Seeking Recognition: full citizenship in worship for Jewish and Muslim women in religious law

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“The redemptive truth … is that patriarchal social relations construct a world that cries out to be mended. Yet mending is contingent upon the healing of gender relations.” (Adler, 1998, 124)

“If the aim of Islamic society is to fulfill the intentions of the Qur’an with regard to the rights, responsibilities, potentialities, and capacities of all its earnest members, then those who truly believe in the Qur’an would equally wish for the woman the opportunities for growth and productivity which they demand for the man.” (Wadud 1999, 90-91)

I. Introduction

Muslims and Jews are tiny minorities in the United States. Among them, it is safe to assume that not too many earnestly follow religious law. As is the case with any heterogeneous social group, half of those who do follow religious law are women, but only a small fraction of those observant women are feminists – religious devotees who adhere to their respective religious laws, and yet aim to find ways to reconcile these laws with principles of inclusion and equal citizenship. The traditional regulation of public prayer, in both Islam and Judaism, has either excluded women or delegated to them a marginal role. In this paper I discuss the struggle of religiously observant women to be

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recognized and integrated as equals (equally created by God) into the institution of the public prayer within their religious communities, in the United States and elsewhere.

Traditional Muslim law requires and encourages women to pray. It neither requires nor encourages prayer at the Muslim house of prayer – the mosque. A majority of Muslim scholars consider women as ineligible to lead a congregation of men and women in prayer.2 When progressive Islam met feminism, a small movement -- particularly in the United States -- began to challenge this status quo. These were women who felt deeply religious and yet pained by their exclusion. Their movement has emphasized the right of women to attend prayer at the mosque, and hence the need to make mosques more friendly to women. Furthermore, women began to study Muslim law earnestly and seriously. Their scholarship yielded a vast body of knowledge which pointed in one direction: the Quran itself does not prohibit the full participation of women in the public ritual of prayer. Custom and culture do. In 2005 a historical event took place in New York City. Dr. Amina Wadud, a Muslim scholar, led a gender-mixed group of worshippers in the traditional Friday afternoon prayer.3

Like traditional Islam, traditional Judaism requires and encourages women to pray. Like Muslim women under traditional Islam, Jewish women under traditional Judaism are not encouraged to go to the house of prayer -- the synagogue. Furthermore, Judaism requires a worship or prayer quorum (minyan) for a public prayer to be valid. Women are not eligible to be counted in the minyan. The exclusion of women from the prayer quorum has led to their exclusion from many of the rituals involved in the public prayer, such as holding the Torah scroll, reading from it out loud, or wearing the prayer shawl.

Like Islam, Judaism is not monolithic. The struggle for egalitarianism in Judaism began as early as the beginning of the 19th century, when women in the reform movement demanded equality and were met with the sympathy and support of the movement’s leaders (Meyer 1988: 55). However, while in reform synagogues, men and women prayed side by side, women still were not considered equal to men in the public ritual.

2 See discussion below, pp. ____.
3 Amina Wadud, *Inside the Gender Jihad: Woman’s Reform in Islam* (Oxford: Oxford University Press, 1999) Wadud had previously delivered the Khutabah (sermon) during Friday prayer before a mixed congregation in the Claremont mosque in South Africa. She recounts that the 2005 event was not planned by her, but that she was rather spontaneously integrated into it. Nor did she consider the event egalitarian.
Only in the 1970’s of the 20th century did religious women begin to turn a critical eye towards the tradition. They began an earnest study of the sources of Jewish law and found that much that is prohibited is rooted not in the fundamental norms themselves (halakha), but rather in custom. The last two decades of the 20th century saw considerable progress. Since the 1980’s, in conservative synagogues, women count as members of the worship quorum (minyan) and enjoy full participation in the public prayer. Even orthodox Judaism, the most resistant to change, has come to accept the phenomenon of “tefillah groups” -- women’s prayer groups which obey the principle of gender segregation, but which, in the company of women, perform most of the segments of the public ritual (hold the Torah scroll, read from it before the congregation, wear prayer shawls).

My project is three-fold: first, to review briefly the significance of public prayer for women who wish to remain an integral part of their religious communities; second, to review the challenges to Jewish and Muslim religious law with respect to prayer in the public religious space. In this part I tell the story of a few dedicated women who launched a campaign to amend religious law so that it accepts the public participation of women in prayer. Third, I shall argue that the focus on the public prayer is largely an American phenomenon, and that U.S. women were intellectually stimulated, directly or indirectly nurtured, and encouraged by American law and the culture in which they are situated. I shall thus document an ongoing conversation between American law (broadly defined), Jewish law, and Muslim law in the United States. This conversation, I argue, has already had beneficial effects for religious women in the United States, and given the ease of the flow of information from one place to another, it has a great potential to radiate to other communities globally with an immense promise to affect the lives of religious women everywhere.

II. Why Bother? The Performativity of Public Prayer

A secular person may find it hard to empathize with the concept of prayer or with a project of defending the right of religious women to partake fully in the public prayer. For the ordinary secular person the prayer is a relic of the past (Zaleski and Zaleski 2005). In the linear historical trajectory of western civilization, prayer is seen as having
replaced magic as a means to correct personal and social wrongs, and as having been itself replaced by science and rational thought processes or policy making (Ibid.) In general, the secular sensibility has little patience (or even respect) for religiosity and spirituality, and does not feel it owes religious groups more than passive tolerance. In the 21st century, with the ominous tremors predicting a clash of civilizations, the passive tolerance may even give way to cautious hostility towards those groups whose lifestyle is so alienated and alienating, who seem to take the high ground, and often themselves display intolerance toward the secular way of life. Why bother then, to deploy secular intellectual efforts in an attempt to explore the right of religious women to recognition as equal agents in the act of collective prayer?

One may begin with the value of prayer. Prayer is many things. It can take the form of a petition (individual or collective; more on this momentarily), it can be confessional, an expression of adoration, ecstasy, thanksgiving, or a method of personal or communal healing. Prayer may be private or public, individual, or communal. As a communal form, it is devotional, structured and regimented, “cyclical, regular, and routine, reiterated at set intervals throughout the day, week or year. It has a sacrificial character, offering the act of faith and the gift of loving attention to the divine beloved…” (Zaleski and Zaleski 2005, 129) In his masterful “The Varieties of Religious Experience”, William James observed that in prayer “spiritual energy, which otherwise would slumber, does become active, and spiritual work of some kind is effected really.” (James 1982) When the prayer is institutionalized and performed in community, the individual “spiritual energy” becomes collective energy, a formidable, shared experience that transforms the community as it transacts with a higher power. (Ibid.) It is this particular aspect of the public prayer, its function as uniting all members of the community during the act of conversation with God, which is crucial. And yet, the performance of this devotional ritual in both Islam and Judaism brings out the most patriarchal aspects of the religious way of life.4 In the traditional version of both religious laws and cultures, women are excluded from the public action, either instructed to stay out of the act altogether or be reduced to passive observers, relying on the men of

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4 The same is true of Catholicism, where women are barred from the priesthood. A comparative study of the three religions will be most enlightening.
the community to represent them before God. Thus, women are implicitly designated to second-rate status in the community of worshippers. This interposition of the men between women and God in the formal and public ritual of the devotional prayer undermines their status as equal agents and undercuts their full moral worth as religious persons. Their feelings and agency are not experienced, either by them, or by their co-religionists as equally valued and empowered.

A secular person seeking to understand the meaning of the ban on participation may find a clue in the constitutional rights to “peaceably assemble and to petition the government for a redress of grievances.” These two rights -- to peaceably assemble (form a group), and to ask the government to redress grievances -- appearing alongside the right to freedom of speech and the religion clauses of the first amendment to the Constitution of the United States, are rooted in the premodern conception of the relationship between rulers and ruled.

The etymology of the term petition testifies to a close affinity with prayer. Petition is derived from the Latin word “petitionem”, and means prayer. Indeed, instruct a legal search engine to look for the word “prayer” in the (secular) decisional law and you will find the word prayer used as a synonym for petition. In any religious system, petition to a supreme being to redress grievances on a personal or public level is an important part of the heritage of that religion and its raison d’etre.¹ The King, first as God’s anointed, and then as a secular power holder, became the object of petitioning as the nation-state came into form. When the monarchy gave way to a republican form of government, the clause was integrated into the secular constitution. The English Bill of Rights of 1689, inaugurating the Glorious Revolution, explicitly turned this religious concept into a secular norm: “That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal.”⁵ The first amendment recognized the significance of coming together and petitioning in the U.S. government.⁶ The passage from a Republican to a Democratic constitution, captured by the Citizenship and Equal Protection clauses of the fourteenth amendment, poured an additional

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⁵ This is a very brief and truncated history. The Magna Carta implicitly recognized the right to petitions the knights were petitioning the King in order to get recognition of their privileges. The United States Declaration of Independence emphasizes the numerous petitions to the King preceding the Revolution.
significance into these rights, indicating the link between civic society’s ongoing assemblage and petitioning and the periodic check on rulers performed by elections.

For our purposes, it is important to observe the tie between peaceable assembly and petitioning. Of course, each right may be exercised separately. Thus, women may petition in the private sphere and then gather in the public sphere, but refrain from any appearance of collectively petitioning. And yet, the combination of these rights yields special power and meaning. The power of petition is derived from numbers. The more individuals join in acting out their petitioning (peaceably assemble), the more powerful and persuasive the petition is. The power of petitioning peaks when it is performed in the public square. From this perspective, the rights to peaceably assemble and to petition are as important as the right to vote, and provide the oxygen that breathes life into the democratic process. They ensure every individual that they count, and they ensure groups and communities that no matter how small or insignificant they are, their voice will be heard as a matter of right.

The history of petitioning in late 18th and 19th centuries, U.S.A. and England, confirms this dynamic. Consider the struggle for religious freedom in the late decades of 18th century State of Virginia. Virginia’s national assembly received a “multitude of petitions seeking disestablishment… including the famous “Ten-thousand Name” petition, nearly two hundred feet long.” (Bailey 1979, 153) Or consider the evangelical campaign against Sati in India, conducted by British women between 1813 -1830. The women who signed the petitions did not identify themselves as radicals or supporters of the ‘rights of women’, but rather as women committed to a religious world view. Their participation “helped to extend the women sphere beyond the purely private and domestic.”(Midgley 2000, 74). Thereby, they were empowered to experience themselves as full members of their body politic. In her book, Signatures of Citizenship, Susan Zaeske shows how the right of petitioning “expanded significantly the ability of women to participate in politics absent the right of suffrage”, and at the same time provided a means of asserting citizenship.8

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7 Which is implied, but not mentioned in the text of the constitution.
8 “By firmly seizing the right of petition and redefining it from a prayer for redress of private grievances to an instrument of collective public persuasion, women not only asserted their citizenship but also created a hunger for further participation in the political process and more rights” Zaeske, Signatures of Citizenship.
Public prayer performs precisely the same function. It empowers the religionist to see herself as an entitled member who has an equal standing before God, and whose voice has equal value. Her participation, along with other women, in the devotional prayer affirms these principles. The energy released from the act of petition-prayer is communicated not only to the higher power, but also to the co-religionists standing at the same house of prayer. The petitioners’ act of prayer thus places their wrong(s) at the feet of their co-religionists, men and women, in plea for recognition: “Look at me, I do what you do, I too have depth of pious intent and intensity of competence, I am as worthy. Accept me as God accepts me.”

It is important to note that a petition to a redress of grievances is different from a petition to exit. Much has been written about the right to exit from small religious groups. Women who feel oppressed by their religious system may wish to leave. Their right to do so should be protected, if not by the culture in which they have been embedded, then at least by the secular law. In insisting that they are not interested in a right to exit but rather wish to remain inside their community, they seek recognition as equal members with full dignity. Religious women may also be communicating a message to the secular world surrounding them: that they value their way of life, that they cherish their freedom of religious worship, and that secular empathy and support will be emotionally empowering and appreciated. Religious men and women, praying in public together, express the sublime recognition that they are created equal and that their conversation with God is conducted on the basis of a true understanding of equal moral worth.

The right of women to participate as full agents in the public prayer, thus, should appeal to the secular person because it is a variation on a right that secularism cherishes and which proves vital in the development of republican citizenship. The fact that the cherished secular right is itself rooted in this religious right to pray (petition) should facilitate an understanding, or at least should nurture sympathy to the women’s project. Recognition on the part of the secular observer will itself perform an important function.

in the validation of this right and will enrich the experience of tolerance of a different way of life.

This link between the right to petition and the right to prayer in the context of peaceable assembly highlights yet a further significance of the right to full participation in public prayer. The women who insist on this right are precisely the kind of citizens a democracy values and seeks to encourage. They are energetic, spirited, courageous, willing to fight for principle, and eager to stay in the community and correct its wrongs. They are capable of identifying and pointing to the injustices inherent in the status quo, and they radiate hope that the most intractable pillar of patriarchal religion will give way to a gender-equal inclusion. All of these are virtues highly important for a vibrant civic society, the very same values cherished by both republican and democratic theory. These religious women, active citizens of their own communities, may well serve as a sturdy bridge between secular and religious society. They testify to the fact that we need not interpret the rift between western values and religious fundamentalism as necessarily a clash of civilizations. Thereby they offer hope: a common ground where dialogue and the exploration of common goals may be fruitfully pursued. With their help, a healthy *rapprochement* between the religious and secular camps may be engineered, a good antidote to the insulation that each camp has grown accustomed to experiencing.

It is also worthwhile to view this matter from the perspective of the democratic commitment to secure the rights of discrete and insular minorities. One may even go as far as saying that the test of the commitment to an egalitarian society lies in the actual protection guaranteed to particularly small groups. Religious women who seek participation in the public prayer are a discrete and insular minority. They not only belong to a group that by virtue of its way of life is separated from the mainstream, but they also constitute a discrete and insular minority within their own communities. They are thus double burdened, sharing a minority status with their co-religionists *viz a viz* the secular majority, and experiencing the status of a minority within their own religious circle. It may well be that the right to free exercise of religion prevents the state from imposing an egalitarian principle on the discriminatory religious community, or that the prohibition on the establishment of religion prevents introducing equality into any particular house of prayer, but this does not mean that one should feel excused from
assessing the discrimination or exempt from offering these women the sympathy and expertise accumulated in secular law.

Finally, the historical feminist struggle in the United States, from the suffragist movement in antebellum America to the women’s liberation movement of the 1970s, has been driven by the recognition that women are entitled to full and equal citizenship. The public act is performative in that it makes a number of statements: it reclaims the public space for women, it empowers through sheer number, and it fortifies the resolve through solidarity. It recreates the community (of women, of women and men) and asserts their connection with their government, which in the religious context is the government of the divine. The public prayer project should be seen as yet another step in this long chain of struggles to nurture recognition and equality, agency, and meaning in the religious sphere without the need to exit into the secular domain.

Indeed, the significance of the communal prayer has been recognized by both Islam and Judaism. Muslim doctrinal teaching asserts that “congregational prayer (salat al-jumu’ah) is better than the individual one twenty-five times or twenty seven times.”

The Shiite rendition is similar if more poetic and worth quoting in full:

If there are five people, the reward for one Rak’at (segment of the prayer, PL) will be equal to two thousand four hundred prayers, and such does the reward multiply, that if there are more than ten people in the Jama’at, then if all the skies were paper, all the seas were ink, all the trees were pens, and all the men, Jinn, and Angels got together as scribes to record the reward of one Rak’at, they would not be able to do it.”

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The Talmud confirms this sentiment in the Jewish tradition, a sentiment echoed by Maimonides:  

_The prayer of the community is always heard; and even if there were sinners among them..., the Holy One, blessed be He, never rejects the prayer of the multitude. Hence a person must join himself with the community, and should not pray by himself so long as he is able to pray with the community. And a person should always go to the synagogue morning and evening, for his prayer is only heard at all times in the synagogue. And whoever has a synagogue in his city and does not pray there with the community is called a bad neighbor._

Personal accounts of Muslim and Jewish women who participated as full citizens in such public prayers provide anecdotal evidence to this claim. Here is Muslim journalist Mona Eltahawy describing the historic Jumuah (Friday prayer) led by Amina Wadud:  

“I could hear the two women next to me quietly sob as they listened to a woman issue the call to prayer. For one of them, a Somali, they were tears of return – in her country, women were not allowed into the local mosque. … the struggle would continue, but seeing Wadud give her sermon, I could see the light at the end of the 1,400-year-long tunnel.”

Arleen Stern, a Jewish social worker from New York, recounts her first chanting of the Torah during a Shabat (Saturday) service. Recall that until the 1980’s it was unacceptable for women to read from the Torah: “When the Torah was taken out, every person in the room received it with outstretched arms and then passed it on to the next recipient. Then the reading began… I faltered a few times, but the words came out and it all happened fairly quickly. …As I finished, I encircled my fellow students with one arm in exaltation. We were four women standing before everyone… As should be with meaningful events in our lives, [it] marked both a culmination and a beginning. It was a moment in the process of coming to terms with a troubling part of my tradition, the part that would consign me to a role of passivity, that tells me I have no place in leading others. By publicly reading…, I moved a step closer to feeling I have a place and a home as a Jew.“ (Stern 1983, 182, 184)

Finally, consider poet Merle Feld recounting theologian Rachel Adler’s struggle to gain equality. Feld’s words capture the experience of women of all faiths: “I’ve

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11 Maimonides, Mishneh Torah, Hilkhot Tefilah 8.1
12 See discussion below at page ___
watched as over the years she engaged the texts, did battle with the tradition – see me, count me, let me sit at the table, I have a right to be here, I have something to say.” (Feld 1999, 250)

Participation as equal in public prayer, leading the prayer, is performative. It makes women full partners in the religious experience, just as participating in town hall deliberations, voting on matters of policy, or being eligible to be elected to public office, makes them full-fledged citizens of their republic. For these reasons, the participation of religious women in the public prayer is a central tenet of the struggle for women’s equality. It is not less important than addressing violence against women or equal pay. In the secular world should take it seriously and offer intellectual and moral support as this long and painful struggle goes forth.

III. Muslim Women’s Journey Towards Recognition

In New York City, on March 18, 2005, Dr. Amina Wadud, a woman, a professor of Islamic Studies at Virginia Commonwealth University in Richmond, Virginia, and a devout Muslim, led a group of men and women in a Friday prayer (salat al-jumu’a). On that occasion she also delivered the customary weekly sermon (the khutbah). Dr. Wadud was thereby operating as an Imam, leader of her religious community. It was an historic moment and marked as such by the tiny yet ecstatic community of attending men and women Muslims, by the global Muslim community, and by the mainstream media. The event was a high water mark in the ongoing debate among Muslims about whether Islam permits women to perform as Imams and lead the Friday public prayer before a mixed crowd of women and men.

To illustrate its significance it is enough to point out that no mosque in New York City was willing to host the public prayer. The organizers initially planned to hold the prayer in a So-Ho art gallery, but a bomb-threat forced them to relocate to the Synod

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13 The Progressive Muslim Union of North American (PMUNA) operates a website containing rich information on the prayer led by Wadud and on the controversy surrounding the position of Muslim law on this issue. This may not have been the very first such woman-led salat in the Islamic world. Indeed, it should be understood in the context of a wave of calls for Islamic reforms with regard to the status of women. Yet the controversy and excitement around it point to its significance. See PMUNA’s homepage at http://www.pmuna.org/.
House affiliated with the Cathedral of St. John the Divine. The event generated a flurry of scholarly opinion, both supportive and opposing, as well as political commentary linking it to U.S. policy at home and abroad. A scholar by the name of Abid Ullah Jan branded the women “progressive opportunists”, and predicted their action would further stereotype American-Muslims as radical and dangerous, thus leading to pogroms and mass internments. Libya’s leader, Muaamar Kaddafi, warned that such activity might create a thousand Osama Bin Ladens. As this article is being written, more gender-mixed Friday Prayers are being led by women. On October 29, 2005, at the International Congress on Islamic Feminism in Barcelona, Dr. Wadud led a mixed prayer in a hotel. The practice is still held discretely for fear of a backlash, and its practitioners still feel, to use a Western metaphor, like the Early Christians in Rome. It is too early to predict how significant the transition is and where it may lead.

The Qur’an, the holy book of Muslim believers, does not address the role of women in public prayers. Even those denying the rights of Muslim women to lead a mixed congregation in prayer agree that “if we review the religious texts pertaining to the


15 Abid Ullah Jan, “From Rebels to Leaders: The Fitna of Women Leading Men in Prayers,” Media Monitors Network. http://world.mediamonitors.net/content/view/full/13703 (last accessed January 22, 2008). “The ‘moderate’ and ‘progressive’ opportunists are going to take the situation to the boiling point whereby anyone who doesn’t agree to their basically anti-Islam agenda would be declared ‘radicals,’ ‘Islamists’ and hence...terrorists...Wadud, her followers and promoters are sowing the seeds of hatred to ensure future internment of large Muslim populations in the US and elsewhere. For pogrom...to happen again we need a mindset which the Islamophobes have already prepared...”


18 There is evidence of incremental changes, more acceptance of women leading congregations of women in prayer (very rare hitherto) and more willingness to examine the legal basis for the eligibility to lead prayers under Islamic law. For an example, see Karia Bruning, “Are North American Muslims ready for female imams?” Columbia News Service, 28 November 2006.

rulings of Prayer, we will not find a text that states pointblank that women are not permitted to lead people in Prayer or deliver the Friday sermon.”

Like Judaism, Islam has no authoritative hierarchy (an institution similar to the Papacy in Rome) to proclaim on these matters. Until very recently, however, it is safe to say that women were expected to pray in the privacy of their home. In countries that allow women to attend prayer at the mosques, women are expected to be passive participants.

In the privacy of the home, women may lead a prayer, even to a mixed group of men and women. But many commentators limit a woman’s right to lead even such private prayer, insisting that she be well versed in the Qur’an, or that she be the best qualified to do so in her household. In societies which discouraged the education of women, let alone their education in religious texts, it was practically impossible to find a home where a woman was better qualified than a man. Hence, the idea of a woman leading the prayer was not practical.

Mosques typically have either been closed to women, or contained special doors through which they could enter, and special quarters where they could congregate.


21 Imam Zaid Shakir, “An Examination fo the Issue of Female Prayer Leadership,” Progressive Muslim Union of North America, http://www.pmuna.org/archives/Imam%20Zaid%20Shakir.pdf (last accessed January 22, 2008). Imam Zaid Shakir posits various interpretations, including one holding that the woman must be well-versed in the Qur’an if she is to lead a prayer in her home, and another that she must be better versed than other men of the household. Sheikh al-Qaradawi suggests that the woman must be “well advanced in age” (see supra, note 20). Compare these approaches with Orthodox Judaism: those who concede that a woman may read from the Torah during the communal service still oppose it because her reading would send the message that the community has no men able to do the reading, and such a message may reflect negatively on the community. See Rabbi D. Sperber, “Congregational Dignity and Human Dignity: Women and Public Torah Reading” Edah, http://www.edah.org/backend/coldfusion/search/document.cfm?title=Congregational%20Dignity%20and%20Human%20Dignity%3A%20Women%20and%20Public%20Torah%20Reading&hyperlink=3%5F2%5F2%5FP sperber%2Ehtm&type=JournalArticle&category=Jewish%20Diversity%20Relating%20to%20the%20Non%20Orthodox&author=%20Professor&firstname=Daniel&lastname=Sperber&pubsource=not%20available &authorid=223&pdfattachment=3%5F2%5FSperber%2Epdf (last accessed January 22, 2008).

22 The historic prohibition on women’s religious learning is a feature common to Islam and Judaism. Both religions, however, have come to accept the fact that women are willing and eager to partake in the act of learning and opened their institutions of higher learning to them.

During public prayer, Muslims stand in rows. Where no special quarters for the women are designated, and all worshippers assemble in the same space, such as in a public square, tradition dictates that men occupy the front rows, behind them stand the children, and at the back, the women.  

The public prayer led by Dr. Amina Wadud on March 18, 2005, departed from these traditions. Following the example of the prayer at the sacred space of the Qa’aba in Mecca, men and women stood in parallel columns. Dr. Wadud led the prayer, standing before the congregation, rather than standing in the front row, again departing from tradition. A further innovation was her decision to deliver the weekly sermon, the content of which was the status of women in the sacred text of the Qur’an. (Wadud 2006, 249)

As I emphasized earlier, Muslim feminists concede that they depart from patriarchal tradition, and yet they deny that they are in violation of Muslim law. They argue that the law has been hijacked by tradition, has been obscured by tradition, and needs liberation and revival through a fresh and critical look at the legal sources.

If the Qur’an does not refer to women’s prayer, and canonic jurisprudence holds that women should not lead a public prayer, on what do Muslim feminists rely in order to substantiate and legitimate their claim? The basic argument, as best I can understand it, is made of three parts. First, the Qur’an itself does not discriminate against women. Second, the Qur’an, as well as other early sources, does mention women who held positions of public leadership. Third, a precedent during the life of the prophet Muhammad, the case of Umm Waraqua, shows that the prophet himself supported the equal role of women in public prayer. Therefore, the argument states, it is clear that originally men and women did enjoy equal status in the public space of Muslim societies.

exceptions being the great Mosques of Mecca and Medina, and there they can pray only in areas assigned to them at the back.”


25 Compare the custom being developed in egalitarian minyanim, infra note 44.

26 The argument, of course, is rather complex and elaborate, addressing intricate doctrine as well as canonic text. I present here only the very basic argument.

27 For discussion see Nevin Reda, “What would the Prophet Do? The Islamic Basis for Female – Led Prayer”, PMU -- The Women-led Prayer Initiative, Muslim Wakeup,
First, the Qur’an. Muslim feminists appeal to what American constitutional scholars call the principle of the exiled constitution. (Ginsburg 1995, 83; Barazangi 2004, 34) The theory behind this principle is that the fundamental text has been obscured by subsequent decisional law and that the time has come to liberate the original text and restore its glory. The true, higher, and binding authority is the divine words of God (Allah) as inscribed in the Qur’an. (Barazangi 2004) The Qur’an begins with the story of creation. Chapter 4:1 recounts God’s creation of man and woman: “O mankind! Be conscious of your Sustainer, who has created you out of one living entity (nafs), and out of it created its mate (zawj), and out of the two spread abroad a multitude of men and women. And remain conscious of God, in whose name you demand your rights from one another, and of these ties of kinship. Verily, God is ever watchful over you!”28

The correct interpretation of this key verse, argue Muslim feminists, is that the male and the female were created as a pair of equal partners, at the same time, and of the same matter, and that each has a responsibility to actively participate in identifying with the message of the Qur’an and in interpreting it. (Barazangi 2004, 43-47) Other verses of the Qur’an repeatedly refer to “men and women” rather than only to men.29 The subsequent interpretation of these verses as creating the male first, and endowing him with the responsibility of developing the body of laws based upon the Qur’an, has resulted in the exile of half of the Muslim population – women – away from their rightful public participation and into a passive status in the private sphere. Thus, an initial error has been committed. The reason for the error and its subsequent entrenchment is that the very traditional division of labor in Muslim societies has been projected onto the text of the Qur’an. Once one separates social conditions in the second half of the first millennium from God’s words, it becomes clear that the contemporary understanding of gender equality is perfectly compatible with the holy text and should prevail. (Barazangi 2004, 44)


28 “Spiritual Role of Women,” Muslim Women’s League, html://mwlusa.org.publications/essays/spiritrole.html (I couldn’t find this online. Please check the URL, AK)

29 Ibid.; Qur’an Verse 33:35.
Muslim feminists also invoke famous figures in the Islamic narrative, as a second prong of their argument. (Wadud 1999, 29-44) Some point to the role played by the Prophet Muhammad’s wives in developing Muslim law. Others point to figures explicitly mentioned in the Qur’an, for example Pharao’s wife, said to have saved the life of the infant Moses, or Mary, the virgin mother of Jesus. Particular emphasis is placed on the Queen of Sheba, explicitly mentioned in the Qur’an as a model of wisdom and leadership. (Wadud 1999) Thus, the argument goes, if Qur’anic narratives recognize women as equal to men, and depict women as model leaders, and if all Muslim authorities agree that women are obligated to pray, it must then follow that they can take positions of leadership in the public prayer.

To buttress this argument, a third prong is added, the tale of Umm Waraqua, occurring in the immediate post Qur’anic period, and therefore radiating some of the original authority of the sacred text (something similar to the argument that constitutional interpretation by the first Congress of the United States, subsequent to the ratification of the Constitution, is particularly authoritative). “The Prophet (peace be upon him) commanded Umm Waraqua, a woman who had collected the Qur’an, to lead the people of her area in prayer. She had her own mu’adhhdhin (person who performs the call to prayers).”

But just as framers’ intent may be problematized in American constitutional law, so are these sources problematized in Muslim law. Opponents of women-led, mixed-gender public prayers rely on the silence of the original text in the matter of public prayer to support their position that tradition was also the message implicitly enshrined in the sacred text. These adherents to the status quo do not see the fact that a few women are mentioned in the Qur’an as relevant at all, and offer two challenging repudiations to the egalitarian interpretation of the story of Umm Waraqua.

One challenge consists of a literalist interpretation of the tale. Opponents argue that Umm Waraqua must have had a mosque in her own home, and that within these private quarters she led a congregation composed of members of her household. The

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30 Supra note 28. Note that in the Hebrew Bible the one who saves Moses’s life is Pharo’s daughter, not his wife.
31 McCulloch v. Maryland, 17 U.S. 316, 323 (1819)
A companion challenge narrows the value of this precedent further. It argues that the Prophet allowed Umm Waraqua to lead a mixed group in prayer only because she happened to be more knowledgeable in the ways of the Qur’an than any men in her household. Recall that at that time Islam was struggling for recognition, and therefore limited to a small and self-selected group. Thus, when (as would often be the case in a society which does not value the education of women) a male member of the household is more knowledgeable about Islam, it is his duty to lead the household, and any woman must cede to his authority.

The tale of Umm Waraqua, according to this narrow literalist interpretation, cannot reflect any general law related to the empowerment of women. At most, it is a narrow exception which by itself reaffirms the hegemony of men in the public sphere.

To the three elements reviewed above, Muslim reformers add the concept of Ijtihad. A part of Muslim law, Ijtihad permits the adaptation of law to urgent and changing conditions of society (Hallaq 2001). One may see it as a tool, common to all legal systems, which allows for facing challenges from within, thereby responding to social needs without precipitating a legal breakdown. Critics respond that the doors of Ijtihad were closed around the 10th century, and that since then deep changes of mainstream doctrine are not acceptable. The matter is controversial, but if one agrees that political and social consciousness in the 21st century requires the recognition of half of the Muslim population as equal partners in the Islamic project, then clearly Ijtihad is called for to enable appropriate interpretation (Arshad 2006; see discussion on how government of Morocco deployed Ijtihad in order to shape modern family law).

Thus, Muslim scholars who seek reform and recognition do face high walls of opposition, consisting of patriarchal cultural traditions maintained by conservative scholars who consider themselves guardians of the sacred gates. The reformers rely on a fresh reading of the canonical texts, on a careful and critical reading of precedents, and on a creative interpretation of lacunae in the texts and the traditions. Above all, they rely
on a state of mind: they wish to remain an integral part of their religious communities, as full and equal citizens.

IV. **Jewish women’s journey towards recognition**

Let me begin by reminding the reader that the 20th century has seen Western Judaism divide into three major denominations: orthodox, conservative, and reform.\(^{33}\)

The reform movement, born in Germany in the beginning of the 19th century, has recognized women’s need of equality since its inception (but has not always acted on this principle). The conservative movement, born in the United States in the beginning of the 20th century, was more qualified. It allowed men and women to worship together, but observed the legal barriers which prevented women from equal participation in the public ritual. Each movement, in its own way, was prepared to unmoor itself from legal rules which it considered anachronistic and counterproductive to the central goal of maintaining Jewish cultural life and continuity. Orthodox Judaism, itself complex and pluralistic, by and large opposed change. Its leaders viewed Jewish law – Halakha -- as disqualifying women from full and equal participation in the act of public worship. I should add in passing that the Jews of the middle-east (mizrahi Jews) have not divided into denominations, and that the mizrahi approach to the status of women in prayer is closer to the Muslim position.\(^{34}\)

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\(^{33}\) The Reform movement originated in Germany. The conservative movement is an American creation originally developed to stop the accelerated process of assimilation and provide a venue for Jews emigrating from Eastern Europe who felt equally uncomfortable with both the orthodoxy of “the old country” and the reform practices of their fellow American Jews of German descent. See generally Michael A. Meyer, *Response to Modernity, A History of the Reform Movement in Judaism* (Detroit: Wayne State University Press, 1988)

\(^{34}\) Several points should be made when evaluating the position of Mizrahi women. First, their consciousness and understanding has evolved in keeping with the society within which they live. Thus, American Mizrahi women are much more egalitarian and more willing to embrace either the reform or conservative approaches to religion. Second, the position of Mizrahi women should be understood against the historical observation that their communities, situated in the Muslim world, were not exposed to the revolution of the enlightenment. At the same time, it is important to note that the mizrahi approach to worship is much more flexible and elastic, and has therefore served as a model to feminists who strive to find creative solutions to the exclusion of women from worship. For example, Michal Bar-Asher Segal observes that the sephardi public ritual helped her fashion halakhically valid ideas about the integration of women into the public ritual. Together with her husband, Elizur Bar Asher, she authored the “guidance to an egalitarian minyan” which informs the Harvard and Yale egalitarian orthodox congregations. I should add that Mizrahi Jewish women may serve as ambassadors of good will *viz a viz* the Muslim communities of worshippers because of their familiarity with Muslim culture and their innate flexibility when it comes to
Until the 1970s, men enjoyed a monopoly over the public ritual in all Jewish denominations. None of the Jewish denominations allowed the ordination of women as Rabbis, and only the Reform movement waived the rule that men alone are eligible for the worship quorum, the minyan. In general, women were segregated in “women’s quarters”, often cramped and shabbily kept, just like their Muslim sisters. Pious women were expected to channel their religious energy into the social welfare of the congregation.35

Let me explain briefly the reasons for the view that Jewish law prohibits women’s active participation and leadership in the ritual of the public prayer. For purposes of conducting a public prayer, Halakha requires a worship quorum, a minyan, made of ten persons. The principle that a community is made of ten persons (quorum) is rooted in the Bible and does not mention the gender of these ten.36 Later, the Talmud fashioned the rule that the ritual of communal prayer necessitates ten persons. Still, the Talmud did not specifically hold that these ten must be men, and over the generations the issue has been disputed. It is true that the scale of authoritative commentary tilted towards the holding that only men qualify for the quorum, and yet this commentary was riddled with exceptions, and in any event rested on an interpretation of a gender-neutral Talmudic statement. Only in the 16th Century did Rabbi Yosef Karo, in his canonic Shulchan Aruch (a codification of halakhic obligations) limit the quorum to men. The reason offered by the rabbinic commentary and by Karo, to the exclusion of women, was based on the distinction between, on the one hand, halakhic obligations that are time-bound and, on the other hand, halakhic obligations which are not time-bound. Women were exempt ritual. [Should there be a cite here? AK] A personal anecdote may also shed light on the potential of the “ambassadorial” function. I invited a devout Muslim friend to attend a Friday night service in synagogue with me. As we sang “halleluya”, I pointed to the words and said to her, “you must be familiar with this.” She looked at me as if asking for clarification, and I said “it means praise the Lord.” “Oh,” she smiled, “you mean Hamdull’la”. From the anterior chambers of my consciousness I heard my mother make many spontaneous utterances of “hamdull’la”. My mother, born in Iran to Bagdhadi Jews, connected more with “hamdull’la” than with “halleluya.”

35 Of course the exclusion was not hermetic, and there were exceptions. Thus, in Ashkenazi congregations since the middle ages, relatively learned women would sometime act as precentor (zogerqa), leading the women’s section in prayer. R.J. Zwi Werblowsky and Geoffrey Wigoder, The Oxford Dictionary of the Jewish Religion (Oxford: Oxford University Press, 1997), 729.

36 Some trace it to the spies sent by Moses to tour the land of Israel when the children of Israel were camping in the desert (Nm.14.27). Others trace it even earlier, to God’s concession to Abraham that ten righteous persons could save the city of Sodom from destruction. The principle deduced from the biblical passages was that it takes ten persons to form a community.
from obligations that are time-bound because of their family role as wives and mothers. Because public prayer must be conducted at certain times during the day, it is an obligation which is time bound. Therefore, goes the argument, women were exempt from the obligation of time-bound prayer and, with it, from the obligation of quorum membership. The exemption, then, led to a further inference that women were not merely exempt, but also excluded from the quorum. Hence, according to Karo and commentators following him into the 20th century, women are barred from either being counted as members of the quorum, or from performing any of the tasks associated with the quorum.37

Massive change came in the 1970s when the reform movement, which had already counted women as members of the quorum, invited women to take an equal part in positions of leadership. The movement began to ordain women as Rabbis and train women cantors, and this breakthrough added to the already intensifying pressure on the conservative movement to begin integration.38

In 1971, a group of twelve women, calling itself “Ezrat Nashim”, submitted a manifesto to the annual convention of the Rabbinical Assembly of the conservative movement. They demanded equal access to all areas of Jewish life, including membership in the minyan. (Cantor 1995, 414; the name is suggestive as it means both “women’s aid” and the separate section for women in the synagogue) In February, 1973, the First National Jewish Women’s conference was held in New York City. (Cantor 1995, 415) That same year, the conservative movement decided to make the inclusion of women in the minyan a matter of voluntary choice for its congregations. This decision

37 There is voluminous literature on this topic, and this footnote cannot do it justice. See e.g., Hauptman, “Some Thoughts on the Nature of Halakhic Adjudication: Women and Minyan”, Judaism (Fall 1993), 396. See also Rabbi D. Sperber, The Path of Halacha, (Jerusalem: Rubin Mass, Hebrew, 2007): See also the Jewish Orthodox Feminist Alliance (JOFA) website for discussion of halakha and bibliography there. http://www.jofa.org/social.php/ritual/prayer. The site is regularly updated.

was perceived to be news fit to print on the front page of the New York Times. Today, the full participation of women in conservative and reform synagogues is experienced as natural as the presence of African-Americans in the highest levels of government. (Hauptman 1993; analyzing why halakhic sources should not be viewed as prohibiting the participation of women in the minyan) It is safe to say that many worshippers do not even know that until a few years ago gender-blind worship has been an exception to a widely accepted rule of segregation and exclusion.

Orthodox Judaism is a heavy ship, moving slowly, and not easily capable of changing course. Orthodox jurisprudence tends to shun change and reform, and resists the idea that law is a reflection of its social environment. Orthodox rabbis regarded the feminist movement as an unwelcome “gentile” influence, a symptom of corruption of the genuine Jewish spirituality. They thus saw feminist influences as “inauthentic” to core Jewish belief and practice, and condemned it as an alien intrusion. Two developments, however, combined to nurture a feminist movement within orthodoxy. First, orthodox rabbis had to concede that the prohibition on women’s access to Jewish learning was not based on Jewish law, but rather on cultural customs. Since the 1980s, yeshivot (institutes of higher learning) for women began to proliferate, particularly in Israel, educating both Israeli and foreign students. Orthodox Jewish women were no longer excluded from the opportunity to undertake sophisticated and rigorous Jewish learning. They could evaluate for themselves why they were banned from the public ritual. To put it another way, they acquired the skills necessary to challenge the explanations.

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40 See, for example, Rabbi Moshe Feinstein’s discussion in a responsum, Iggerot Moshe OH 4:49 (1976), “Concerning the New Movement of Important and Confident Women.” For discussion see Fishman, A Breadth of Life, Feminism in the American Jewish Community, 162.


42 There were excellent institutions of higher learning in the United States as well, such as the Jewish Theological Seminary, but because they were affiliated with the conservative or reform denominations they were not considered as equal to the orthodox yeshivot. For a fascinating anthropological study of the growing institutions of orthodox learning for women in Israel see Tamar El-Or, Next Pesach: Literacy and Identity of Young Religious Zionist Women (Jerusalem: Am Oved, 1998; Hebrew).
Meanwhile, American Jewish women studying in conservative and reform institutions of higher learning (for example, the Jewish Theological Seminary), and emboldened by their access to the public prayer in their synagogues, began publishing their scholarly work on the subject (Greenberg 1981; Plaskow 1990; Weiss 1990; and Adler 1998). Thereby, American Orthodox Jewish women were receiving feminist interpretations of Jewish law with regard to the public prayer from multiple sources.

The “Women Tefillah Groups” (tefillah is the Hebrew word for prayer) were the fruit of these developments, gaining momentum from the mid-1980s onwards. Some orthodox Rabbis in the United States were sympathetic to the desire of women to worship as a part of the community. They were willing to read the sources of Jewish law with a critical eye and exploit any loophole in order to allow more egalitarianism and more participation, all the while striving not to cross bright lines; the first serious scholarly books on the subject were published in 1990, and the body of literature on the subject has since grown exponentially (Ross 2005; Sperber 2007).

Still, while in the Reform and Conservative synagogues since the 1980s women enjoyed full participation in the religious ritual, their orthodox sisters had to accept a much slower pace of integration. They had to abide by the orthodox rule that women are not fit to serve in the minyan, and therefore not fit to perform rituals that required a minyan such as calling for prayer or chanting from the Torah. In order to honor these prohibitions and still take an active part in the public prayer, orthodox scholars (men and women) engaged in a careful sorting out of the public prayer into two types: prayers that necessitate a minyan, and prayers that do not condition their validity on the minyan.43 They stated that they were entitled to engage in all prayers which fell into the second category, and in order to emphasize that they were abiding by the prohibition on women’s participation in the minyan, they called themselves a “group” as distinguished from a minyan. Thus, they stated that they had a right to wear the prayer shawl (tallit), sing the songs leading to the sacred blessings, hold the Torah scroll and read from it in the traditional chant. This compromise (I should add that the word compromise is my

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43 Parts of the communal prayer such as “Qedusha” and “Barekhu” (related to sanctification) may only be performed in the presence of a minyan, and some hold they may only be performed in the presence of men.
own choosing, and may not necessarily reflect the opinion of orthodox women) led to the institution, now widespread in the United States, of Tefillah Groups.

The similarity between contemporary traditional Islam and contemporary traditional Judaism is striking. Both oppose women’s leadership in the public prayer, and do not allow gender-mixed prayers. Both traditions tolerate the leadership of women in purely female gatherings.

The next phase, currently spreading, is a joint effort by orthodox men and women to form new congregations of “egalitarian minyanim”. These prayer quorums consist of men and women who are dedicated both to halakha and to egalitarianism. It should be emphasized that in these groups both the women and the men, almost all below forty years old, are well educated and versed in halakha. This is significant because these women have the confidence and skill to lead the liturgical worship, while the men have the confidence and skill to face and transcend the ambiguity of the seemingly authoritative rules which exclude women. The piety and commitment to equal citizenship which are shared by members of these groups, men and women, is perhaps the key to their success. The egalitarian minyanim divide their praying community into two sections of men and women, observing a symbolic (sometimes unseen) partition between them. Both sections use one prayer desk stationed in front of them (bimah), where a woman stands (on the women’s side), and a man stand (on the man’s side), and the two alternate in leading the congregation. They are careful not to cross any bright line, where the text of Jewish law is unambiguous and clearly limits the prayer to men. Where the language is vague or ambiguous, they choose the interpretation that agrees with egalitarianism rather than the one that rejects it.44

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V. A glance at other jurisdictions: the cases of Tajikistan and Israel

In order to better appreciate the contribution of general American culture or the progressive feminist movements in the United States to the religious women’s quest for recognition, it may be useful to look elsewhere for comparisons. The examples of Tajikistan, a republic with a majority of Muslims and Israel, the self-proclaimed Jewish state, are useful in this context. The reader should note that I am only attempting a glance at these jurisdictions, rather than a full fledged inquiry. For our purposes, this would be enough as our eyes are cast mainly on developments in the United States, with a side order of understanding the hurdles faced by religious women in other jurisdictions, particularly where civic society is not firmly rooted or where traditional religious customs are entrenched.

Tajikistan’s history in the 20th century is intertwined with the history of religion. In 1920, it came under soviet domination, and declared a soviet republic. The soviet hostility to religion spearheaded a cultural war on Islam, and discouraged religious worship. In opposition to Soviet domination, an affinity developed between Tajik nationalism and Islam. With the collapse of the Soviet Union and the declaration of Tajikistan as an independent republic, a bloody civil war ensued between the Soviet-backed faction and the Islamic opposition. In 1994, Tajikistan ratified a constitution which provides in Article Eight that “No state ideology or religion may be established.”

The same article also provides that “Religious organizations are separate from the state and may not interfere in governmental affairs.”

Article Seventeen declares that men and women have equal rights, and Article Twenty Six guarantees freedom of religious worship. The basic principles of the Tajiki constitution, then, are liberal and secular.

Tradition in Tajikistan, where the majority is Muslim, has been that women do not attend mosque. In early 2004, a group of women from the Vakhdat district, one of

45 http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan003670.htm [Note: I could not find this website online – the URL didn’t work for me, AK]
46 Ibid.
47 Ibid.
48 IRINnews.org. “Ban on women attending mosques debated,” U.N. Office for the Coordination of Humanitarian Affairs, Tajikistan (on file with the author). It is estimated that 97% of Tajikistan’s Muslim majority are followers of the Imam Azam’s teaching, which adheres to a quite conservative interpretation of Islam, holding that women should pray at home, not in the mosque.
the strongholds of the United Tajik Opposition (UTO), began attending a mosque for purposes of prayer. In August of 2004, the Council of Ulemo – the supreme religious body of Muslims in Tajikistan -- banned the presence of women in mosques. On November 6, 2004, President Emomali Rahmonov issued a decree affirming the ban. Very little is known about this event. Some argued that the prohibition was a temporary measure, related to the fact that Tajiki mosques lacked adequate facilities for women; once mosques were fitted with separate facilities, women would gain the right to attend them (budgetary constraints, however, may prevent this development). The justification for the need for separate facilities is one quite familiar, and is not specific to the Tajikis: that women’s presence may distract men from pious immersion in the sacred ritual. Others see the ban as an effort to present a reformist version of Islam, or even as a cynical attempt to make Islam unattractive to progressive women by displaying its patriarchal face. It is also asserted that secular women’s groups, who view religion as an enemy of gender equality, encouraged this move. Tajik President Rahmonov is quoted as saying: “more than a thousand years of Islam’s history, including the Sunni branch and, particularly, the doctrine of the Great Imam (Azam), says that it is preferred that women pray in solitude, in other words it is more favorable if they pray at home.”

While the context and reasons for the ban are shrouded in contradicting explanations, it is clear that the government of Tajikistan did not hesitate to deploy the power of the state – rule making and police enforcement – in defend this fatwa. The principle of the free exercise of religion, as well as the guarantee of equal protection, were placed on the back burner. It is not surprising that constitutional principles by

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49 United States State Department, Report from March 6, 2007, [http://www.state.gov/g/drl/rls/hrrpt/2006/78843.htm](http://www.state.gov/g/drl/rls/hrrpt/2006/78843.htm) (last accessed January 22, 2008) This report confirms the existence of the ban on women’s attendance of mosques, but reports that a “Friday Praying” mosque has been opened, where women are allowed to pray.


51 Zokirova, ibid. See also Fatwa by al-Qaradawi, supra note 20. For discussion of sexuality in this context Fatima Mernissi, *Beyond the Veil: Male-Female Dynamics in Modern Muslim Society, Revised Edition*, (Bloomington: Indiana University Press, 1988)

52 Zokirova, supra n. 51, 52.

53 Ibid.

themselves are not enough to ensure the right of women to exercise their religion. A culture empathetic to their pleas and committed to gender equality must be in place.

The case of Israel supports the same proposition. Like Tajikistan, Israeli society is torn between a strong secular ideology that sees religion as a relic of the past, and a traditional-religious view, mostly informed by Orthodox Judaism. Israeli legal history is a story of an ongoing struggle to strike a balance between deference to orthodox religious principles, which allocate to women to status of “separate but equal”, and a commitment to a robust meaning of gender equality (Kaddari 2004) Conservative and Reform Judaism, recognizing women as full citizens in religious practice, and well developed in the United States, occupy a tiny part of Israel’s religious landscape. The Tefillah groups, born in the United States and discussed above, are only slowly and grudgingly infiltrating into the orthodox Israeli practice. Israel’s government respects the right of Orthodox synagogues to exclude women from full participation in the public prayer, because of the principle of freedom of religious worship. Religious worship is conventionally understood as a matter occurring in the private, not public, sphere of the body politic. For this reason, the government will not interfere with the individual right to establish Tefillah groups or conservative or reform houses of prayer. In this sense, Israel is different from Tajikistan. It seems that even if the Chief Rabbis of Israel (equivalent of the Council of Ulema?) decided to ban the participation of women in public prayer, the state would not enforce their edict.

However, there is one glaring exception. Israel’s government was directly involved when a diverse group of women, orthodox, conservative, and reform, decided to hold a collective prayer at the Western Wall in Jerusalem. The Western Wall is a unique space. Situated on the archeological ruins of the first and second Jewish Temples, it represents the most sacred space for religious Jews. On the other hand, the very connection with the Temples, harking back to ancient Jewish sovereignty prior to the

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55 A national organization of religious women, Kolech (Your Voice) however, is dedicated to egalitarianism in orthodox Judaism, and reports progress on the front of women’s groups who pray collectively. See [http://www.kolech.org/default.asp](http://www.kolech.org/default.asp)(Hebrew) (last accessed January 22, 2008).

56 The first effort to introduce egalitarianism into orthodoxy in Israel is the Jerusalem synagogue Shira Hadasha established by feminist scholar Tova Hartman. See [http://www.geocities.com/shira_hadasha](http://www.geocities.com/shira_hadasha) (last accessed January 22, 2008). It should also be pointed out that it may well be that Israel is allocating more resources to Orthodox rather than to egalitarian religious institutions.
Roman conquest, makes the Wall a symbol of national independence after two millennia of exile. The Wall thus stands for both religious Jewish worship and secular Zionist ideology. During 1967, Israeli soldiers liberated the Wall (held in Jordanian hands, and inaccessible to Jews since 1948), and soon thereafter a synagogue was established on the premises.

Constructed on public space, the synagogue could not be a private entity. It has been managed by state funds, and its rabbi (The Rabbi of the Wall) has been an employee of the Ministry of Religion, an arm of the state.57

Rivka Haut is the founding mother of Tefillah groups in the United States. She provides a bridge between the American based movements to introduce egalitarianism to the orthodox public prayer and the Israeli orthodox milieu. Orthodox herself, and educated in the Jewish Theological Seminary (because Orthodox Yeshivot for women were not available in the United States in the 1980s), married to a rabbi, and passionate about her religion, Haut persuaded her husband to teach her how to read the Torah and how to conduct a religious service.58 Her practice was still quite controversial when she arrived in Jerusalem, Israel, at the end of 1988, to attend the First International Conference of Jewish Feminists. Haut talked some fellow participants into joining her at a women’s prayer (Teffilah Group) at the site of the Western Wall.59 Until that moment, Tefillah Groups, barely known in Israel, were considered a gross deviation from religious practice and associated with American custom, thus mostly inauthentic and unwelcome.

What followed was a long and painful story that would amount to too much of a deviation to recount here. The women, now declaring themselves the Women of the Wall (WOW for short), formed the International Committee for Women of the Wall (ICWOW). They also teamed with Israeli women who were enthusiastic about this

58 Haut is the co-author, of Grossman and Haut, Daughters of the King: Women and the Synagogue (Philadelphia: Jewish Publication Society of America), a book that explores the historical and juridical role of women in the synagogue.
59 Interview with Rivkah Haut, on file with author. Haut and psychologist Phyllis Chesler were among the leaders of WOW’s struggle to get access to the Wall. See Phyllis Chesler and Rivkah Haut, Women of the Wall (Woodstock, VT: Jewish Lights Publishing, 2003) for a collection of essays on the history and meaning of their struggle.
Following tremendous pressure from the orthodox religious establishment and considerable violence against the worshipping group as they congregated at the Wall, the Government banned the practice. The justification for the ban was that the Tefillah group was contrary to local custom and therefore offensive to the feelings of the worshippers at the Wall. Together the ICWOW and WOW’s Israeli practitioners petitioned the High Court of Justice for relief. Their main argument was that as a state-run synagogue, the Rabbi of the Wall should allow the women to pray in the orthodox fashion and, as a group (as distinct from a minyan), in the area designed especially for women. Specifically, they requested recognition of their right to wear a tallit, hold the Torah scroll, and read aloud from it. A protracted litigation followed, interspersed with government commissions looking into the matter and seeking an acceptable solution. In the course of almost fourteen years, the Court issued three decisions (Raday 2003; Raday, a prominent Israeli law professor and feminist, served as legal counsel throughout the litigation). In the first decision, one of the Justices, an eminent scholar of Jewish Law, Justice Menachem Elon, held that indeed the women were correct to analyze Jewish Law as not prohibiting the Tefillah group, but held that at the site of the Wall the women should defer to the “feelings of the majority” and the status quo. The other two Justices held that the government must find a solution that would accommodate the women, but allowed the ban to stay in force until such solution is found. The second opinion, delivered by a unanimous panel of three Justices, held that the women did have a right to pray at the Wall, and that the “feelings of the other worshippers” could not trump the fundamental right of freedom of worship. The third decision, delivered by a 5:4 majority, reversed course and denied the women the right to pray as a Tefillah group.

This last opinion did call upon the government to prepare another site (the nearby

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60 Prominent among the Israeli women who joined WOW was Anat Hoffman, now executive director of IRAC – Religious Action Center, devoted to freedom of religious worship in Israel. Hoffman was the primary petitioner in the litigation that followed. Two interesting documentary films on this issue are Faye Lederman, Women of the Wall, and Yael Katzir, Praying in Her Own Voice.


64 Director General of the Government v. Anat Hoffman, HC Further Consideration, 4128/00 57(3) PD 289.
archeological gardens) for the same purpose. The site is now available, and the women do go there for their monthly collective prayers. The worshippers at the Wall (men and women) do not see them. All they know is that “they” (the “others”) have been delegated to another site, and that therefore tradition and convention remain triumphant.

The current practice is emblematic of state power supporting the status quo and discouraging reform. The Women of the Wall are a symbol of the second-rate citizenship of religious Jewish women in the state of Israel, and of the state’s powerlessness or lack of determination to make its promise good and honor full citizenship on public space (Shakdiel 2003, 126; Sered 2003, 137). The fact that this discrimination takes place in the most sacred space for religious Jews, and in a place particularly dear to Zionism, only makes the rejection more painful and meaningful. The cause of religious women, evidently, does not enjoy high priority in Israeli governmental circles.

Most Israelis were not particularly alarmed by this development. The orthodox minority thought that exclusion was right, just, and in keeping with Jewish law. The large secular majority thought the women got their comeuppance. A woman, any woman, should understand that religion is, at base, patriarchal and discriminatory, and should concentrate on her right to exit. Change and reform are impossible.

Herein lays the similarity between Tajikistan and Israel. In both cases the culture was not hospitable to the women’s demand for recognition, and the government felt at liberty to allow political considerations and alliances to trump the women’s cause. Indeed, in Tajikistan the prohibition was general, and in Israel circumscribed; in Tajjikistan, Muslim religious women had no recourse, whereas in Israel Jewish women and men are free to form their own synagogues. However, it is arguable that the defeat of the Jewish women in Israel is even more glaring. Israel is a state with a tradition of respecting the rule of law and freedom of religious worship. The fact that all three branches of the government stood behind the exclusion of the Women of the Wall is therefore even more emphatic.

Why did the Women of the Wall even think that they could persuade the authorities that their cause was just, and that Jewish Law properly interpreted does not stand in their way? It may well be that a part of the reason lies in their American
sensibility. American culture, much more than other secular cultures which uphold the rule of law, is sympathetic to the legal project undertaken by religious women.\footnote{Of course, one may speculate on the multiple reasons for this defeat. One reason for the high expectations of the Women of the Wall was their naïve Zionism, nurtured in the United States, which idealized Israel as the epitome of Jewish life. They expected the Jewish state, like a good heroine, to defend their right to full citizenship in their religious community, and empathize with their quest for freedom of worship. Another reason is the climate of the 1990s in Israel which, was quite sympathetic to rights in general, and to women’s rights in particular.}

VI. American legal culture: the conditions for facilitating the struggle of religious Muslim and Jewish women to equality

Why have Muslim and Jewish women in the United States been relatively successful in planting the seeds for their integration into the public aspects of their respective religions, whereas their co-religionists in other countries, such as Tajikistan and Israel, have been lagging behind? Below, I list several factors that I believe have been influential in encouraging American women to overcome the traditional private role assigned to them by Islam and Judaism.

1. The culture of rights. In his book, The Horizontal Society, Lawrence M. Friedman elaborates on the concept of a culture of rights. He observes that in emerging modern society, persons of different races, genders, nationalities, and religions are convinced that they have a right to have rights (Friedman 1999, 94; Benhabib 2002, 2; the phrase “the right to have rights” is Hannah Arendt). This observation applies to western societies in general, but is particularly strong in American culture where the Declaration of Independence and the Bill of Rights are powerful shapers of popular consciousness. Americans do not necessarily experience their rights in the actual world, and may not even be able to specify the particular rights that they are entitled to, but they do have an expectation to be right bearers. Either growing up in America or experiencing the socialization into American culture as an immigrant makes one develop the expectation to enjoy a certain measure of equality, think for oneself, and partake in the civic culture. If one belongs to a religious community, one may begin to experience
one’s exclusion within one’s own religion as ‘otherization.’ The culture of rights operates to encourage challenges of the status quo, and to legitimate the call for reform.

2. **Majority religious culture: The Christian influence, the Protestant impact.**

Consider an orthodox Jew, or a Muslim, watching on television their born-again president go to church. One fact that might appear most natural to Christian-Americans, but that stands out for the orthodox Jew or practicing Muslim, is the fact that the first lady stands or sits right next to her husband, and the couple is reading or singing together. The fact that the very spectacle of religious worship can be performed in a non-gendered, non-segregated manner must by itself have a startling impact on the believer. While many may experience this spectacle as an irrelevant “way of others to worship”, a few may feel a yearning to be united in public prayer, to own the rights enjoyed by the first lady, and may ask why can’t we do likewise?

Particularly the Protestant way, so dominant in American religious culture, with its inclusion of women in positions of power, signals that there are other ways to pursue spirituality and worship in the house of prayer. Furthermore, Protestantism supplies a methodology to legitimate inclusion. Under Protestantism, one need not seek an authoritative answer from an authoritative body of canonic law. Scripture is the major text and one is entitled to go directly to scripture, the Hebrew Bible, and the Talmud in the Jewish case, the Qur’an and Hadith in the Muslim case, and see whether it is indeed true that the sacred texts designate woman as different and exempt her from full and active participation by reason of gender. As I discussed above, women who had the opportunity to apply critical reading to the fundamental texts found that the banishment of women from active public participation was not at all mandated by God. The Protestant method of worship, the encouragement to take an independent, individual, assessment of what the Word means, is a part of American culture, and available to Muslim and Jewish women who seek full integration.

Political scientist Alan Wolfe, in his book, *The Transformation of American Religion* (2003), has analyzed the phenomenon of “convergence” of religions in America:

> Attempting to attract or to keep congregations whose members have been so strongly influenced by a common American culture, all of America’s religions
face the same imperative: Personalize or die. Each does so in different ways. Catholics, while retaining the liturgy, are also likely to borrow from Protestants the tendency to pray directly to Jesus without the help of intermediaries such as priests... Jews, as two students of their attitudes write, ‘may be moving toward Protestant construction -- individualistic, moralist, universal -- of religious identity.’ And Protestants themselves have become even more Protestant, shifting away from denominations with strong liturgical and creedal traditions to those that emphasize getting the intimate and personal sides of faith.”

Wolfe devotes a whole section in his book to describe how Islam in the United States is finding a variety of ways to transform itself in its North American environment (Wolfe 2003, 226-236; Smith 1999). He also predicts that the status of women under Islam is bound to change in the American environment.67

However, this claim needs extraordinary sensitivity and caution. It is one thing for a secular scholar to speculate about influences flowing from dominant religious practices onto minority religious practices in a given society. It is quite another matter to ask the members of the particular minority religions to look at the dominant religious practice and “do likewise.” Minority religionists are fiercely dedicated to their own world view and resent the thought that they might imitate another way of life. For change to be valid they must reason and feel that it is legitimate within their authentic traditions, springing from their own texts and facilitated by their own distinct legal methodologies. Much respect needs to be paid to this perspective as we come to evaluate subtle influences.

3. Constitutional jurisprudence. Since the 1980s, American constitutional jurisprudence has emphasized two important interpretive movements. One is originalism, seeking to restore the original meaning of the text of the constitution. The other is a populist movement known as “Taking the constitution away from the courts”, or popular constitutionalism, seeking to (re)invest constitutional interpretation in the legitimate proprietor of the constitution, “we the people” (Kramer 2005; Scalia and Calabresi 2007


67 Wolfe, The Transformation of American Religion, 234. But Wolfe accepts as given the rule that women are exempt from Friday prayer: “Mrs. Ahmad does not attend prayers at the mosque on Friday, since she has to work. (This is not in violation of Islamic law; Friday prayers are required only for men).” Ibid., 226-227.
These movements originated with very different goals in mind. Originalism was designed to create a valid legal theory for dismantling the legacy of the New Deal and the Warren Court. In contrast, constitutional populism aims at limiting the power of the federal judiciary (the judiciary that would dismantle the New Deal and Warren Court liberalism), particularly the five-member majority of the Supreme Court, to impose conservative ideological preferences on the body politic.

In seeking a legal foundation for gender equality, Muslim and Jewish feminists are doing something quite similar. They boldly cut through centuries of legal interpretations to get to the source itself – the Word of God as captured by the Torah, or the Qur’an. It is worth repeating the intellectual moves performed by each group. Muslims rely on Chapter 4:1 of the Qur’an describing God’s creation of man and woman (quoted above). The correct interpretation of this key verse, argue Muslim feminists, is that the male and the female were created as equal partners, at the same time and of the same soul (nafs), and that therefore God expects each to share a responsibility to actively participate in identifying with the message of the Qur’an and in interpreting it (Barazangi 2004, 43-47; note that the terms “nafs” and “zawj” in the original Arabic are female). Gender equality is further emphasized in other verses of the Qur’an, which repeatedly refer to “men and women” rather than only to men (Wadud 1999, chapter 1).

The subsequent body of canonic Muslim jurisprudence, which understood these verses as creating the male first, endowing him with the responsibility of developing the body of laws based upon the Qur’an, has resulted in the exile of half of the Muslim population – Muslim women. Women were delegated to the private sphere. The argument made by Muslim reformers is that only restoration of the original meaning of the Qur’an will do justice to the divine text. To return to American constitutional law, Judge Douglas Ginsburg, one of the pillars of the conservative right, has referred to the “true” American constitution (the one unencumbered by New Deal and Warren Court interpretations) as “the constitution-in-exile” (Forbath 2001). Similarly, Muslim feminists aim to restore the exiled Qur’an to its original glory.

Jewish feminists deploy a rather similar strategy. They, too, dwell on the story of the creation, pointing to the two different versions of creation in Genesis (one patriarchal,
one egalitarian), as well as to the Biblical principle that God has created both male and female “in His image.”

The Qur’an has no reference to the particular issue of women’s prayers, and while silence may be interpreted as negative intent, it may also open more room for creative egalitarian gloss. In contrast, the Bible does include a reference to a woman praying, in the tale of Hannah. The childless Hannah came to the Temple of God in Shilo to air her grievances for failing to conceive a child. As the story goes, the High Priest, watching her pray, mistook her for a drunk and scolded her. She replied: “No, my Lord. I am a tormented woman. I have drunk no wine or other strong drink, but I have been pouring out my heart to God.” Reproofed, the High priest blessed her, and the next year she conceived a son, the prophet Samuel. When rabbinic Judaism wrestled with the high priests who claimed monopoly over scriptural interpretation, Hannah’s response to the scolding priest, “No, my Lord”, received extensive attention. The Talmudic sages found in Hannah’s defiance -- “No, my Lord” -- an authority to persons other than the High Priest to fashion the appropriate form of prayer: “Ulla or, as some say, R. Yose ben Hanina, said, ‘you are no lord [no authority] in this matter and the holy spirit does not rest upon you’”(Adler 1998, 65; quoting B. Berakhot, 31b).

Defiance and challenge, however, remained the domain of men, while women stayed “liturgically invisible” (Adler 1998, 65). This irony was captured by Rachel Adler: “Yet after deriving so many norms about the spirit and decorum of communal prayer from the private prayer of Hannah, no rabbinic exegete attempts to draw the logical conclusion that women ought to be included in communal prayer. Although the interpreters can all imagine themselves as Hannah, they cannot see the Hannahs all around them” (Adler 1998).

Like American constitutionalists seeking reform, Muslim and Jewish feminist reformers seek to re-read the body of precedents and treatises in light of the original sacred sources in order to recover the true meaning or spirit of the fundamental message. The fact that these theories of recovering true meanings are an important part of the

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68 “It is not necessary to discard Judaism or its texts to make a world of meaning in which women and men are equal subjects. Instead, our task is theological: to read these texts as believing Jewish women and men today without evading or denying their patriarchal past and to seek in them redemptive meanings to propel us towards a more just and loving future.” Adler, Engendering Judaism, 114.
political discourse in the United States creates a hospitable climate where Muslim and Jewish feminists feel comfortable developing their own interpretation within the four corners of their own intellectual-religious milieu (Quraishi 2006; comparing methodologies of interpreting the U.S. Constitution and the Qur’an). Of course, the purpose of deploying originalism may be quite radically different, yet the method is similar. The availability of the method, so ubiquitous in the American discourse, helps explain the fact that the seeds of reform are growing in this country.

4. **Jurisprudence.** The tension between legal formalism and traditionalism on the one hand and, on the other, sociological jurisprudence, a legal theory that holds law to be reflective of society, has been crucial in both Muslim and Jewish interpretations of their respective legal systems. Legal formalism, backed by traditionalists, insists that the Jewish and Muslim male monopoly in public prayer should prevail because this segregationist law is backed by a well-developed corpus of canonic jurisprudence, and because it has been accepted for generations by the majority of believers. The feminist response that times have changed is rooted in American culture. The 19th Amendment, recognizing women’s right to vote, the Civil Rights Acts prohibiting sex discrimination, the women’s movement, and the advances made by women in all walks of life, all result in an ever widening gap between the formalistic conception of orthodox religious law and modern society. Women theorists and activists make use of sociological jurisprudence in their effort to challenge formalism.

A subtle application of this challenge is found in Amina Wadud’s pioneering *Qur’an and Woman* (Wadud 1999). The Qur’an is the holy word of God (Allah). It is fortified with interpretations provided by the Prophet Muhammad and his inner circle (Hadith). What should be done when a tension is observed between the original message of the Qur’an and the subsequent interpretations by the founding fathers who may have believed that gender determines legal status?

The anti-formalist, historicist, and yet originalist position is that only the Qur’an itself is eternally binding. Some proclamations of the human prophet, on the other hand, should be understood not as divine, but rather as reflections of his culture and social context in the 6th Century AD. As such, they cannot carry the same authoritative
normative weight as the Qur’an itself. Wadud observes: “While I accept the role of the prophet both with regard to revelation, as understood in Islam, and to the development of Islamic law on the basis of his sunnah or normative practices, I place greater significance on the Qur’an… I would never concede that the equality between women and men demonstrated in the Qur’an could be removed by the prophet. If such a contradiction did exist, I would choose in favor of the Qur’an.”

Wadud makes use of theories of sociological jurisprudence and of a historicist understanding of legal interpretation, but she avoids relying on any specific secular literature. Perhaps she intuits that using secular sources might weaken her arguments.

Rachel Adler, in her attempt to develop an egalitarian theology of Judaism, takes a different road and relies explicitly on secular legal scholarship. This may be because the idea of women’s participation in public prayer, at least in the reform and conservative movements of Judaism, has already become a part of the canon, and thus the reliance on secular sources is less threatening. Another explanation may be that reform and conservative Judaism are themselves schools rooted in the enlightenment, and therefore have kinship to secular thought.

Adler’s book, Engendering Judaism, An Inclusive Theology and Ethics, devotes an entire chapter to jurisprudence. The title of her book already discloses her intellectual debt to Martha Minow’s historic 1987 Foreword in the Harvard Law Review. Minow’s “Justice Engendered” was the very first Foreword authored by a woman law professor (1987). Adler’s arguments, that the exclusion of women is based on a formalistic legal theory, are also substantiated by references to Robert Cover’s canonic “Nomos and Narrative” (1983) Kenneth Karst’s “Woman’s Constitution” (1984) Robin West’s “Jurisprudence and Gender” (1988) as well as to philosophers John Rawls and Michael Sandel and Seyla Benhabib (this is a partial list). Adler cites them liberally, as authoritative analyses of the way feminist readings of sacred texts should unfold.

Thus, in both the American based Muslim and Jewish cases, contemporary American legal scholarship is very much a part of the effort to develop a progressive and feminist religious jurisprudence. It is interesting to contemplate on the authoritative

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69 Note that she is careful not to claim that there is a contradiction, and she would probably reconcile the texts through interpretation (Wadud, Qur’an and Woman, xvii).

70 But in Inside the Gender Jihad, published in 2006, Wadud does make use of secular feminist sources
power of these methodologies. In certain circles they would be considered weak for the simple reason that they are made in America. Some may develop theories that distinguish the American theories as “objectively” inapplicable to internal religious interpretation. The struggle has just begun, but the fact that in the United States Muslim and Jewish scholars do rely on American jurisprudence shows the subtle influences of the general legal culture on the minority religious legal cultures.

5. **Sociological and philosophical scholarship.** I already mentioned Benhabib, Rawls, and Sandel, who have inspired hundreds of legal scholars, political scientists, and philosophers who study American law. Muslim and Jewish feminists make extensive use of American scholarship by secular feminists in a variety of fields. Take, for example, Nimat Hafez Barazangi’s Woman’s Identity and the Qur’an. Barazangi opens her book with Elizabeth Cady Stanton. She enters into a dialogue with Stanton, and examines “…the significance of Stanton’s arguments with reference to the Qur’an as the primary living text of Islam” (Barazangi 2004, [page?]). Barazangi’s bibliographic list includes such American scholars as Seyla Benhabib, Susan Moller Okin, Nathan Glazer, David Hollinger, and Iris Marion Young. (Ibid, 153 (Benhabib), 160 (Susan Moller Okin), 154 (Nathan Glazer), 156 (David Hollinger), 164 (Iris Marion Young)). A similarly rich background of materials has evidently influenced theorist Tamar Ross in her effort to develop explanations and tools to enhance the equality of women in Judaism (Ross 2004). The deployment of American scholarship certainly works to legitimate the feminist project, and perhaps to make it more accessible to the general secular audience. Yet the very usage of these theories also shows that they have become a part of the religious discourse, and as such that they have been internalized by the tiny minority of believers who are looking for legitimate ways to overcome their ‘otherization’ in their own communities.

6. **U.S. history in the second half of the 20th century.** There is a wide consensus among American scholars that the most dramatic change in the law of the United States took place in the area of racial relations. The Civil Rights Movement, led by Martin Luther King, Jr., was the major catalyst of these changes, and has printed an indelible
impression on the American psyche. Feminists of all stripes, colors, and faiths have been the direct descendants of this movement, and its memory lives in and feeds their imagination.

The rise of Islam among African-Americans is partially rooted in the African-American search for an authentic identity on U.S. soil (Smith 1999, chap. 4). Dr. Amina Wadud, the scholar who led the historic salat-al-jumu‘a, is an African-American who converted to Islam in the 1970’s. Wadud’s struggle to open Islam to female participation is, in many ways, a repeat of Ms. Linda Brown’s effort to seek access to white public education in segregated America. One should not exclude the possibility that some of the hostility against her ideas displayed by her Muslim audience is rooted in (American?) racism; at least this is the way she has perceived it. Responding to a provocative question at a public lecture on Islam and Women, Wadud replied: “Usually I wear the hijab, and when I am wearing it, most Muslims do not consider me African–American; I pass off as a South Asian…. But when they see me without a scarf, they can see my African locks and they know I am Black and suddenly their attitude changes. The fact is I am a nigger and you will just have to put up with my blackness.”

At Wadud’s led public prayer in New York City, a man, asked how he felt, responded, “This is to me like Rosa Parks sitting in front of the bus.” Rosa Parks also made an appearance in a fatwa issued by the Islamic Center of Beverly Hills. The fatwa stated: “a tiny Black lady in America, refused to go to the back of the bus 50 years ago because she was black. She destroyed apartheid in America by her courageous action. Amina Wadood [sic] is our Rosa Parks. God bless her courage.” Thus, the Muslim struggle for gender-equality appears to echo, as well as to draw strength and inspiration

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71 Tarek Fatah, “I am a Nigger, and you will just have to put up with my blackness,' Professor Amina Wadud Confronts Her Hecklers in Toronto”, Muslim Wakeup, http://www.muslimwakeup.com/main/archives/2005/02/i_am_a_nigger_a.php (last accessed January 22, 2008). Note the sliding scale from her formal identification of herself as African-American, to her description of how “they” see us – as Black, to the pejorative Nigger (implying that the deep racial prejudice is still strong).


from the civil rights movement, the stereotypes it was fighting, and its symbols of heroism.

The American collective consciousness was also the catalyst for the Jewish-feminist movement struggle for equality (Cantor 1995, 348; Kaufman 1998). The Jewish feminist movement of the early 1970s in the United States was populated by women who were either veterans of the civil rights movement or have been influenced by it. The American women who took the Torah Scroll to the Western Wall in Jerusalem were a group of Rosa Parkses, protesting age-old discrimination, and insisting on their legitimate place among the worshippers. Note the dialogue between Phyllis Chesler (a prominent feminist theoretician in the 1970s), leader of the international (read American) leader of the Women of the Wall, and Anat Hoffman, the Israeli petitioner in the Women of the Wall litigation: [Chesler:] “…the NAACP decided to back Rosa Parks, who, on December 1, 1955, was arrested for refusing to move to the back of the bus. Parks and the NAACP were, symbolically, challenging the Jim Crow segregation in the American South.” [Hoffman]: “We are the same. Rosa Parks wasn’t only about a bus issue. We are in the back of the bus, and we want to move to the front of the bus, and people are telling us this is unacceptable” (Chesler and Haut 2003, 53).

7. The impetus to show the universalist, benevolent side of minority religions. After September 11, Western media has been flooded with reports on Islam. Most of the descriptions focused on the militant (Jihadist), intolerant, vindictive, and ferocious Islam. It is not surprising that the American Muslim community has been distancing itself from this version of Islam, and laboring to acquaint Americans with another Islam: benevolent, tolerant, seeking peace and justice, and open to progressive change (Armstrong 2000, 6). The struggle for women’s equality is a part of this campaign.

Something similar, even though not identical, marked the Jewish history of integration into the American mainstream. By focusing on the universalistic messages of Judaism, Jews insisted that their culture and customs shared some deep affinity with Christianity, and that therefore their acceptance and integration would not need an especially arduous accommodation (Howe 1976, 618). In time, the rapprochement between Jew and Gentile gave birth to the description of American civilization as “Judeo-
Christian‖ – a notion that is a child of modernity and bears has close, if subtle, ties to the idea of universal justice, and therefore to gender equality as well (Ackelsberg 1996, 89). It would be interesting to watch how Muslim integration, as it is bound to develop, brings about the weaving of Muslim themes into the predominant Judeo-Christian tradition in the U.S.74 The term “Abrahamic faith” seems already interwoven into the public discourse.

VII. Conclusion

In the United States, the campaign to include women in active roles in the public prayer has been moderately successful. Within the Jewish Community, the Reform and Conservative denominations today recognize women as full and equal partners in the public prayer. In fact, some even say that without the integration and participation of women these congregations may starve or even die. In Muslim-American communities, one sees increasing awareness of the needs of women with regard to prayer in the mosque, and as we speak the number of women-led prayers of mixed groups is growing. Still, in the United States, in both Muslim and Jewish communities, there is a hard core of believers who reject the idea of egalitarianism, and who insist on conceiving women as divinely endowed with rights and duties different from the rights and duties of men, maybe equal, but certainly separate. How these small hard core groups will behave in the long term is hard to predict. There is always the possibility that under optimal conditions they will slowly, if grudgingly, accept women as full fledged members of their community, entitled to partake in the public prayer as men do. But it is also possible that they will insist on their monopoly over authenticity, and may even persuade the larger community of believers to retreat from their progressive positions. We are at a crossroads. Muslim and Jewish law may either amend itself, and thereby fit more

74 See discussion in Noah Feldman, Divided by God: America’s Church-State Problem – and What We Should Do About It (New York: Farrar, Strauss and Giroux: 2005). In 2005, Justice Scalia made the following observation: “The three most popular religions in the United States, Christianity, Judaism, and Islam -- which combined account for 97.7% of all believers -- are monotheistic [citations omitted, PL]. All of them, moreover (Islam included), believe that the Ten Commandments were given by God to Moses, and are divine prescriptions for a virtuous life.” McCreary County, Ky. v. American Civil Liberties Union of Ky., 545 U.S. 844, 894 (2005). This statement could well signal the arrival of Islam in U.S. legal culture, by one of America’s leading legal intellectuals.
comfortably with contemporary constitutional principles, or insist on its irreconcilable difference, thereby highlighting the chasm between predominant and subculture.

The influence of American culture should also be evaluated against the role America has played in world politics. The United States is a global power, and its political influence, indeed hegemony, is the subject of great resentment. In the great centers of learning of both Islam and Judaism, the label “made in America” may by itself be a valid reason for the rejection of the product. Thus, the question of which territory represents religion more “authentically” has been tied to the question of permissible reforms. In the case of Islam, the United States is generally considered the periphery, and Muslim Centers of Learning in the Arab world are considered the center. Arab Muslim scholars claim to have the final word on authenticity (the Qur’an is written in Arabic), and hence legitimate interpretation of the Qur’an. American Muslim scholars judge themselves against this benchmark, and gauge their position accordingly. Arab-Muslim opposition to a higher profile for women during the public prayer may, and often does, deter American Muslim scholars who may have been initially sympathetic to reform.

In the case of Judaism, while the hierarchy is not as clear (the Jewish State only came into existence in 1948, whereas Diasporic centers of learning have existed for at least two millennia), it is safe to say that Israeli Rabbis either consider themselves more authentic than their brethren in the Diaspora, or are at least in competition with them. This dynamic further complicates the situation, chills the determination of some women to demand equality, and discourages progressive male religious authorities from taking a firm stand. One certainly sees less enthusiasm for the integration of women into the public prayer in the Middle East. This additional, geographic, complexity and its political dimension should also be taken into consideration in evaluating the phenomenon of the public prayer.

For now, the participation of women as equal partners in the public prayer is taking root. Whether it will succeed in transferring religion into a more hospitable environment for women who seek citizenship and equality, in addition to spirituality and community, remains to be seen. Perhaps the words of Nobel Laureate poetess, Wislawa Szymborska, neither Jewish nor Muslim, contain a comforting insight for those who seek
recognition, and for the spectators watching their struggle: “…certainty is beautiful, but uncertainty is more beautiful still”75

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