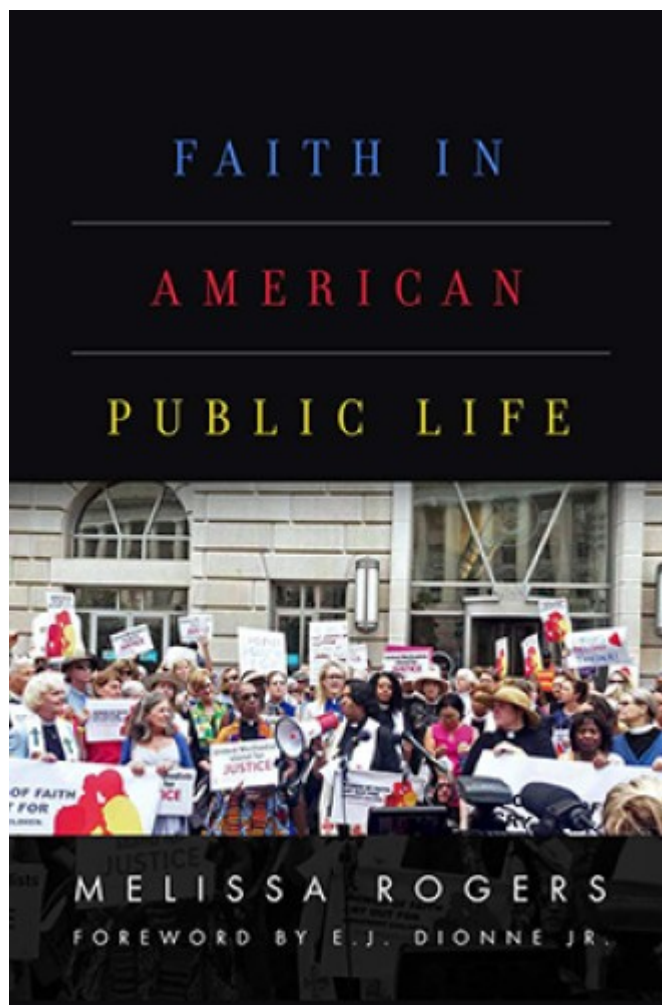


Religious freedom in America

## **Melissa Rogers considers what a healthy role for religion in American public life might look like.**

by [Clint Schnekloth](#) in the [February 12, 2020](#) issue

### **In Review**



### **Faith in American Public Life**

By Melissa Rogers

Baylor University Press

As 2019 drew to a close, Jewish communities in New York were reeling. They'd experienced at least one violent anti-Semitic attack on each of the nights of Hanukkah. In this cultural moment, with hostility against religious minorities on the rise and Christian supremacy often conflated with free speech, we very much need works like *Faith in American Public Life*. The safety of our neighbors—not to mention the stability of our democracy—relies on the kind of clear-eyed and reasonable account Melissa Rogers provides.

Rogers looks carefully at federal laws and policies relevant to the nonestablishment and free exercise of religion to show how our form of government protects religious expression. She opposes the use of fearmongering and dehumanizing language against people of minority religions, races, and ethnicities, pointing to the current president of the United States as one of the worst in deploying such tactics. But she contextualizes this critique in an academically robust survey of the appropriate modest bounds of free exercise and the important prohibitions on governmental advancement of religion that are the bedrock of our constitutional democracy.

For readers who may be intimidated by a 300-page study of free exercise and nonestablishment, Rogers offers a speed-reading approach to the book. Each chapter begins with a summary of law and policy and ends with a set of recommendations on how to defend religious freedom and promote a healthy role for religion in American public life. She gives permission in the introduction simply to read these summaries and recommendations.

For readers who dig more deeply, there is plenty to think about. Because I live in Arkansas, where states' rights (over against the intrusion of the federal government) are still a talking point, I was particularly intrigued by Rogers's discussion of the scope of the First Amendment:

The First Amendment, including the Establishment and Free Exercise Clauses, was originally intended to apply only to the federal government. The Supreme Court subsequently confirmed, however, that the Fourteenth Amendment to the Constitution had the effect of applying the religion clauses to the states. This move by the Court is commonly known as the "incorporation doctrine."

The incorporation doctrine, she points out, has been challenged repeatedly. Its many interpretations in the courts continue to bring greater clarity to the doctrine's application.

In the meantime, though, contradictions persist. For instance, article 19, section 1 of the Arkansas Constitution reads: "No person who denies the being of a God shall hold any office in the civil departments of this State, nor be competent to testify as a witness in any Court." Clearly this state law is a violation of the incorporation doctrine and thus could be challenged in the courts. But any such legal challenge would require an elected official who's willing to state on the record, "I'm an atheist."

Rogers puts it clearly: "the Constitution prohibits the government from disqualifying aspiring officeholders due simply to their religious beliefs and affiliations, or lack thereof." Still, there are laws in several states that prohibit atheists from serving in office—and, worse, there are elected officials at the federal level, like Rashida Tlaib and Ilhan Omar, who receive death threats simply because they are Muslim.

Rogers stresses that the Constitution protects people's rights to engage in policy debates and politics regardless of religion, and it bars government officials from taking sides in theological debates. Although many Christians believe they are under threat from atheists, she illustrates that the opposite is the case: it is Christian supremacism that presents the greatest threat to the Constitution's protections against religious tests.

Rogers doesn't focus solely on arguments about religious expression. She also portrays a wider reality: the US government and faith communities have been working together for the common good for centuries. The government and religious social services have worked together to help people in need since the 19th century, she shows, with the government funding hospitals and orphanages. In 1899, the Supreme Court officially upheld these partnerships. Similarly, the partnership between the State Department and refugee resettlement nonprofits has been integral to our national identity, precisely because resettlement transcends the bounds of religious difference. People of all faiths resettle refugees.

The recommendations Rogers offers at the end of each chapter are aimed at shoring up the strength and vitality of our constitutional protections for religion. For instance, her chapter on religious discrimination and hate crimes concludes by

challenging readers to “augment initiatives to combat discrimination, hate crimes, and violent extremism,” “eschew dehumanizing language and avoid violent expression that whips up fears based on factors like faith,” “consistently condemn attacks against religious communities,” “consistently condemn governmental failures to demonstrate religious neutrality,” and “support projects that encourage Americans to get to know their neighbors.”

These steps aren’t always easy to know how to follow, Rogers admits. But there is reason for hope: religious freedom is built into our Constitution, and free engagement within and between faith traditions will create a space for Americans to lean into the best of our civic impulses as we seek justice for all.