

covering

THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS

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PREFACE

everyone covers. To cover is to tone down a disfavored identity to fit into the mainstream. In our increasingly diverse society, all of us are outside the mainstream in some way. Nonetheless, being deemed mainstream is still often a necessity of social life. For this reason, every reader of this book has covered, whether consciously or not, and sometimes at significant personal cost.

Famous examples of covering abound. Ramón Estévez covered his ethnicity when he changed his name to Martin Sheen, as did Krishna Bhanji when he changed his name to Ben Kingsley. Margaret Thatcher covered her status as a woman when she trained with a voice coach to lower the timbre of her voice. Long after they came out as lesbians, Rosie O'Donnell and Mary Cheney still cov-

ered, keeping their same-sex partners out of the public eye. Issur Danielovitch Demsky covered his Judaism when he became Kirk Douglas, as did Joseph Levitch when he became Jerry Lewis. Franklin Delano Roosevelt covered his disability by ensuring his wheelchair was always hidden behind a desk before his Cabinet entered.

I doubt any of these people covered willingly. I suspect they were all bowing to an unjust reality that required them to tone down their stigmatized identities to get along in life. Sheen says he needed to “get a name people could pronounce and connect with” if he “wanted to work commercially.” Yet he now regrets having done so, and has exhorted his sons—Emilio and Charlie—to use the family name. One of them has not done so, signaling the enduring force of the covering demand.

In a supposedly enlightened age, the persistence of the covering demand presents a puzzle. Today, race, national origin, sex, religion, and disability are all protected by federal civil rights laws. An increasing number of states and localities include sexual orientation in civil rights laws as well. Albeit with varying degrees of conviction, Americans have come to a consensus that people should not be penalized for being different along these dimensions. That consensus, however, does not protect individuals against demands that they mute those differences. We need an explanation for why the civil rights revolution has stalled on covering.

Covering has enjoyed such a robust and stubborn life because it is a form of assimilation. At least since Hector St. John de Crèvecoeur’s 1782 *Letters from an American Farmer*, this country has touted assimilation as the way Americans of different backgrounds would be “melted into a new race of men.” By the time Israel Zangwill’s play of that name was performed in 1908, the “melting pot” had acquired the burnish of an American ideal. Only with the civil

rights movement of the 1960s was this ideal challenged in any systematic way, with calls to move “beyond the melting pot” and to “celebrate diversity.” And notwithstanding that challenge, assimilation has never lost its hold on the American imagination. Indeed, as our country grows more pluralistic, we have seen a renaissance of the melting pot ideal. Fearful that we are spinning apart into balkanized groups, even liberals like Arthur Schlesinger have called for a recommitment to that ethic. In the United States, as in other industrialized democracies, we are seeing the “return of assimilation.”

I recognize the value of assimilation, which is often necessary to fluid social interaction, to peaceful coexistence, and even to the dialogue through which difference is valued. For that reason, this is no simple screed against conformity. What I urge here is that we approach the renaissance of assimilation in this country critically. We must be willing to see the dark side of assimilation, and specifically of covering, which is the most widespread form of assimilation required of us today.

Covering is a hidden assault on our civil rights. We have not been able to see it as such because it has swaddled itself in the benign language of assimilation. But if we look closely, we will see that covering is the way many groups are being held back today. The reason racial minorities are pressured to “act white” is because of white supremacy. The reason women are told to downplay their child-care responsibilities in the workplace is because of patriarchy. And the reason gays are asked not to “flaunt” is because of homophobia. So long as such covering demands persist, American civil rights will not have completed its work.

Unfortunately, the law has yet to perceive covering as a threat. Contemporary civil rights law generally only protects traits that individuals cannot change, like their skin color, chromosomes, or

innate sexual orientations. This means that current law will not protect us against most covering demands, because such demands direct themselves at the behavioral aspects of our personhood. This is so despite the fact that covering imposes costs on us all.

The universality of the covering demand, however, is also a potential boon for civil rights advocates. I, too, worry about our current practice of fracturing into groups, each clamoring for state and social solicitude. For this reason, I do not think we can move forward by focusing on old-fashioned group-based identity politics. We must instead build a new civil rights paradigm on what draws us together rather than on what drives us apart. Because covering applies to us all, it provides an issue around which we can make common cause. This is the desire for authenticity, our common human wish to express ourselves without being impeded by unreasoning demands for conformity.

I thought I would make this argument in purely political terms. As a law professor, I have become accustomed to the tones of legal impersonality. But I came to see that I could not compose an argument about the importance of human authenticity without risking such authenticity myself. So I have written this book in a more intimate voice, blending memoir with argument. In trying to make the stakes of assimilation vivid, I draw on my attempts to elaborate my identity as a gay man, and, to a lesser extent, my identity as an Asian-American.

Yet this is not a standard "coming out" narrative or racial memoir. I follow the Romantics here in their belief that if a human life is described with enough particularity, the universal will begin to speak through it. What interests me about my story, and the stories of others, is how similar they are in revealing the bones of our common human endeavor, the yearning for human emancipation that stirs within us all.

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AN UNCOVERED SELF

end the beloved child on a journey," the Japanese proverb says. So when I turned thirteen, my parents sent me to boarding school. I could see they wished to keep me close, but worried about the effects of tenderness. Small for my age, not so much quiet as silent, I was tarrying at the threshold of adolescence. A singer, I was stricken when my clean boy soprano, that noise only boys can make, broke into a sublunary baritone.

So off I went, to boarding school and radical reinvention. The need for self-reliance called into being a self on which I could rely. As no one knew me there, no one could challenge the authenticity of this brighter self. Seemingly overnight, I became full of speeches,

sociable. I have never worked so hard, or been so happily appetitive, as in those years.

Yet physically I remained a small dark thing altogether. I remember thinking during a soccer practice that I must have had a lot of natural muscle once, to feel so punished as I watched those boys scissor the air with their blond high school legs. Their bodies hummed to a frequency not my own as balls sailed fluently into nets. I sensed these bodies knew other bodies, as I knew calculus or Shakespeare. That knowledge flaunted itself in the lilt of small hairs off their necks.

I would not have been able to say I was gay and these others were straight. I knew only I was asked not to be myself, and that to fail to meet that demand was to make myself illegible, my future unimaginable. I hoped time would soften the difference between others and me, but knew it would do the opposite.

To evade my fate, I acquired a girlfriend. I have a memory of my dormitory's stairwell, where boys would kiss girls good night before curfew. I am standing on the bottom step looking down at her. She is Filipina, a year older, her fluency in French standing for her urbanity. The waver of shadow superimposes an ambivalence on the sweet certainty of her face. I wonder what is more abject than this—my brain urging the bloodrush and attention that comes so naturally, so involuntarily, to others.

Of course, it was not wonderful to be her, either. Yet it was many years before I would speculate about the other side of that kiss. Only after I came out did I listen to the rueful stories of gay men—how one picked fights with his wife to avoid sex, how another wished his girlfriend would turn into a pizza at nightfall. The trials of those who love the closeted have yet to be told. I was nowhere near imagining them then.

My rising anxiety gave me limitless life force in other spheres. I

remember a biology lab in which we observed a spear-headed water worm. Like a starfish, it could grow back anything we razored off it, even to the point of generating multiple versions of itself. I saw myself in that gliding shape. Arrow-shaped, it never arrived where it wanted to go. But it knew, when cut, to grow.

As I moved from high school to college, my mill of activity became more frenetic, a way of keeping the world at bay. At Harvard, I took five or six courses a semester, and as many extracurriculars, foreclosing time for thought, for breath. Friends complained I was walled up, a Jericho waiting for its Joshua. Yet alongside my silence was a ravening urge to speak. So I began to study poetry—a childhood passion—more formally, finding solace in a language more public than thought but more private than prose. Instead of writing an analytic thesis to graduate as an English major, I petitioned to write a collection of my own poems.

Writing these poems gave me more pleasure than anything before. That year, the only reason anything had to be, was to be a poem—the icicles making their small clear points on the eaves, the broken gate that clacked double knuckled on its hinge, the bitter flesh star at the heart of a lemon. Poetry was my medium, as rigid and formal and obscure as its author. On Saturday nights, I would sit in my cement-block dorm room with my face lit green by my IBM's glow, agonizing not over women, or men, but line breaks. I thought myself happy, and in some sense I was.

The readers of my collection understood as much of me as I did. One grader took it on faith: "I cannot see what you have seen. But I can see that you have seen." The other did not. Impatient, he quoted Marvin Bell's line about how to become a writer is to become "less and less embarrassed about more and more."

Neither grader had license to say the collection was hard to read for a different reason: it was full of pain. The collection ends

in crisis—the last poem, titled “The Infanticide of My Professions,” was about the selves we had to kill in young adulthood. The word “profession” carried its double sense of façade and occupation. The poem expressed the hope I would destroy the selves I only professed to be, and be left with one with a natural vocation. That hope was smothered by the fear I might murder the real self or, worse, that I might find that self to be a tragic one. I still find this poem difficult to read.

Yet when I wrote it, I acted as if I could carry the world before me. My curricular and extracurricular frenzy had won me a Rhodes scholarship to England. (Perhaps the closeted should not be permitted to compete for these fellowships—we have the advantage of those Saturday nights.) But the carbonation in my veins when I won was less joy than relief. I had a new precocity to balance against my backwardness, this social acceptance to weigh against my refusal of life.

One person saw through me. The poetry professor who had supervised my thesis was a Pre-Raphaelite figure. A whippet-thin chain smoker, she had waist-length auburn hair and eyebrows sharp as circumflex accents. She was the best teacher I have ever had—she returned each poem marked up in three colors, one for each pass she had taken over it. She gave me a nickname: Radiating Naivete. “Radiating Naivete,” she would say when we bumped into each other near midnight at Caffé Paradiso, “have you entered the realm of the erotic yet?” In a letter she gave me at graduation, she described sitting on a plane next to an emergency exit. There was an arc painted next to the handle, each end of which was marked with a scarlet word: “Engage” and “Disengage.” The handle was on “Disengage.” She said it made her think of me.

I was not ready when emergency came. Until then, I had been splendidly noncommittal: neither Japanese nor American, neither

poet nor pragmatist, neither straight nor gay. But it seemed all ambiguities had to be resolved that year. I had to choose citizenship—the red Japanese passport or the blue American one, the two colors of blood. I had to choose a career—literature or law. Most of all, I had to choose—or choose to acknowledge—the sexuality that roiled the surface that summer when I fell bewilderingly in love.

The Japanese character for erotic desire is the same as that for color. Some say this commonality arises from the Buddhist teaching that desire, like color, distracts us from enlightenment by calling us to the things of this world. The world’s colorless wave broke kaleidoscopically over me when I met Brian. We lived together after graduation while we attended summer school—he to complete medical school prerequisites, I to prepare for my time in England. Brian was the first in his family to attend college and was, like me, hungry to prove himself. But unlike me, he had directed his intensity outward, devoting his college years to ceaseless public service. This moved me.

One glittering afternoon, we walked along the Charles River. It was a Sunday—the riverside drive was hedged with sawhorses, closed to cars. The cyclists sheared the air. Dazzled by the needles of light stitching the water, I turned to watch him watch them. I noticed his eyelashes were reflected in his eyes, like awnings in windowpanes. As I tried to make sense of that reflection, I found I could not look away. His irises were brown, clouding into orange, with brighter flecks around his pupils. Then it became as important not to look as to look, as I feared I would be lost in a rush of bronze motes.

It hardly mattered that I knew he was straight. I experienced my desire for him, which was a pent-up desire for many men, as having an absolute absolved necessity. Just as the brain seems larger than the skull that contains it, so did my desire seem grossly

to exceed the contours of my body. I thought if I could only make him experience the strength of what I felt, he could not demur.

I had, in one sense, chosen the right man. Brian responded with compassion. Yet my desire was now not only thwarted, but exposed. Brian made me acknowledge my knowledge; he made me own myself. I snapped back into my skin. And I felt something in me crack—like a safe, a whip.

Oxford was gray. The stone gargoyles simpered with their cheeks on their long fingers; the deer in the park outside my rooms were, in the college poet's phrase, "connoisseurs of the air"; genial professors overfilled our glasses with claret, encouraging us to "exploit the meniscus." But it seemed as if I spent the entire first year in my bed. I retreated into the one-seat theater of my mind, which unspooled images of Brian's orange eyes, the glittering river. I watched the sunlight that dappled my room gather into the coins of light passing cars would slide across the ceiling. I became so gaunt the tectonics of my face surfaced; I began to feel more a tenant than a resident in my body.

I would think, I wish I were dead. I did not think of it as a suicidal thought. My poet's parsing mind read the first "I" and the second "I" as different "I's." The first "I" was the whole watching self, while the second "I"—the one I wanted to kill—was the gay "I" nested inside it. It was less a suicidal impulse than a homicidal one—the infanticide of the gay self I had described in the poem.

My only consistent foray from my rooms was to the college chapel, where I prayed to gods I did not believe in for transformation. No erotic desire I had ever felt exceeded my desire for conversion in those moments. It is hard now to recall that young man at

prayer. To see him clearly is to feel the outlines of my present self grow fainter.

An older American student tried to help. Arad was struggling to come out himself, but seemed, I thought enviously, much more self-possessed. He was the prodigy of his class—his intellectual feats, in medicine and philosophy, were reported in hushed and reverent tones. Tall and angular, he accentuated his forbidding demeanor with a black coat that billowed out like the wings of a predatory bird.

Arad was kind to me. I never named my malady, but he knew its ways better than I. I remember sitting in his rooms listening to him describe the deadlines he had set for himself—to come out to his parents in three months, to go to a meeting of the college gay group in six months, to begin to date in a year. It was important, he said, to be a creature of the will. Unable to meet his eye, I looked over his shoulder at the wall behind him, which was tiled with diplomas and awards. In the center were some framed black-and-white photographs he had taken. One caught my eye—a statue of a kneeling angel weeping with her head buried in her arms.

It was a portrait of abject perfection, a portrait of him, and it terrified me. I recognized the striving impulse in Arad as an attribute of my former self, and felt shame for having lost the discipline he still possessed. Yet I was also frightened by the harshness of that will. I thanked him and left, never to return. I could not help him, and I knew he could not help me.

In my second year, I met the woman who would. Maureen interviewed me for a job at a management consulting firm to which I had applied—in the mantra of my classmates—"to keep my options open." An expatriate American on the cusp of thirty, she was living in England with her husband, who was an Oxford don.

That day, I saw this contrast in her—flaxen hair against dark suit, slightness of build against stillness of carriage. I trusted her. When she asked me during the interview about a risk I had taken, I told her about writing my collection of poems, saying emotional risks often felt more real to me than physical or analytic ones. The day after the interview, she told me I had advanced to the next round, and offered to coach me through it. We scheduled a time to meet, and in a rash fit of trust, I sent her my thesis.

When we met again, she told me she disagreed we assassinated the selves we did not choose to live. In her view, while the chosen self lived in Technicolor splendor, the unchosen ones lived on in black-and-white. It would be easier, she said, if assassination were possible, as those unchosen selves became the demons that bedeviled the chosen one.

Not then, but soon thereafter, I learned of her unchosen selves. Maureen's first fealty was to art—to the cello, as well as to literature. She had broken that allegiance to escape the starving-artist existence of her musician parents. Yet she now regretted having done so; by that time, she had stopped playing music or reading literature. She saw me as a younger self she could save from the same fate, a rescue connected to her own redemption.

Maureen startled me with her access to so many selves, not only in herself but in me. She acted as my sibyl in the world of business, which, as my father's world, loomed in my mind as a sphere of temporal power. With her at my side, I became convinced I could master this world, a conviction that made it possible for me to reject it. Maureen also understood my more private literary self. Better read than I, she was an acute critic of my writing. I felt my isolation break, as if an audience member had walked through the fourth wall of a stage to put her arms around the soliloquist. Perhaps most important, Maureen understood the coex-

istence of these selves. Torn herself, she could frame the question of what I might look like whole.

The classical muse speaks poetry for the poet to transcribe. Maureen was a different kind of muse: she listened. In the writing I showed her, I still cloaked my meanings in poetic obscurity. Although I knew she had already guessed I was gay, I could not acknowledge the truth that hung between us. Yet this was nonetheless a literary convalescence: I wrote more in those few months than I had in the preceding eighteen. I wrote for the whorl of her ear.

My academic career self-destructed in slow motion, like a glass that bounces on the floor before it bursts. My tutors could no longer hide their contempt. But I no longer needed to be beyond their criticism. I had to trust that what felt right was as often right as what felt wrong was wrong. And what often felt right was the steaming water in the bathtub in my dormitory. The wall clock, whose Medusa face had paralyzed me, now ticked toward my recovery. I felt like a statue coming to life. It was my own warmth that startled me.

One Saturday, we wandered into a haberdashery on Jermyn Street in London. I found a vest—gold lions ramping through a cobalt brocade. I would not have worn it as an undergraduate, nor do I wear it now. But then, as I ran the brittle fabric between my thumb and finger, I experienced a jackdaw craving for it. I slipped it on. I could not decide whether it looked ridiculous. "It becomes you," the shopkeeper said gruffly through his waxed mustache. I realized it did become me, and that I could become it. It did the work outlandish clothes do for us—it drove my invisible difference to the surface and held it there, relieving my psyche of that work. The shop did not take checks, so Maureen put the vest on her credit card, and I signed away an alarming portion of my liv-

ing stipend to her. By next mail, she sent back my pale green check, cut in half and folded into two origami cranes.

Toward the end of my second year, we went to the London Zoo. After we thought we were done, we saw signs pointing down to the "Moonlight World." We descended into a murk lit only by a green neon strip along the handrail. Here were the fragile fantastics that could not stand the light. Lorises glowered with their amber eyes; echidnas shambled through their holes; bats hung in the velvet bags of themselves. With their leaflike hands on the rails, the children and their grandparents were so quiet—closer, on either side, to speechlessness than we. I stared into the liquid eyes of a loris and thought I had lived like this for some time now—darkly, grotesquely, remarkably.

I surfaced back into my life. I made decisions with percussive efficiency. I chose the American passport over the Japanese one, the gay identity over the straight one, law school over English graduate school. The last two choices were connected. I decided on law school in part because I had accepted my gay identity. A gay poet is vulnerable in profession as well as person. I refused that level of exposure. Law school promised to arm me with a new language, a language I did not expect to be elegant or moving but that I expected to be more potent, more able to protect me. I have seen this bargain many times since—in myself and others—compensation for standing out along one dimension by assimilating along others.

I had been wrong to think there was no beauty in the language of law: the line of legal argument has its taut pleasures. But law school is not a safe place for poets. Eyes awelter with the Federal Rules of Civil Procedure, I wrote ruefully to Maureen that I had

switched from being the Pied Piper of Hamelin to being its mayor. As the maples in New Haven changed like traffic lights from green to yellow to red, I felt my own life slowing again.

The German Romantic poet Hölderlin says, "The danger itself fosters the rescuing power." We are lucky when that line describes our lives. That spring, I needed a path into the law. That spring, a visiting lecturer named Bill Rubenstein offered, for the first time, a course titled "Sexual Orientation and the Law." At the time, he was the only openly gay person on the law school faculty.

In his mid-thirties at the time, Bill had worked as a gay rights litigator for the American Civil Liberties Union before making this transition into academia. Dark haired and rangy, he is Russian Jewry's answer to Mr. Darcy. His beauty helped me come out—I thought nothing could be wrong with a condition housed in a person so radiant.

At the beginning of term, I went to Bill's office hours. His office was almost bare, which I attributed to his visitor's status. My eye swept over his scattered effects, tracking the grit of his life. The crossword half done in pen. The untidily folded black glasses with their odd, hollow-looking stems. Behind him on the shelves, boxes and boxes of pens and pencils, stacks of sticky notes and yellow legal pads. Was this Yale hospitality, or was he an office supplies survivalist? Then I collected myself. I told him I was gay, still shuddering inside as I spoke the words. Nothing has convinced me of the power of words as much as the experience of coming out the first few times—one ends the sentence a different person. I confessed I was anxious about taking his course, as I feared it would out me to the law school community.

While I tried to speak calmly, Bill has since told me I failed. He said I reminded him of the dinner parties he was attending in those days. At the mainly straight dinners, his age peers would jab-

ber on about their children. At the gay dinners, they'd jabber about their coming out. This made him think coming out is the closest many gay men will come to giving birth. The act of giving birth to oneself is miraculous and terrifying, but unlikely to be calm.

To my surprise, Bill advised me not to take the seminar, telling me to come out on my own schedule, not Yale's. He urged me to get the syllabus, to buy the casebook he had edited, and to read along with the class. He promised he would discuss the materials with me whenever I wanted, and would do so in the library if I felt uncomfortable meeting in his office. He said I could take a course from him the next year if I felt ready to do so.

I took his advice. I also took to sleeping with his book. I would read it before falling asleep each night, and settle with my arm around it. In this time when everything was changing, this text would not change. The print would stay fixed on the pages, the words would say tomorrow what they said today.

Last year, Bill invited me to join him as a coeditor of his casebook. I felt I was being called home. For that book—my book of hours—was where the law began to matter to me. I could see the difference the law made in gay lives—employees were fired for saying they were gay, parents lost custody of their children, people were denied, in gay activist Larry Kramer's words, "the right to love." The sinews of legal language began to seduce me. A court's saying, "You have no right to love," did not just describe, but actually created, that reality in the world. It was like the incantations of myth, this speaking things real: "It is so ordered," "We hold," "We reverse." In my second year, I began to speak myself more real as a form of resistance, coming out to more and more people. I signed up for Bill's "Queer Theory" seminar. And I began to think about becoming a law professor.

In the spring of my second year, I interviewed for clerkships—

postgraduate stints under a judge's tutelage. During one interview, a federal appellate judge noted Bill's "Queer Theory" class on my transcript and asked what the word "queer" meant. Still overawed by the federal judiciary, I assumed he knew the word and was gauging the subtlety of my grasp of it. So I said I understood it to be a derogatory term for homosexuals that had since been co-opted by the gay rights movement, like the pink triangle. I was about to continue when he asked what the pink triangle was. A beat. I told him the pink triangle was used by the Nazis during the Holocaust to mark homosexuals, but had since become a symbol of gay pride. He said, "I didn't know that."

Even as I tried to conceal my surprise, I tried to rationalize his authority. I reminded myself he belonged to an older generation, and that appellate judges could lead cloistered lives. But then I recalled this judge had recently decided a gay rights case in which he had denied gays the judicial protection afforded some groups—like racial minorities or women—under the equality provision of the federal Constitution. In determining whether a group merits this protection, a judge is legally required to consider whether it has suffered a history of discrimination. How could this judge have analyzed the history of discrimination gays had suffered, I wondered, without encountering the pink triangle? Might the judge have reached a different result in that case if he had understood the symbol and everything it means?

On the plane ride home, I worried at these questions. I experienced the judge's ignorance of the pink triangle as a *literary* offense, an offense against narrative. The pink triangle was the gay community's bid to make its story known. How could the judge rule on those lives in such a consequential way without knowing that story? By the time I returned to school, I knew I would write an essay on gay symbolic politics that drew on both legal and literary

theory. I wrote with a passion I had felt before only for poetry. I became a lawyer for the gay self I had tried to kill at Oxford, the poet I had thought to kill in law school. I wanted to reverse the infanticide of my professions and to resurrect those abandoned selves. If the law wanted to intervene in the intimate particulars of my life, I would ask it to know me intimately.

Some of the heat I put into this document came off it. The published paper was cited by progay judicial opinions. It also secured me a teaching job at Yale, where I have been a professor for the past nine years. I teach classes here in sexuality and the law, law and literature, Japanese law, and constitutional law. Contrary to my belief that I had to kill all but one self, it is the polyphony of selves that has been celebrated here.

The month I was hired, Arad killed himself. It would wrong the grief of his intimates to make too much of my own feelings. Yet I was shaken, especially when I read the eulogy his friends had written. Rather than continuing the narrative of perfection they thought had contributed to his isolation, his friends sought to humanize him. One detail was unforgettable—as a child at boarding school, Arad had been discovered in a broom closet with a bottle of bleach, trying to dye his skin white. As I read that story, I thought of Arad's absoluteness. I thought of the alabaster angel in his photograph and knew, with some combination of guilt and relief, that I was imperfect and able to survive.

For even that far out of the closet, I was still making bargains. While closeted, I micromanaged my gay identity, thinking about who knew and who did not, who should know and who should not. When I came out, I exulted that I could stop thinking about my orientation. That celebration proved premature. It was impossible to come out and be done with it, as each new person erected

a new closet around me. More subtly, even individuals who knew I was gay imposed a fresh set of demands for straight conformity.

When I began teaching, a colleague took me aside. "You'll have a better chance at tenure," he cautioned, "if you're a homosexual professional than if you're a professional homosexual." He meant I would fare better as a mainstream constitutional law professor who "happened to be gay" than as a gay professor who wrote on gay subjects. Others in the vigorously progay environment in which I work echoed the sentiment in less elegant formulations. *Be gay*, my world seemed to say. *Be openly gay, if you want. But don't flaunt.*

For a short time, I acceded. When I taught mainstream courses like constitutional law, I avoided gay examples. I wrote articles on nongay topics. I didn't bring the men I was dating to law school functions. I chose my political battles carefully.

I soon grew tired of such performances. What bothered me was not that I had to engage in "straight-acting" behavior, much of which felt natural to me. What bothered me was the felt need to mute my passion for gay subjects, people, culture—as if this were the love of which I still had to be ashamed. I knew I would be breaching some pact with myself if I stopped writing on gay issues out of a desire to conform. I decided I would commit myself to gay rights, a decision that led me to this book.

My struggle to arrive at a gay identity occurred in three phases, which I could also trace in the lives of gay peers. In the first phase, I sought to become straight. When I went to the chapel at Oxford, I prayed not to be what I was. I will call this a desire for *conversion*. In the second phase, I accepted my homosexuality, but concealed it from others. By the time I talked to Bill about

his class, I was no longer trying to convert. I was, however, trying to hide my identity from my classmates. I will call this a desire for *passing*. Finally, long after I had generally come out of the closet, I still muted my orientation by not writing on gay topics or engaging in public displays of same-sex affection. This was not the same as passing, because my colleagues knew I was gay. Yet I did not know a word for this attempt to tone down my known gayness.

Then I found my word, in sociologist Erving Goffman's book *Stigma*. Published in 1963, the book describes how various groups—including the disabled, the elderly, and the obese—manage their “spoiled” identities. After discussing passing, Goffman observes that “persons who are ready to admit possession of a stigma . . . may nonetheless make a great effort to keep the stigma from looming large.” He calls this behavior “*covering*.” Goffman distinguishes passing from covering by noting that passing pertains to the *visibility* of a particular trait, while covering pertains to its *obtrusiveness*. He relates how Franklin Roosevelt always stationed himself behind a table before his advisers came in for meetings. Roosevelt was not passing, since everyone knew he used a wheelchair. He was covering, downplaying his disability so people would focus on his more conventionally presidential qualities.

I read these passages in one of the cubicles in the Cross Campus Library. There, enclosed by walls marked with graffiti, I felt like Crusoe finding Friday's footprint. Someone had been here. This distinction between passing and covering explained why I wasn't done with conformity to straight norms when I came out of the closet. The demand not to write on gay subjects was not a demand to pass. It was a demand to cover.

I knew I would live with these three terms—“conversion,” “passing,” and “covering”—for some time. They described not only a set of performances on my part, but also a set of demands

society had made of me to minimize my gayness. The conversion demand was the most severe, then passing, then covering. I had traversed these demands sequentially, and I believed many gay individuals had done the same.

These three phases were also phases of gay history. Just as I had moved through these demands for assimilation as an individual, the gay community had done so as a group. Through the middle of the twentieth century, gays were routinely asked to convert to heterosexuality, whether through lobotomies, electroshock therapy, or psychoanalysis. As the gay rights movement gained strength, the demand to convert gradually ceded to the demand to pass. This shift can be seen in the military's adoption in 1993 of the “Don't ask, don't tell” policy, under which gays are permitted to serve so long as we agree to pass. Finally, at millennium's turn, the demand to pass is giving way to the demand to cover—gays are increasingly permitted to be gay and out so long as we do not “flaunt” our identities. The contemporary resistance to gay marriage can be understood as a covering demand: *Fine, be gay, but don't shove it in our faces*.

What I found jarring about these histories—one personal, one collective—was that they cast assimilation in such a negative light. I had always associated assimilation with ethnic identity, and had thought of it as a benign force. The Japanese say children learn by watching the backs of their parents. And no one could have been more persuasive than my parents about the virtues of assimilation.

Both my parents were born in Japan. My father graduated from high school in 1950. He looked at war-ravaged Japan and saw no future. At the suggestion of a relative, he applied to foreign universities, and was accepted at Columbia. He left Japan with his high school English, telling his parents not to expect him back for ten years. He has, in small things as in large, always kept his word.

When he returned ten years later, he had finished a doctorate in economics. While back in Japan, he met and married my mother, a Tokyo native who had earned a four-year college degree in economics, a rare feat for a woman then. He began teaching at UCLA—my sister and I were both born in Los Angeles. Then he got tenure at an Ivy League university, where he taught until he retired a few years ago.

My parents are an American success story, and decline to tell that story any other way. When I studied American history in junior high, I began to ask my father questions. When you came to Columbia, wasn't that right after the Japanese internment? Wasn't there virulent prejudice against the Japanese? To this day my father will not answer, choosing instead to talk about how hamburgers cost just a nickel then. Part of me rails against the blanks this leaves in my family history. But part of me knows he is trying to protect us both by keeping his life mythic.

My parents raised my sister and me in both countries—we spent school years in the States and summers in Japan. They taught us to assimilate into both societies, to be “one hundred percent American in America, and one hundred percent Japanese in Japan.” The day I won the Rhodes was a proud one in my father's life—the ultimate proof his son had made it in America. And who could blame him? Assimilation is the magic in the American dream—just as in our actual dreams, magic helps us become better, more beautiful creatures, in the American dream assimilation helps us become not just Americans, but the kind of Americans we seek to be. Just conform, the dream whispers, and you will be respected, protected, accepted.

That whisper came differently to my gay ear. Here, too, I had a motive to assimilate—I would be more accepted if I stayed in the closet. I also had more opportunity to do so—I could pass as

straight, but not as white. Yet I experienced assimilation less as an escape from homophobia than as its effect. I also sensed that assimilation played this negative role in gay history as a whole. I firmly believed gays would be fully equal only when society stopped conditioning our inclusion on assimilation to straight norms.

Over time, this skeptical view of assimilation prevailed. In fact, it seemed the signal contribution the gay rights movement could give to civil rights as a whole. The gay rights movement is profoundly indebted to its predecessors, such as the racial and feminist civil rights movements. As we reach maturity as a social group, gays can repay that debt, contributing a critique of assimilation that will enrich the civil rights paradigm for all who take shelter in it.

The applicability of this critique is not immediately obvious. Traditional civil rights groups, such as racial minorities or women, have generally not been subjected to conversion or passing demands. Conversion and passing, however, do not exhaust the forms of assimilation. There is also covering.

All civil rights groups feel the bite of the covering demand. African-Americans are told to “dress white” and to abandon “street talk”; Asian-Americans are told to avoid seeming “fresh off the boat”; women are told to “play like men” at work and to make their child-care responsibilities invisible; Jews are told not to be “too Jewish”; Muslims, especially after 9/11, are told to drop their veils and their Arabic; the disabled are told to hide the paraphernalia they use to manage their disabilities. This is so despite the fact that American society has seemingly committed itself, after decades of struggle, to treat people in these groups as full equals.

We are at a transitional moment in how Americans discriminate. In the old generation, discrimination targeted entire groups—no racial minorities, no women, no gays, no religious

minorities, no people with disabilities allowed. In the new generation, discrimination directs itself not against the entire group, but against the subset of the group that fails to assimilate to mainstream norms. This new form of discrimination targets minority cultures rather than minority persons. Outsiders are included, but only if we behave like insiders—that is, only if we cover.

I saw this shift as an undergraduate. When I arrived at college, in 1987, I thought I might want to be an academic, and looked for role models on the faculty. The preceding generation of civil rights had done some work—the faculty was no longer exclusively white, male, ostensibly straight, Protestant, and able-bodied. But when I looked at the outsiders Harvard had included, I saw covering at work, though I had no name for it then. “I’m more black than Dean X,” my white dorm mate quipped, referring to the African-American dean whose demeanor was more patrician than any Boston Brahmin’s. Women faculty members often muted their visibility as women, avoiding feminist scholarship and downplaying their child-care responsibilities. The rare gay faculty member who was out of the closet did not flaunt his sexuality, appearing to all viewers like a bachelor don. Alan Dershowitz writes that although he wasn’t the first Jewish professor at Harvard Law School, he was the “first Jewish Jew.” My only disabled teaching assistant, like FDR, was always seated behind a seminar table before class began.

This was progress: individuals no longer needed to *be* white, male, straight, Protestant, and able-bodied; they needed only to *act* white, male, straight, Protestant, and able-bodied. But it was not equality. The message for an Asian-American closeted gay student was clear: downplay your ethnicity and your orientation. Don’t uncover yourself.

Of course, I cannot assume all these individuals were covering.

Dean X may just have been being himself, and if that was the case, I would be the last to press him toward more stereotypically African-American behavior. My commitment here is to authenticity, as experienced by the individual, and that authenticity would be just as threatened by an imperative to “act black” as it would be by an imperative to “act white.” This is why I am equally opposed to reverse-covering demands—demands that individuals act according to the stereotypes associated with their group.

While I could be wrong about any particular individual, however, I knew Harvard generally demanded covering. Individuals in conditions of freedom will be diverse. At Harvard, the span of this diversity was truncated—either because the institution had selected individuals who naturally conformed to mainstream norms or because it had pressured them to do so. Like America as a whole, Harvard was still skewed toward traditionally dominant groups.

This covering demand is the civil rights issue of our time. It hurts not only our most vulnerable citizens but our most valuable commitments. For if we believe a commitment against racism is about equal respect for all races, we are not fulfilling that commitment if we protect only racial minorities who conform to historically white norms. As the sociologist Milton Gordon identified decades ago, the demand for “Anglo-conformity” is white supremacy under a different guise. Until outsider groups surmount such demands for assimilation, we will not have achieved full citizenship in America.

In my early years of law teaching, I searched for remedies. I had learned the language of power; it was now time to wield it. To my chagrin, I found our major civil rights laws—such as the Civil Rights Act of 1964 and the equality guarantees of the federal Constitution—do not currently provide much protection against

covering demands. Courts have often interpreted these laws to protect statuses but not behaviors, *being* but not *doing*. For this reason, courts will often not protect individuals against covering demands, which target the behavioral aspects of identity—speaking a language, having a child, holding a same-sex commitment ceremony, wearing religious garb, or refusing to “correct” a disability.

American equality law must be reformed to protect individuals against covering demands. Yet our generation of civil rights will also increasingly need to look outside the law. Many covering demands occur at such an intimate and daily level that they are not susceptible to legal correction. Such demands are better redressed through appeals to our individual faculties of conscience and compassion. When my colleagues suggested I stop writing on gay topics, my best response was not a lawsuit but a conversation.

Law is also an inadequate remedy because the covering demand extends beyond traditional civil rights groups. When I lecture on covering, I often encounter what I think of as the “angry straight white man” reaction. A member of the audience, almost invariably a white man, almost invariably angry, denies that covering is a civil rights issue. Why shouldn’t racial minorities or women or gays have to cover? These groups should receive legal protection against discrimination for things they cannot help, like skin color or chromosomes or innate sexual drives. But why should they receive protection for behaviors within their control—wearing cornrows, acting “feminine,” or flaunting their sexuality? After all, the questioner says, *I* have to cover all the time. I have to mute my depression, or my obesity, or my alcoholism, or my schizophrenia, or my shyness, or my working-class background, or my nameless anomie. I, too, am one of the mass of men leading a life of quiet desperation. Why should classic civil rights groups have a

right to self-expression I do not? Why should my struggle for an authentic self matter less?

I surprise these individuals when I agree. Contemporary civil rights has erred in focusing solely on traditional civil rights groups, such as racial minorities, women, gays, religious minorities, and individuals with disabilities. This assumes those in the so-called mainstream—those straight white men—do not have covered selves. They 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. They experience us as asking for an entitlement they themselves have been refused—an expression of their full humanity.

Civil rights must rise into a new, more inclusive register. That ascent begins with the recognition that *the mainstream is a myth*. With respect to any particular identity, the word “mainstream” makes sense, as in the statement that straights are more mainstream than gays. Used generically, however, the word lacks meaning. Because human beings hold many identities, the mainstream is a shifting coalition, and none of us is entirely within it. As queer theorists have recognized, it is not normal to be completely normal. All of us struggle for self-expression; we all have covered selves.

For this reason, we should understand civil rights to be a sliver of a universal project of human flourishing. Civil rights has always sought to protect the human flourishing of certain groups from being thwarted by the irrational beliefs of others. Yet that aspiration is one we should hold for all humanity.

I do not mean discrimination against racial minorities is the same as discrimination against poets. American civil rights law has correctly directed its concern toward certain groups and not

others. But the aspiration of civil rights—the aspiration that we be free to develop our human capabilities without the impediment of witless conformity—is an aspiration that extends beyond traditional civil rights groups.

To fulfill that aspiration, this generation of civil rights must move far beyond the law. While law can help us be more human in crucial ways, it will never fully apprehend us. We should not mourn this fact: it would be worrisome if law could capture us so handily. Law's inability to apprehend our full human complexity, however, means our culture must do that work.

This book performs the point that the new civil rights requires both legal and cultural action. My first passion was literature, which I left from the belief that "poetry makes nothing happen." Now I see Auden meant those words ironically, and find myself revisiting my old belief. Law wields a brutal coercion literature cannot approximate. Yet literature has a power to get inside us, to transform our hearts and minds, in a way law cannot. This book uses both languages, relying not only on legal arguments but on literary narrative—the stories of people, including me, who struggled against demands for conformity.

In telling these stories, I do not argue categorically against assimilation. Such an argument would be rash, for assimilation is often a precondition of civilization—to speak a language, to curb violent urges, and to obey the law are all acts of assimilation. Through such acts we rise above the narrow stations of our lives to enter into a broader mindfulness, and often, paradoxically, we must do this to elaborate ourselves as individuals. I argue here only against coerced assimilation not supported by reasons—against a reflexive conformity that takes itself as its own rationale. What will constitute a good enough reason for assimilation will be controversial, and I am for the most part encouraging us to have

that conversation rather than seeking to impose my own canon. But one *illegitimate* reason is simple animus against a particular group—the demand that gays assimilate to straight norms, or that women assimilate to male norms, or that racial minorities assimilate to white norms—because one group is considered less worthy than another.

My argument begins at its source—gay rights. I retell the history of gay rights as the story of a struggle against weakening demands for assimilation—the demand to convert, the demand to pass, and the demand to cover. This history reveals the dark underbelly of the American melting pot and indicts any civil rights paradigm conditioned on assimilation.

I then argue that this gay critique of assimilation has implications for all civil rights groups, including racial minorities, women, religious minorities, and people with disabilities. In America today, all outsider groups are systematically asked to assimilate to mainstream norms in ways that burden our equality. These groups should make common cause against coerced covering, demanding an equality not staked on conformity.

In the end, however, I maintain that this quest of authenticity is universal. I argue for a new civil rights paradigm that moves away from group-based equality rights toward universal liberty rights, and away from legal solutions toward social solutions. I have a personal investment in framing civil rights in this way, as I sorely need, and often lack, the courage to elaborate the many invisible selves I might hold. It is because I have found my gay experience helpful in elaborating my other, nongay identities that I seek to share it. Told carefully, the gay story becomes a story about us all—the story of the uncovered self.