafter *COVERING*].

2. See Scott Bowles, *Brokeback Mountain: Milestone or Movie of the Moment?*, USA TODAY, Feb. 22, 2006, at 1A.

3. See Dahlia Lithwick, *Why Courts Are Adopting Gay Parenting*, WASH. POST, Mar. 12, 2006, at B2.

4. See Kenji Yoshino, *Covered Mountain*, Jan. 31, 2006, http://www.advocate.com/print_article_ektid25028.asp.

5. Yoshino defines "covering" as "ton[ing] down a disfavored identity to fit into the mainstream." *COVERING*, *supra* note 1, at ix.

premise, Kenji Yoshino⁶ presents an excellent treatise on contemporary issues in the civil rights movement in *Covering: The Hidden Assault on Our Civil Rights*.⁷

In *Covering*, Yoshino synthesizes legal manifesto and memoir to expound upon important aspects of individual rights and race relations.⁸ After presenting a thorough review of the contemporary debate over civil rights,⁹ *Covering* underscores the importance of dialogue as a vehicle for steering progress in this controversy.¹⁰ The book further provides a new approach to thinking about modern-day civil rights.¹¹ In effect, it serves as an articulate and persuasive brief for progressive politics and moderate legal reform. The book expands upon Yoshino's earlier work on the subject, most notably a leading article he wrote for the *Yale Law Journal*.¹²

Part One of *Covering* deals with covering based on sexual orientation and the consequences of conversion¹³ and passing.¹⁴ Part Two applies the notion of covering to race¹⁵ and gender.¹⁶ Finally, Part Three consists of a brief discussion of religious covering¹⁷ and proposes a new perspective on civil rights.¹⁸ Yoshino's work is crafted with a general audience in mind and concludes with a comprehensive set of annotations for readers interested in seeking further information regarding the issues discussed.¹⁹

6. Yoshino is the Deputy Dean for Intellectual Life and Professor of Law at Yale Law School.

7. COVERING, *supra* note 1.

8. *See id.*

9. *Id.* at 167-84.

10. *Id.* at 192-96.

11. *Id.* at 184-96.

12. Kenji Yoshino, *Covering*, 111 YALE L.J. 769 (2002).

13. COVERING, *supra* note 1, at 31-49 (explaining that conversion, when applied to human beings, signifies "a spiritual transformation of our core, something that happens on the road to Damascus").

14. *See id.* at 50-73.

15. *Id.* at 111-41.

16. *Id.* at 142-66.

17. *Id.* at 168-70.

18. *Id.* at 167-96.

19. COVERING, *supra* note 1, at 203-68.

II. THE CHIEF FORMS OF COVERING ENCOURAGED BY MAINSTREAM SOCIETY

A. *Gay Covering*

Throughout history, conversion therapy for gays rested on the belief that homosexuality was a mental illness.²⁰ Sigmund Freud, however, questioned whether gays *should* be converted,²¹ bluntly stating: “Homosexual persons are not sick.”²² Conversion, Yoshino contends, is the ultimate demand for assimilation, destroying a person’s underlying identity.²³ Thus, “[w]hen someone asks for conversion, the difference between the two available refusals is immense. Which will we choose? Will we say we cannot change? Or will we, like the early gay activists, say we will not change, meeting the demand for conversion with a demand for equality?”²⁴

Yoshino asserts that gays cover along four main axes: (1) appearance, or the concern over how an individual physically presents herself to the world; (2) affiliation, or cultural identifications; (3) activism, or the extent to which she politicizes her identity; and (4) association, or her choice of lovers, friends, and colleagues.²⁵ He generalizes this premise further, stating that “[t]hese four axes are the fundamental dimensions along which we *all* mute or flaunt our identities.”²⁶ Thus, a gay person may cover his appearance by “acting straight,” such as “gay men who outjock the jocks or lipstick lesbians who outfemme the femmes.”²⁷ A gay person

20. *Id.* at 38. Psychotherapists Irving Bieber, Albert Ellis, Sandor Rado, and Charles Socarides, for example, believed that nurture, not nature, gave rise to homosexuality, and that conversion therapy could alleviate such a “deficient adaptation” or “psychotic” condition. *Id.* at 37-38.

21. *Id.* at 36.

22. *Id.* at 37.

23. *Id.* at 49.

24. *Id.*

25. COVERING, *supra* note 1, at 79.

26. *Id.*

27. *Id.* at 80. Yoshino describes literature he once came across that proposed to help gays ascertain how “gay” they are. “Danger signs for men include burning candles, getting pedicures, or (my favorite) enjoying the receipt of flowers.” *Id.* A 1993 *New York Times* profile described Joseph Steffan, a midshipman who was kicked out of the Navy for being gay, as the “perfect” representative of gay rights activism because of his embodiment of “the understated, well-scrubbed boy next door.” *Id.* In other words, “perfect” means

may further cover by not flaunting her gay affiliations by refraining from overt public displays of affection.²⁸ Covering also extends to how politically active a gay person chooses to be. Yoshino's mother once said to him, "Millions of gay people live their lives without making [gay rights] their cause. Why must you make it yours?"²⁹ Finally, gays cover by denying their relations when in public.³⁰ For example, Yoshino himself kept a former relationship secret from both his friends in law school and his parents.³¹

As for the legal consequences of not covering, numerous courts have predicated an entitlement on whether a gay or lesbian individual covered.³² While individuals who kept their homosexuality "discreet" or "private" kept their jobs or children,³³ those who allowed their sexual orientation to be "notorious" or "flagrant" found themselves much less fortunate.³⁴ Thus, case law shows the critical difference covering can make.³⁵

B. Race and Gender Covering

Readers interested in Asian American issues will find ample material in *Covering*. Yoshino specifically devotes portions of his book to discussing his experiences as an Asian American and the core social issues that affect Asian Americans in assimilating into the American culture.³⁶ The stereotypical portrait of Asian Americans as perpetual foreigners plagued Yoshino.³⁷ He detested the frequently asked question about where he was *really* "from" that non-Asians would probe him with, even after he asserted his

"straight-acting." *Id.*

28. *Id.* at 21.

29. *Id.* at 87.

30. *Id.* at 89-91.

31. COVERING, *supra* note 1, at 89-90 ("In denying our connection, I was heeding a culture that told me gay individuals are more palatable than gay couples. 'I don't care what they do in their bedrooms,' a classmate once said . . . 'I just don't see why they need to do it in public. . . .' I found myself wondering why people unfazed by the statement 'I am gay' could take such offense when they saw a tangible expression of that fact.").

32. *Id.* at 101.

33. *Id.*

34. *Id.*

35. *See id.* at 97-104 (describing how the law has historically treated gays).

36. *Id.* at 117-27.

37. COVERING, *supra* note 1, at 120.

Bostonian roots.³⁸ Fed up with being marginalized for his physical appearance, Yoshino overcompensated by excelling in the English language.³⁹ The stigma he felt for being “not American enough” spurred him to cover by commanding an impeccable comprehension of syntax and lexicon.

Yoshino also recounts a relationship he had with a Korean American woman during his college years.⁴⁰ He acknowledges that one of the reasons they were drawn to each other may have been their similar relationship with language.⁴¹ “[R]ace,” Yoshino admits, “was an explicit part of our connection,”⁴² despite their insistence that their relationship had nothing to do with ethnicity. “Our ink was as black, our page as white, as anyone’s,”⁴³ he writes.

Ironically, Yoshino became so Americanized that when he studied abroad in Japan, the Japanese considered him a foreigner because of his struggle to assimilate into Japanese culture.⁴⁴ Yoshino explains: “I do not code as Japanese because of a set of behaviors—how I hold my body, how I move through space, how I speak. . . . [P]erception of an individual’s race does not rest on biology alone.”⁴⁵

As a child who grew up in the midst of two cultures, American and Japanese, Yoshino, like countless other Asian Americans, fully understood the demand to assimilate to American norms.⁴⁶ Although his parents encouraged him to be proud of his Japanese heritage, they also warned him to “keep it private.”⁴⁷ In other words, “[b]e one hundred percent American in America, and one hundred percent Japanese in

38. *See id.*; *see also* FRANK H. WU, *YELLOW: RACE IN AMERICA BEYOND BLACK AND WHITE* 79-86 (2002); Jean Shin, *The Asian American Closet*, 11 *ASIAN L.J.* 1, 5-7 (2004).

39. *COVERING*, *supra* note 1, at 120-21.

40. *Id.* at 121-22.

41. Both their parents were immigrants who would speak to their children in their native tongues while Yoshino and the woman would respond in English. *Id.* (“We recognized our common desire to write ourselves out of the inscrutability of Asian-American experience . . . [and] disdained classes marked as ethnic, like Asian-American literature. We flew into the heart of the canon: I specialized in Shakespeare, she in Milton.”).

42. *Id.*

43. *Id.* at 121.

44. *Id.* at 116-17.

45. *COVERING*, *supra* note 1, at 117.

46. *Id.* at 118.

47. *Id.*

Japan.⁴⁸ This seems to be the root of racial and gender covering—public conformity to the majority, but private practice of minority cultures. Racial minorities in particular cover by “acting white,” as evidenced by the Western names they sometimes adopt and their perfection of English speaking abilities at the cost of forgetting their mother tongue.⁴⁹

C. Religious Covering

Covering also addresses the intersection of race and religion, and how, especially in today’s political climate, mainstream America pressures certain groups to cover their religious identities.⁵⁰ Religious minorities often downplay their faith as a result of pressures from the majority’s religious intolerance.⁵¹ After the 9/11 attacks, many American Muslims felt compelled to cover religious emblems and their way of dress to avoid public scrutiny.⁵² Some even contemplated changing their names.⁵³ Yoshino recalls that “[o]ther sources reveal[ed] similar post-9/11 covering strategies among American Muslims, such as not speaking Arabic in public, not attending mosques that preach[ed] against Israel, and not giving to Islamic charities for fear of government investigation.”⁵⁴

Covering, however, does not address religious covering as comprehensively as it does other topics. While the section devoted to religion speaks to the fundamental concepts, it noticeably lacks the actual and specific illustrations found in other sections. For example, Yoshino’s discussion on religious covering overlooked the James “Youseff” Yee case,⁵⁵ where a Muslim Chinese American who loyally served as a captain for

48. *Id.*

49. *Id.* at 118; see also JOHN S.W. PARK, ELUSIVE CITIZENSHIP: IMMIGRATION, ASIAN AMERICANS, AND THE PARADOX OF CIVIL RIGHTS 121-27 (2004).

50. COVERING, *supra* note 1, at 168-70.

51. *Id.*

52. *Id.*

53. *Id.*

54. See *id.* at 170.

55. Yee was a highly-educated American-born son of Chinese immigrants. He was raised in a New Jersey suburb, and is a Muslim convert. See Deborah Kong, *Asian Activist Wary of Prejudice in Army Inquiry*, PHILADELPHIA INQUIRER, Oct. 20, 2003, at A4.

the United States Army at Guantanamo Bay was accused of having terrorist ties when his superiors found out Yee was a practicing Muslim.⁵⁶ Certainly, such poignant examples would have further enriched the text here as well.

D. Rethinking Civil Rights

Covering insists that the work of civil rights advocates will continue until coerced conformity comes to an end.⁵⁷ To date, American civil rights laws have generally ignored the threats posed by these covering demands, and most Americans do not realize covering as an actual threat.⁵⁸ Even the U.S. Constitution⁵⁹ and Title VII of the 1964 Civil Rights Act⁶⁰ have proven to be insufficient in protecting against racial and especially sexual orientation covering demands. Such inadequacies stem from traditional court interpretations of these laws which protect status, and not necessarily behavior.⁶¹ Contemporary civil rights laws protect traits that an individual cannot change, such as his skin color, his chromosome, or innate sexual orientations.⁶² Such definitions, however, leave many more individuals vulnerable to discrimination—discrimination that does not fit neatly into any of these categories, but rather concerning subsets that do not conform to the norms.⁶³ Demands for covering target behavioral traits and not merely one's identity.⁶⁴ They pertain to the language spoken, whether to hold a same-sex

56. See JAMES YEE WITH AIMEE MOLLY, *FOR GOD AND COUNTRY: FAITH AND PATRIOTISM UNDER FIRE* (2005). In another relevant example, Brandon Mayfield, an American lawyer and Muslim convert, was investigated as a material witness in connection with the March 11, 2004 attacks in Madrid. Michael Isikoff et al., *Mysterious Fingerprint*, *NEWSWEEK*, May 31, 2004, at 8. Mayfield was initially arrested on the basis that his fingerprint allegedly turned up on a plastic bag found in a van used by the Madrid bombers. *Id.* In that case, Mayfield was ultimately absolved of any wrongdoing when Spanish investigators concluded that the fingerprint did not belong to him, but to Ouhmane Daoud, an Algerian living in Spain. See *id.*; Andrew Murr, *The Wrong Man: Brandon Mayfield Speaks Out on a Badly Botched Arrest*, *NEWSWEEK*, June 7, 2004, at 30.

57. *COVERING*, *supra* note 1, at 184-96.

58. *Id.*

59. See generally U.S. CONST.

60. 42 U.S.C. §§ 2000e-1 to -2 (2000).

61. See *COVERING*, *supra* note 1, at 190-92.

62. See *id.*

63. See *id.*

64. *Id.* at 23-26.

commitment ceremony, whether to wear religious garb, or whether a particular disability should be “corrected.”⁶⁵ Accordingly, in covering cases that are litigated, such as employment claims, courts often note that self-help is available, and plaintiffs are almost always denied the legal and equitable relief they seek as a result.⁶⁶

III. ACCOUNTS OF YOSHINO’S PERSONAL EXPERIENCES WITH COVERING

In trying to animate the consequences and substance of assimilation, Yoshino draws on his attempts to elaborate his identity as a gay man. The author cites personal experiences of the pressure he faced to cover his homosexuality because such an orientation has not yet gained favorable reception in the field of law.⁶⁷ Yoshino walks the reader through his own process of coming to terms with his racial and sexual identity. The covering demands on him were not limited to his sexuality, as Yoshino, to a lesser extent, also recounts obstacles confronting him due to his race and identity as an Asian American.

Yoshino’s parents were born in Japan, while he and his sister were born in Los Angeles.⁶⁸ Thus, he grew up in an awkward gap between two distinct cultures—spending his summers in Japan learning Japanese, assimilating into that culture, and the rest of his time in the States, assimilating into mainstream “white” America.⁶⁹ His parents stressed the importance of assimilation, wanting their children “to be one hundred percent American in America and one hundred percent Japanese in Japan.”⁷⁰

Yoshino also describes how he came to accept his sexuality. Yoshino’s struggle to arrive at a gay identity occurred in three phases.⁷¹ In the first phase, he sought to become straight, remaining open to the concept of conversion.⁷² In the second phase, he accepted his

65. *Id.* at 24.

66. *See id.* at 23-24

67. *See COVERING, supra* note 1, at 88-89.

68. *See id.* at 19-20.

69. *See id.* at 20.

70. *See id.*

71. *Id.* at 17.

72. *Id.*

homosexuality, but concealed it from others.⁷³ Eventually, in the third phase, Yoshino came out of the closet, but then had to decide whether to conceal his sexuality from others or to be outwardly gay.⁷⁴ As a Yale law student, he found a mentor in an openly gay professor who, though he did not cover his sexual orientation, gained acclaim and recognition for his writings on gay legal issues.⁷⁵ Inspired by his mentor, Yoshino rejected conversion, though he initially tried to hide his sexual identity from his classmates.⁷⁶ He refers to this act as a desire for passing.⁷⁷

Now, as a law professor, Yoshino is openly gay and his community has, for the most part, offered positive reception. Nevertheless, he recounts the challenges he faced when he decided to pursue a career as a law professor, such as how his chances of gaining tenure could have been affected based on his scholarly agenda of writing about sexuality and the law.⁷⁸ These challenges never dissuaded Yoshino from his decision not to cover, and the success he has enjoyed truly makes him an important role model and mentor to gay law students at Yale.⁷⁹

IV. ANALYSIS

A. *Two Main Undercurrents of Yoshino's Covering*

Two analytically distinct arguments, both based on case law and empirical evidence, run throughout *Covering*. First, Yoshino suggests that everyone covers in some way, often at great personal costs.⁸⁰ Second, he argues that the pressure and burden of covering represents a modern form of subordination that is a subtle assault on an individual's civil rights.⁸¹ Furthermore, formal laws are ill-equipped to combat such assaults.⁸² This section will summarize both of these

73. COVERING, *supra* note 1, at 20.

74. *Id.* at 18.

75. *Id.* at 13-18.

76. *Id.* at 18.

77. *See id.*

78. *Id.* at 17.

79. COVERING, *supra* note 1, at 17.

80. *Id.* at ix-x.

81. *See id.*

82. *Id.* at xi-xii.

propositions as they are presented in the book.

1. *Covering: The History, The Concept, The Costs*

In the first section of *Covering*, Yoshino explains the etymology of covering. Sociologist Irving Goffman, who coined the term, articulated how one covers by downplaying a disfavored attribute or characteristic.⁸³ Covering occurs in two particular situations: when a person is expressly pressured to cover, and when a person feels psychological pressure to cover on his own.⁸⁴ Several notable examples demonstrate a few of the contexts in which covering occurs. Ramon Estevez covered his ethnicity when he changed his name to Martin Sheen.⁸⁵ Similarly, Krishna Bhanji changed his name to Ben Kingsley.⁸⁶ Even Franklin Delano Roosevelt covered his disability by ensuring his wheelchair was always hidden behind a desk before his Cabinet entered.⁸⁷

Yoshino explains that we cover from childhood on, as we seek to be accepted, but “[w]e have not been able to see it as such because it has swaddled itself in the benign language of assimilation.”⁸⁸ In particular, minority groups face immense external pressures to cover by assimilating into mainstream “white” cultural norms.⁸⁹ To support his argument, Yoshino cites examples of racial minorities who are perceived to have breached the social contract of assimilation by choosing to flaunt their racial identities rather than cover them.⁹⁰ He finds the consequences of not covering race to be grim, citing examples such as an African American woman whose employer prohibited her from wearing cornrows to the office, and a Filipina nurse who was barred from speaking her native language, Tagalog, at work.⁹¹ The message this ultimately sends is that minorities must conform to Eurocentric norms in public, but are not necessarily discouraged from maintaining their cultural practices in

83. *Id.* at 18.

84. *Id. passim.*

85. COVERING, *supra* note 1, at ix.

86. *Id.* at ix.

87. *Id.* at 18

88. *Id.* at xi.

89. *See id.* at 20-22.

90. *Id.* at 130.

91. COVERING, *supra* note 1, at 130-32.

private.⁹²

Oftentimes the covering demand is so deeply entrenched in one's subconscious that he or she unknowingly downplays important aspects of his or her self in the public sphere.⁹³ Yoshino, however, is not a radical; he agrees that a certain amount of assimilation is necessary for fluid social interactions.⁹⁴ Examples are readily found in everyday life, whether in the form of dressing professionally at work, or being fully clothed while in public. Assimilation itself is not detrimental per se; assimilation motivated specifically by racism or sexism is, however.⁹⁵ Thus, Yoshino's first argument is grounded in the perception that human tendencies compel individuals to deliberately downplay their stigmatized attributes and conform to mainstream ideologies; hence, the pressure to cover.⁹⁵

2. *Covering and Civil Rights*

In contrast, Yoshino's second argument seems simplistic. He calls for a new paradigm of civil rights, one which reverses the status quo by placing the initial burden of justification for the demand to assimilate on the demander rather than on the recipient of the demand.⁹⁶ This would require society to refrain from penalizing people for differences based on race, gender, sexual orientation, religion, and disability.⁹⁷ In addition, society must further cease its current denial of equal treatment to people who refuse to downplay these enumerated differences.⁹⁸ Such propositions, although seemingly ideal, may be difficult if not impossible to implement.

Yoshino seems to discourage the present approach to this issue, which is to focus on traditional group-based identity politics.⁹⁹ Instead, an approach that focuses on how

92. *Id.* at 130.

93. *Id.* at 20 (“[I]n the American dream assimilation helps us to become not just Americans, but the kinds of Americans we seek to be. Just conform, the dream whispers, and you will be respected, protected, accepted.”).

94. *Id.* at 167-68.

95. *Id.* at 194-95.

95. *See id.* at 203-68.

96. COVERING, *supra* note 1, at 184-96.

97. *See id.* at 195.

98. *Id.* at 184-86.

99. *See id.* at 188.

individuals cover to conform with the majority would offer a new dimension to the contemporary civil rights movement.¹⁰⁰ Because of the ubiquity of the demand to cover, a new civil rights paradigm that focuses on individual identity politics rather than group-based identity politics would, at the very least, offer even the racial majority a stake in the civil rights movement.¹⁰¹ Since covering applies to everyone, a civil rights movement grounded in eradicating the need to cover would provide an issue around which a common cause may be formed, inclusive of, yet not reliant on race, gender, or sexual orientation exclusively.¹⁰² Thus, the contemporary civil rights movement must progress from its focus on traditional civil rights groups, such as racial minorities, women, homosexuals, religious minorities, or individuals with disabilities.¹⁰³

According to Yoshino, majority groups, such as Caucasian men, “are understood only as impediments, as people who prevent others from expressing themselves, rather than as individuals who are themselves struggling for self-definition. No wonder they often respond to civil rights advocates with hostility.”¹⁰⁴ Because of this adversarial approach, the current civil rights paradigm results in majority groups misinterpreting minority groups as demanding an entitlement that was refused to them.¹⁰⁵ This, he believes, may in fact be the impediment that is holding back the contemporary civil rights movement.¹⁰⁶

B. The Relevance and Social Impact of Yoshino’s Work

Yoshino uses most of his book to repeat one simple message: everyone covers, and covering crosses all racial, cultural, gender, and physical lines. Covering and individual identity intersect. He draws on the Supreme Court’s reasoning in *Lawrence v. Texas*¹⁰⁷ to ripen his thesis.¹⁰⁸ The

100. *Id.* at xi-xii.

101. *See id.* at 190-91; *see also* KEVIN R. JOHNSON, THE “HUDDLED MASSES” MYTH: IMMIGRATION AND CIVIL RIGHTS (2004) (making similar arguments for a more inclusive and new paradigm of civil rights).

102. COVERING, *supra* note 1, at 190-91.

103. *Id.* at 195.

104. *Id.* at 25.

105. *See id.*

106. *See id.*

107. *Lawrence v. Texas*, 539 U.S. 558 (2003).

108. COVERING, *supra* note 1, at 192.

Lawrence Court reversed the state court's judgment not necessarily on account of gay rights, but rather on account of the statute's violation of the fundamental right of consenting adults to engage in private sexual activity, irrespective of sexual orientation.¹⁰⁹ Yoshino enriches his discussion of the *Lawrence* case with personal anecdotes based on the work he contributed to the case.¹¹⁰ Following *Lawrence*, in *Tennessee v. Lane*,¹¹¹ the Court considered whether two paraplegic individuals could sue the state of Tennessee for failing to make its courthouse wheelchair accessible. The Court again ruled in favor of the minority class without framing its judgment with group-based equality rhetoric. These two holdings, combined with Yoshino's proposal offer optimism for those who want to move the civil rights cause forward.

V. CONCLUSION

Despite the repetitiveness of some passages, *Covering* is undoubtedly an insightful discourse on the treatment of minorities in contemporary American society. It further gives the public an intimate narrative of the author's own struggles with his cultural and sexual identity. In the end, *Covering* will foreseeably be a landmark in gay rights literature, just as the material it covers constitute landmark issues in this country's history of civil rights.

109. See *id.* at 564 ("We conclude the case should be resolved by determining whether the petitioners were free as adults to engage in the private conduct in the exercise of their liberty under the Due Process Clause of the Fourteenth Amendment to the Constitution."). See also COVERING, *supra* note 1, at 192.

110. Yoshino sat in during oral argument and also filed an amicus brief for the case with a team from Yale Law School. COVERING, *supra* note 1, at 105, 188.

111. *Tennessee v. Lane*, 541 U.S. 509 (2004).
