

Daniel Bennet, *Defending Faith: The Politics of the Christian Conservative Legal Movement*.

Lawrence: University Press of Kansas, 2017. 224 pp. (\$34.95 cloth, \$34.95 ebook).

Daniel Bennet's study of the politics of the conservative Christian legal movement is based mostly on his examination of press releases by conservative Christian legal organizations and interviews with lawyers associated with these groups. These are: Alliance Defending Freedom, American Center for Law and Justice, Center for Law and Religious Freedom, First Liberty, Freedom of Conscious Defense Fund, Liberty Counsel, National Legal Foundation, Pacific Justice Institute, Thomas More Law Center, and Thomas More Society. The latter two were founded by and are run by Catholics while the other eight were founded by and are run by evangelical Protestants.

Bennet's research indicates that there are differences among the organizations in size, resources, issues emphasized, litigation strategies, and that the most important objective by far to the collective is defending the religious liberty of conservative Christians whose mores and practices are increasingly out of step with the sprawling regulatory state. Whether it is defending traditional marriage and family structures, pro-life advocacy, or conscience rights of medical professionals, among other issues, the press releases and interviews indicate that religious liberty arguments are the central, though not necessarily exclusive, means by which these issues are engaged. Bennet shows that although press releases of these groups tout their religious liberty advocacy as advancing the liberty interests of all Americans, in practice these groups, or at least some of them, are often indifferent to the religious liberty claims of non-Christians. And this is to say nothing of the fact that their litigation successes are often, as Bennet notes, harmful to the cause of progressive sexual equality.

To observers of contemporary politics, there is little surprising in Bennet's study, something he himself seems to acknowledge (p. 32). The strength of *Defending Faith* is in illustrating how Christian conservative legal organizations have publicized their activities in press releases in recent years and how the lawyers of the groups understand their work—they are motivated by their faith and generally see their work as a necessary part of cultural reform.

Unfortunately, the value of *Defending Faith* is badly diminished by its flaws. To begin, Bennet repeatedly says he's studying the legal advocacy of the organizations in question (pp. 5, 10, 17). One would thus expect a careful examination of legal arguments the groups have advanced across countless cases over the last few decades. But Bennet hardly looks at case briefs. Instead, Bennet, as indicated, examines press releases, which are how the groups frame their activities for the media and supporters and contributors (p. 34). *Defending Faith* is thus a study of framing, of public relations about legal advocacy but not of legal advocacy itself. That legal arguments are largely ignored is especially puzzling given that Bennet conclusory asserts that conservative legal organizations "exercise tremendous influence in law" (p. 49). Whatever their influence, to the extent they have impacted the law it is because primarily appellate judges have

found their legal arguments persuasive. The heavy reliance on press releases thus necessarily makes for a narrow study.

This is true also in the sense that because Bennet relies on the groups' own press release archives, of which he found those of only seven organizations useful, the earliest press release he has is from November 2000 (the study is through the end of 2014) (p. 35). Yet of these groups, all were founded from two to ten years prior to this (p.20). Moreover, of the firms for which no press releases were utilized, two of these are the oldest groups in the study, founded in 1980 and 1985, respectively (pp. 20, 36).

Detracting most from the book is that it reads like a first draft. Bennet's writing is careless or, to be charitable, lacking in precision and clarity and is replete with conclusory statements in need of supporting arguments and evidence. A few examples will suffice. Bennet writes that legal organizations emphasize religious liberty because they see it as a "cure-all for all other culture war conflicts" (p.4). Yet nothing in the book suggests that this is the case. He repeatedly writes that the groups, by emphasizing religious liberty, are transforming the culture wars (a phrase Bennet uses excessively) but fails to explain what this means or to give evidence of any such transformation. He writes, too, that the emphasis on religious liberty is a movement towards "a more sophisticated form of political mobilization" (99) yet provides no evidence, or even arguments, that the legal advocacy of these groups is really about political mobilization or how we might distinguish the sophisticated from the unsophisticated.

Additionally, Bennet fails to convey that he has a clear grasp of the U.S. Supreme Court decisions he discusses. For example, he explains *Burwell v. Hobby Lobby*, the 2014 U.S. Supreme Court decision striking the contraception care regulation at issue, as though the outcome was determined by the fact that the Court agreed with the owners of three closely held for-profit corporations that the regulation substantially burdened their religious beliefs (p. 88). This is incomplete, however, in that the substantial burden finding triggers the compelling interest test. The Court assumed without deciding that the regulation was supported by a compelling governmental interest but held that the government failed to show that the regulation was narrowly tailored in furtherance of that interest. Similarly, Bennet erroneously states that the Court, in *Hollingsworth v. Perry* (2013), upheld lower federal court rulings declaring unconstitutional California's Proposition 8, which amended the state constitution to define marriage in exclusively heterosexual terms (p. 70). But the Court concluded that the parties defending the constitutionality of Proposition 8 on appeal lacked standing, so did not rule on the merits, which left in place the district court's ruling that the amendment was unconstitutional. In isolation, Bennet's treatment of case law is perhaps inconsequential but it is of a piece with the overall inattentiveness of his writing.

Defending Faith is not without value, but a careful, well-written study of the legal advocacy of Christian conservative legal organizations and its impact remains to be written.

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