

the scope of Pfeffer's legacy. Unfortunately, it also makes for a somewhat less interesting read than one might hope. *Guardian of the Wall* is emphatically not a biography. It offers preciously few anecdotes about Pfeffer's personal life or any real sense of what he was like as a family man, a friend, or a colleague. Holcomb's story is well-told, but it maintains a laser sharp focus on Pfeffer's professional influence.

The hardest part of reviewing this book, however, is trying to figure out what to say about it right now, as I sit at my computer, in early July 2022. In the last week of June, the Supreme Court issued three landmark decisions that effectively completed a decades-long project of dismantling Pfeffer's legacy in its entirety. In *Carson v. Makin*, the Court ordered the state of Maine to provide tuition assistance for religious schools. In *Dobbs v. Jackson v. Women's Health*, the Court overturned *Roe v. Wade* with no regard for those whose conscientious commitments might require access to abortion in certain circumstances. And in *Kennedy v. Bremerton School District*, the Court recognized the religious rights of a public-school football coach to lead his students in Christian prayer following games. The Court has shifted so far from Pfeffer's separationist positions that he would hardly recognize it. And with a 6–3 conservative majority locked in place, it is hard to imagine the Court returning to Pfeffer's side any time soon.

What then are we to make of this comprehensive study of Pfeffer's influence? I imagined three possibilities as I finished reading Holcomb's book. Perhaps we might regard it as a historical curiosity, a compelling account of a particular moment in time, lasting from approximately the mid-1940s through the early-1980s, to which we are unlikely to return. Alternatively, we might read Holcomb's study as a stirring defense of a legacy waiting to be re-claimed. Or lastly, we might take this book as an opportunity to rethink altogether the wisdom of Pfeffer's abiding faith in the Supreme Court as defender of minority rights. Perhaps we ought to seek new political strategies altogether for guaranteeing religious equality.

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Free Exercise of Religion in the Liberal Polity: Conflicting Interpretations

By Emily R. Gill. Cham, Switzerland: Palgrave Macmillan, 2019. 296 pp. \$109 cloth.

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Written with comprehensive mastery of pertinent literatures in law, political theory, and moral philosophy, Emily Gill's *Free Exercise of Religion in the Liberal Polity*

provides a thoughtful overview and an important, original argument on one of the most complex and pressing issues of our time. That issue is how far a liberal polity, dedicated to the rights of all to pursue happiness in their diverse ways, should accommodate or aid religious free exercise when doing so involves exemptions from laws applying to and protecting others, and/or dangers of establishing religion. A majority of current U.S. Supreme Court justices passionately believe that American policies have wrongly burdened religious liberties for too long. They are aggressively seeking to shift directions, most recently ruling that Maine must send taxpayer dollars to religious schools if it is funding any private ones, and that public high schools must allow their coaches to pray on playing fields even if some unwilling players feel pressured to join. At a time of resurgent white Christian nationalism as well as fierce traditionalist religious opposition to abortion, LGBTQ+ rights, and scientific accounts of climate change, shifting too far in the direction of religious aid and accommodations clearly poses severe dangers to liberal values. Politically, however, perceptions of arrogant liberal hostility to traditionalist religious views and practices are fueling all those causes.

A senior political theorist who has explored all sides of these issues over many years, Gill grasps perfectly the central normative challenge: “how to honor the conscientious convictions of as many individuals and groups as possible” without allowing any to “impose their own convictions about how one should live upon others who do not agree with them” (1, 7). Whereas the current Supreme Court majority focuses on the first part of that challenge, Gill, a fair-minded but committed liberal, is at present most concerned about the second, the dangers of the demanding new religious militants (21–22).

She anchors her argument on how to respond to this challenge on a valuable distinction between “formal” and “substantive” neutrality (Ch. 1). Formal neutrality means that governments must not consciously aim either to aid or hinder religions—but if their policies serving legitimate public purposes happen to do one or the other, or even aid some religions while hindering others, those policies are still legitimate. Substantive neutrality means that governments actively seek to limit or offset the degree to which their policies aid or hinder some individuals and groups more than others. That goal may mean special exemptions, accommodations, and aid for religious individuals and groups when public policies burden them, even when those policies are not intended to do so. Gill argues that John Locke’s views on religious toleration pointed toward formal neutrality, Roger Williams’ views on religious freedom pointed to substantive neutrality. Both views, then, have impressive antecedents in American political and moral thought.

Overall, while not wholly rejecting substantive neutrality, Gill favors Locke and formal neutrality. She does so because of the clear and present danger that the civil rights of non-believers will be sacrificed in efforts to allay the burdens religious traditionalists experience when seeking to live their faith in an increasingly secular society. I once fully agreed, but I have moved more toward Williams and substantive neutrality, out of both greater awareness of the intellectual and moral limitations of prevailing liberal secular perspectives, and intensified concern about the deepening, destructive political divisions that mild accommodations might conceivably ease. Yet for that very reason, I find Gill’s careful balancing of formal and substantive neutrality concerns immensely valuable.

Gill contends persuasively that it may well be appropriate for religious groups not to be compelled by employment antidiscrimination laws to hire non-believers who would not further their core religious missions, since no group should be compelled to hire those who do not support their goals. If, however, groups accept public funding for their public service activities, she insists that they should form separate organizations for those purposes that cannot engage in discriminatory hiring (Ch. 3). Gill would also grant tax exemptions to non-publicly funded religious bodies that serve certain public purposes but also advocate for illiberal values, both out of a liberal belief in the value of diverse viewpoints and a healthy distrust of regulators' judgments as to what is "illiberal" (Ch. 4).

Gill draws the line against religious claims, however, when they extend beyond expression of beliefs and beyond internal, non-publicly funded practices, to conduct that infringes on the civil rights of others. She rejects the Court's ruling in the *Hobby Lobby* decision that closely-held private corporations (the Trump administration made it all corporations) get religious exemptions from the Affordable Care Act's requirement to provide employees with health insurance that includes contraceptives. She similarly rejects baker Jack Phillips' claim in the *Masterpiece Cakeshop* litigation to an exemption from antidiscrimination laws permitting him to refuse to design cakes for same-sex weddings (Ch. 5). Gill "roundly rejects" arguments that the discrimination gays face today in places of public accommodation is generally not nearly so severe as that faced by African Americans in the Jim Crow era (180). It is still conduct violating civil rights. She also is "reluctant" to give weight to arguments like Andrew Koppelman's, that LGBTQ and religiously traditionalist Americans might "gain more if they are willing to compromise," with bakers like Phillips allowed to deny service if they risk losing business by posting their policies courteously, and with LGBTQ customers foregoing demands for service from such bakers if they have ample opportunities for similar services elsewhere (185–86). Gill is doubtful that the law can determine analytically or empirically when opportunities are ample enough. She also opposes permitting the dignitary harms of shops posting their unwillingness to serve same-sex couples (187–88).

Though (like Gill but more so), I have sympathy with Koppelman's calls for compromise, these arguments have undeniable force. I retain reservations: like the Court in *Hobby Lobby*, I believe the government could in principle adopt alternatives for providing coverage for contraceptives, instead of requiring employers to pay for them (adopt single payer universal health care!). Like the (reluctant) Obama administration, I think exemptions can and should be confined to closely-held private corporations whose small number of stockholders share religious beliefs, criteria that would limit candidates for exemption sharply. The Trump administration's labeling of this restriction as unworkable was patently disingenuous and false.

Similarly, though I agree entirely with Gill, Douglas Laycock, and others that no exemptions from antidiscrimination laws should be allowed to shopkeepers like Jack Phillips if the services they provide are otherwise difficult to obtain, I am not sure that it is hard to discover whether that is the case. The gay partners in the *Masterpiece Cakeshop* case were certain they could get comparable cakes in many other locations, and in Gill's examples of possible hardships, the unavailability of services is quite clear (186). Her concern about the dignitary harms to potential LGBTQ

customers from public postings of unwillingness to provide service is powerful. Yet the dignitary harm in being told that following your faith is illegal is also real, and like Koppelman, I think that in much of America today, businesses would lose customers if they chose to post such signs. Gill “accedes to narrow exemptions” if they are limited to “a small number” of providers (185), and Koppelman’s proposed compromise might well make the numbers of shops refusing service less, not more common.

Or, admittedly, it might not. The furious militancy of many contemporary American religious traditionalists may prove too incendiary to be cooled by compromises. It may be wiser to pursue policies of Lockean formal neutrality almost exclusively, which was, ironically, the stance of both 19th century American law and the late Justice Antonin Scalia, even though today’s conservative justices berate it as novel liberal imperialism. The issues Emily Gill addresses are genuinely difficult and genuinely urgent, and all who seek answers to them can benefit greatly from her conscientious and insightful reflections.

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Surviving Repression: The Egyptian Muslim Brotherhood after the 2013 Coup

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More than a decade after the Arab uprisings, the conditions for Islamist movements, parties, and organizations across the Middle East and North Africa region have arguably never seemed bleaker. Indeed, as Islamist actors find themselves navigating renewed repression, political, and social polarization and drastically altered circumstances in their diverse contexts, one may be forgiven to agree with those scholars such as Asef Bayat and Oliver Roy proclaiming the end of Islamism. In this regard, Lucia Ardovini’s book brings a fresh and new perspective with which to look at the dynamics affecting Islamists across the region, showing that moments of renewed repression may instead represent opportunities for Islamist movements’ internal renewal. Looking at the case of the Egyptian Muslim Brotherhood in the aftermath of the 2013 military-led coup that ousted the group from power, Ardovini argues that rather than putting an end to the movement, the renewed crackdown has instigated a gradual process of internal change. As its members are taking stock of past experiences while in exile, they are also questioning those values and ideological traits that for decades have been at core of the Brotherhood’s identity as a movement,