UCLA
JOURNAL OF INTERNATIONAL LAW AND FOREIGN AFFAIRS

— TABLE OF CONTENTS —

ARTICLES

COMMENTS

VOLUME 5 FALL/WINTER 2000-2001 NUMBER 2

WOMEN, RELIGION AND MULTICULTURALISM IN ISRAEL

Ruth Halperin-Kaddari[*]

Israeli society has become preoccupied with the question of multiculturalism in recent years.[1] *The issue is raised from several directions and within many contexts of cultural signifiers, including nationality, ethnicity and of course religion. It seems that the religious variable raises the most interest for the multicultural discourse, particularly in light of the definition of Israel as the State of the Jewish People in 1948 in its birth document, the Declaration of Independence, and as a Jewish and Democratic State in 1992, in the Basic Law:*

---

[*] Senior lecturer, Faculty of Law, Bar-Ilan University, Israel; J.S.D. Yale Law School, 1993; LL.M. Yale Law School, 1990; LL.B. Bar-Ilan University, 1989. I would like to thank my research assistants Hilla Paltiel and Hana Meidenberg, and the staff of the UCLA Journal of International Law and Foreign Affairs for inviting me to participate in the conference.

[1] To give just a few examples: MULTICULTURALISM IN A DEMOCRATIC AND JEWISH STATE (Menachem Mautner et al. eds., Ramot Publications 1998) (Hebrew); Baruch Kimerling, *The New Israelis: Many Cultures Without Multiculturalism*, 16 ALPAYIM 264, 308 (1998) (Hebrew); John Simons, *Feminism at the Border Zones*, 7 THEORY & CRITICISM 20, 30 (1995) (Hebrew); Danny Rabinovich, *Saving Brown Women*, 7 THEORY & CRITICISM 5, 19 (1995) (Hebrew).

Human Dignity and Liberty. This article will examine the feminism-multiculturalism dilemma within Israel, and map the ways in which religion affects women in Israel. After a brief introduction to the conventional dichotomy of feminism and multiculturalism, this article points to the unique situation of religion and state relations in Israel which changes the conventional construction of the dilemma, and then analyzes the various levels in which religion influences the situation of women in Israel. Only the concluding case-study of multiculturalism in Israel captures the traditional dilemma of feminism and multiculturalism.

I. THE FEMINIST-MULTICULTURAL DEBATE

Israeli society is a composition of various cultural and religious groups, the largest of which is the Jewish religion. Like many societies in the world, Israeli society has to face the question of handling its multiplicity of internal cultures: Should their existence be encouraged? Should the State stay neutral to their existence? Should they, and their members, be granted special rights? On the surface, then, it seems that this is indeed the conventional confrontation of multiculturalism. Cultures need social groups in order to survive. The traditional justification for awarding special rights to various cultural groups is that by doing so the minority group's culture and tradition is preserved. As put by Will Kymlicka, the foremost contemporary defender of cultural group rights, these are "societal cultures" which

provide their "members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres."[2] Since they carry such a significant role in their members' lives, and since they are usually in danger of extinction, the argument is that minority cultures should be protected by special rights.

At this point, the conventional multicultural discourse is faced with the following problem: the special status awarded to groups in the name of the right to culture sometimes stands in stark contradiction with the individual's status in a liberal state. Moreover, the right to culture could possibly apply to groups whose norms and values do not correspond with the liberal perception of the individual. The protection of cultures could eventually lead to a system of disrespect for individual rights in a liberal society. Thus, a central problem in protecting the right to culture, especially when the protected culture is not a liberal culture, is that the state is obliged to employ illiberal means for that purpose. The problem is complicated in light of the conventional liberal ideology that calls on the state to "stay neutral" with respect to its citizens' lifestyle. The right to culture demands that the state abandon its neutral stance and actively support cultures in need, even if those cultures' ideologies oppose the state's norms and values.[3]

As Susan Moller Okin plainly states, most cultures are suffused with practices and ideologies concerning gender. They are often preoccupied with personal (family) law, and most significantly, most religious or cultural groups "have as one of their principal aims the control of women by men."[4] Consequently, many of the cultural minorities that claim group rights are more patriarchal than the surrounding cultures. Thus, awarding group rights within liberal states

---

[2] WILL KYMLICKA, MULTICULTURAL CITIZENSHIP: A LIBERAL THEORY OF MINORITY RIGHTS 76 (Oxford Univ. Press 1995).

[3] Avishai Margalit & Moshe Halbertal, *Liberalism and the Right to Culture*, 61 SOC. RES. 491 (1994).

[4] Susan M. Okin, *Is Multiculturalism Bad for Women?*, *in* SUSAN M. OKIN WITH RESPONDANTS, IS MULTICULTURALISM BAD FOR WOMEN? 12, 13 (Joshua Cohen et al. eds., Princeton Univ. Press 1999) [hereinafter OKIN].

may actually harm women members of those groups. While there are some who hold that this presentation is too simplistic and that it ignores the women's own voices who themselves sometimes encourage and support the patriarchal practices and ideologies,[5] Okin's analysis is quite convincing. The phenomenon of the oppressed who acquiesce to the oppression is not an unfamiliar one.[6] There is a particular tension between women's rights and group rights that should be addressed separately within the general question of the state's relation to the minority groups. The question is how, if at all, this tension between commitment to gender equality and commitment to respect and encourage minority cultures can be resolved. There are various responses to this tension. Some justify awarding group rights only to liberal cultures. Others, like Avishai Margalit and Moshe Halbertal, argue that even cultures that ignore their members' rights should be accorded group rights, if they are otherwise in danger of extinction.[7] It seems that this is so even with respect to cultures that practice gender discrimination. Still others maintain that such minority groups are entitled to be "left alone" by the surrounding society. Okin herself takes a more extreme approach, arguing that since gender discrimination is prohibited, awarding rights to groups that enable discriminatory practices is unacceptable. Rather, as the middle path argues, cultures and religions should be able to develop and embrace equality within their own cultural framework.[8]

This middle path is of course not free from problems. For example, would cultures that reject egalitarianism be doomed to extinction?[9] Furthermore, there is no logical basis to stop at the equality principle and not demand the acceptance of other basic liberal values, such as autonomy and free will. The danger is clearly that such an approach would lead to respecting minority cultures only

---

[5] *See, e.g.*, Sander L. Gilman, *"Barbaric" Rituals?*, *in* OKIN, *supra* note 4, at 53; Bonnie Honig, *My Culture Made Me Do It*, *in* OKIN, *supra* note 4, at 35.

[6] False consciousness is but one expression of the phenomenon that immediately comes to mind within the feminist context.

[7] Margalit & Halbertal, *supra* note 3.

[8] *But cf.* Joseph Raz, *How Perfect Should One Be? And Whose Culture Is?*, *in* OKIN, *supra* note 4, at 95-99; Honig, *supra* note 5.

[9] Okin suggests a positive answer to that. *See* OKIN, *supra* note 4, at 22-23.

when they turn liberal.[10] It is often argued that the actual enforcement of the principle of equality entails oppression and patronizing of the minority culture.[11] Moreover, how can the surrounding liberal society, which is itself guilty of being discriminatory and patriarchal, demand anything different from the minority culture? This is the conventional feminism versus multiculturalism dilemma.

II. THE ISRAELI CASE

The Israeli context, as already mentioned, is much more complex. The conventional construction of the dilemma applies to states whose constitutional framework maintains some form of separation between religion and state, with several religious communities existing within the state. Israel is different. The State of Israel is defined as the State of the Jewish People, and as a Jewish and Democratic State. Religion in general, and the Jewish religion in particular, hold a formal and constitutional status in several areas, most significantly in the rule of religious laws over the area of family law, which means that matters concerning personal status are determined according to the religious affiliation of the parties involved in each case. The formal standing given to religion and to religious law in Israel turns the conventional multicultural dilemma on its face, from a question of awarding respect and rights to patriarchal minority culture at the expense of its own members, into a question of imposition of the patriarchal minority culture over the liberal majority, at the expense of the members of the majority.[12] The conventional feminism-multiculturalism dilemma

[10] Bhikhu Parekh, *A Varied Moral World*, *in* OKIN, *supra* note 4, at 72.

[11] Aziza Y. al-Hibri, *Is Western Patriarchal Feminism Good for Third World/Minority Women?*, *in* OKIN, *supra* note 4, at 41-46.

[12] *But cf.* Ruth Halperin-Kaddari, *Rethinking Legal Pluralism in Israel: The Interaction Between the High Court of Justice and Rabbinical Courts*, 20 TEL AVIV U. L. REV. 683, 744-46 (1997) (explaining Justice Barak's implied rejection of legal pluralism by revealing the

exists in the Israeli context only within those areas in which religion does not carry any formal status.

The mere granting of the formal status to religion is, in itself, a form of position-taking within the principal question that stands at the basis of the dilemma. It is a position that clearly prefers the preservation of the patriarchal culture at the expense of violation of individual rights and liberal values in general, and violation of women and of gender equality in particular. The clearest expression of this is seen in the chronology of attempts to pass a constitution in Israel. Israel did not adopt a written constitution upon its establishment. Various attempts have been made over the years to enact a bill of rights, and one of the main obstacles to that endeavor has been the issue of gender equality and equal status for women under the law. The maintenance of the rule of religious laws over the area of family law renders full equality for women impossible. Instead of a full constitution, Israel has chosen the method of enacting "Basic Laws," two of which were enacted in 1992 and address two human rights guarantees: Basic Law: Human Dignity and Liberty[13] and Basic Law: Freedom of Occupation.[14] An express right to equality is absent from both.[15] Several attempts to pass an all-encompassing Basic Law on Human and Civil Rights have failed, primarily due to the impossibility of its passage without a guarantee of the principle of religious laws in marriage and divorce.[16] A clear pattern of subordinating gender equality to religious values has been formed, one that is also seen in

---

false nature of legal pluralism in Israel, in light of the imposing variable within the Israeli legal framework).

[13] Basic Law: Human Dignity and Liberty, 1992, S.H. 150.

[14] Basic Law: Freedom of Occupation, 1994, S.H. 90.

[15] The common opinion, though, advanced by Chief Justice Barak, is that the scope of the basic right to human dignity is very broad and encompasses various unenumerated human rights, such as the right to equality (Barak 1994, 423-426). This interpretation was approved in a number of Supreme Court cases.

[16] Frances Raday, *Religion, Multiculturalism and Equality: The Israeli Case*, 25 Y.B. ON HUM. RTS. 193, 211 (1996) [hereinafter Raday, *Religion, Multiculturalism and Equality*]; Frances Raday, *The Concept of Gender Equality in a Jewish State*, *in* CALLING THE EQUALITY BLUFF: WOMEN IN ISRAEL 18-28 (Barbara Swirski & Marilyn P. Safir eds., Teachers College Press 1993) [hereinafter Raday, *The Concept of Gender Equality in a Jewish State*].

part in the present Basic Laws' provision of immunity from judicial review that is given to existing laws.[17]

The place of religion in Israel has been acknowledged, here and elsewhere, as a primary factor informing the position of women in Israel, to their detriment.[18] In terms of Israel's conformity with international standards, it has been the reason for Israel's reservations to the Convention on Elimination of all forms of Discrimination Against Women (CEDAW), as well as to the International Covenant on Civil and Political Rights (ICCPR). International law allows states to make a legal commitment to implement a convention while reserving the right not to apply some of its requirements or even principles with which they cannot comply, all this in order to enhance global acceptance of human rights obligations. However, much controversy has been created regarding reservations to the CEDAW Convention since, in many cases, they appear contrary to its very aim.[19] That is primarily so with regard to reservations on religious grounds, which mostly apply to countries applying *Shari'a* law, that submitted reservations concerning the very obligation to eliminate gender discrimination.[20] But it also applies to reservations on religious grounds that were made to CEDAW's Article 16 on equality in Marriage and Family and to CEDAW's Article 7 on equality in Political and Public life, such as the ones made by Israel.[21] These two

---

[17] For example, Basic Law: Human Dignity and Liberty states in section 10: "This Basic Law shall not derogate from the effect of any enactment, which was in effect immediately before this Basic Law came into effect."

[18] Raday, *Religion, Multiculturalism and Equality*, *supra* note 16, at 211; Nira Yuval-Davis, *The Bearers of the Collective: Women and Religious Legislation in Israel*, 11 FEMINIST STUD. 15, 27 (1985); Talia Einhorn, *Equality in Israeli Family Law*, *in* VERLAG ERNST & WERNER GIESEKING, GLIECHHEIT IM FAMILIENRECHT [Equality in Family Law--The Influence of Constitutions and International Conventions] 297, 332 (Verschraegen ed., 1997); S.I. Strong, *Law and Religion in Israel and Iran: How the Integration of Secular and Spiritual Laws Affects Human Rights and the Potential for Violence*, 19 MICH. J. INT'L L. 109, 217 (1997).

[19] KATARINA TOMASEVSKI, A PRIMER ON CEDAW FOR INTERNATIONAL DEVELOPMENT CO-OPERATION PERSONNEL 14-16 (Sida, 1998).

[20] These countries include Afghanistan, Bangladesh, Egypt, Iran, Iraq, Jordan, Libya, Maldives, Mauritania, and Pakistan. *See id.* at 15.

[21] Israel phrased its reservations in the following language:

areas present the obvious and main areas of concern for discrimination against women on religious grounds, and at the same time, it is the strongest expression possible of respect, and in fact of deference, to religious cultural norms. Officially then, as reflected by Israel's reservations and as noted in the CEDAW Committee's concluding observations to Israel's Report,[22] these are the only areas where the place of religion in Israel hampers women's advancement. The effect that the involvement of religion within Israel's polity and ethos has on women is much more vast. The following outline of the major points of reference of which the fuller picture is composed, primarily, from the perspective of the Jewish religion. It should also be noted that in discussing the effect that religion has on women in Israel, a distinction must be made between a discussion of religious women as a distinct group of women, and a discussion of the overall consequences that the religion factor has over women in Israel in general. Only the latter is our subject of interest here.

The formal integration of religion and state, particularly the rule of religious law over issues of family law and the legal consequences of this rule, makes the religion factor significant to the situation of

---

> The State of Israel hereby expresses its reservation with regard to Article 7(b) of the Convention concerning the appointment of women to serve as judges of religious courts where this is prohibited by the laws of any of the religious communities in Israel. Otherwise, the said Article is fully implemented in Israel, in view of the fact that women take a prominent part in all aspects of public life.
>
> The State of Israel hereby expresses its reservation with regard to Article 16 of the Convention, insofar as the laws of personal status binding on the several religious communities in Israel do not conform with the provisions of that Article.

Convention on the Elimination of All Forms of Discrimination against Women, K.A. 31, 180 at 195.

[22] The Committee chose to express its disapproval of Israel's reservations in the following language:

> The Committee suggested that in order to guarantee the same rights in marriage and family relations in Israel and to comply fully with the Convention, the Government should complete the secularization of the relevant legislation, place it under the jurisdiction of the civil courts and withdraw its reservations to the Convention.

Report of the Committee on the Elimination of All Forms of Discrimination Against Women, 16-17 Sessions, 1997, at 91.

women in Israel.[23] This is the strongest expression of the influence of religion over women's lives, and the impetus behind Israel's reservations to CEDAW's Articles 7 and 16. Nonetheless, apart from this formal and clear effect, religion influences women's lives in Israel by other means as well. Some means directly or indirectly result from the formal status that religion has been given in areas other than family law, and some have nothing to do with any such formal status, and are clear expressions of social-cultural norms. The latter will be called semi-formal and informal expressions of the relationship between religion and state in Israel, and will be discussed in the second part of this article. This is where the conventional feminism-multiculturalism debate will be most relevant. While critiques tend to concentrate on concrete rules of religious law regarding family lives, attention should be paid to the interrelation between them and the world outside the family. In other words, the interaction between the family on the one hand, and society and the market on the other, is deeply affected by the rule of religious law in the direction of further disadvantaging women.

III. JEWISH FAMILY LAW AND THE RIPPLE EFFECT OF FORMAL EXPRESSIONS OF RELIGION-STATE INTEGRATION

Any discussion that makes use of Jewish law as part of it, without actually going into and analyzing the law itself, is problematic, since Jewish law, perhaps more than any other religious legal system, is pluralistic.[24] It is therefore misleading to present Jewish law as one monolithic normative system, and claim a certain representation of

---

[23] Philippa Strum, *Women and the Politics of Religion in Israel*, 11 HUM. RTS. Q. 483 (1989); Raday, *The Concept of Gender Equality in a Jewish State*, *supra* note 16.

[24] ELIEZER BERKOWITZ, NOT IN HEAVEN: THE NATURE AND FUNCTION OF HALAKHA (Ktav Pub. 1983); JOEL ROTH, THE HALAKHIC PROCESS: A SYSTEMIC ANALYSIS (Ktav Pub. 1986); AVI SAGI, 'ELU VE'ELU: THE MEANING OF THE HALAKHIC DISCOURSE (Hakibutz Ha'Meuchad 1996) (Hebrew).

Jewish law on a particular issue to be an ultimate portrayal of the Jewish law on that issue. The discussion of Jewish law here pertains to a description of Jewish law as it is understood and applied by contemporary rabbinical courts in Israel. The aim of this article is to go beyond the boundaries of Jewish law "in action," to draw upon its theoretical underpinnings and value-laden messages. Since Jewish law is not a central theme of this article, space and time prevents a thorough substantive analysis, which should precede the upcoming discussion.[25] The following discussion is therefore narrowed to a specific reading of Jewish law, which, in my understanding, is sadly the conventional take on Jewish law as it is understood and practiced under Orthodox Judaism today.[26] Applicable Jewish law in Israel is in fact the Orthodox interpretation of Jewish law, and rabbinical courts are exclusively Orthodox. Therefore, the conclusions drawn below are certainly relevant to Jewish women in Israel. Once again, this discussion by no means exhausts the possibilities within Jewish law at large, nor the potential for progressive interpretation that exists within Orthodox Judaism itself.

The construction of gender in Jewish law of marriage and divorce, as it is understood and practiced in rabbinical courts in Israel, results in the unequivocal inferiority and vulnerability of women. In a nutshell, Jewish law conceives of marriage as a one-sided transaction in which the man betroths the woman and not the opposite, sanctions inequality and discrimination regarding spousal obligations and rights toward each other during the course of marriage, and sanctions harsh limitations over the process of divorce and inequalities with respect to

---

[25] Here I only rely on such an analysis that I make elsewhere, in which I also examine the possibilities of different readings and interpretations, that may lead to potentially more egalitarian directions in Jewish law. *See* Ruth Halperin-Kaddari, *Gender Construction under Halakhic Marriage and Divorce Laws*, 22 TALPIYOT 451, 464 (2000) (Hebrew).

[26] Conservative Judaism, which is also considered as adhering to *Halakha*, i.e. Jewish law, may differ on many of these issues. Examining this is obviously beyond the scope of this article, and is less relevant, since the predominant form of Judaism in Israel, certainly from the legal perspective, is Orthodoxy. On Conservative theories of Jewish law, see DAVID GOLINKIN, HALAKHAH FOR OUR TIME: A CONSERVATIVE APPROACH TO JEWISH LAW (United Synagogue of America 1991) and Elliot Dorff, *Towards a Legal Theory of the Conservative Movement*, CONSERVATIVE JUDAISM, Spring 1972, at 65.

it, all to the detriment of women. In addition to its adherence to the perception of gender roles and separate spheres in family and in public life, Jewish law also adopts a double standard with respect to the sexual behavior of men and women in general, and of married men and married women in particular. While a married man's sexual relationships with a woman other than his wife hardly carries any legal consequence, except for the very rare possibility of considering this to be grounds for divorce,[27] a married woman's sexual relations with a man other than her husband carry extremely harsh consequences: she is to be immediately divorced while losing all her monetary rights, which she had otherwise acquired according to the Jewish law. She is prohibited from later marrying either her former husband or the man with whom she had "committed adultery"; and any child that results from an adulterous relationship is considered a "bastard" (*mamzer*) who is precluded from marrying within the Jewish community, except for a convert or a *mamzer* like him/herself.[28]

These grave and unequal consequences of women's extra-marital relations profoundly implicate women's position within the divorce process, which is the main form of discrimination against women under Jewish law, and merits further explanation here. Although in principle both parties' free will is needed for the bill-of-divorce (*get*) to be valid, the wife's consent can be circumvented with no consequences on the *get*'s validity, while the husband's voluntary provision of the *get* is an absolute prerequisite, without which the divorce is invalid.[29] Invalidity of the *get* means that the wife is still a married woman, so that any sexual relations she may later conduct would still be considered adulterous, with the harsh consequences of *mamzerut* upon children who may result from those relationships as explained above. Thus, as a rule, the husband has an almost absolute

---

[27] Ruth Halperin, *Husband's Adultery as a Ground for Divorce*, 7 MEHKAREI MISHPAT (BAR-ILAN L. STUD.) 297, 329 (1989) (Hebrew).

[28] IRWIN H. HAUT, DIVORCE IN JEWISH LAW AND LIFE (Sepher-Hermon Press 1993); BENZION SHERSHEVSKY, DINE MISHPAHAH ME'ET BENTSIYON SHERESHEVSKI [FAMILY LAW IN ISRAEL] (1983) (Hebrew).

[29] HAUT, *supra* note 28; ARIEL ROSEN-ZVI, ISRAELI FAMILY LAW - THE SACRED AND THE SECULAR (Papirus 1990); Halperin-Kaddari, *supra* note 25.

control over the *get*, which the wife categorically requires in order to divorce. While rabbinical courts have the power, under certain circumstances, to coerce husbands to grant the *get*, they are apprehensive about the validity of the *get* which is dependant upon the man's "free will," and usually prefer to have only a recommendation for divorce and to send to the parties for the negotiation of terms. This leads the way for a common course of negotiation, which generally results in the woman buying her way out of the marriage by paying whatever the husband demands in terms of property rights, child support, and so on. Women who refuse to pay for their freedom to remarry, whether it is a downright payment or in the form of giving up their legal rights to the marital property, have no recourse within the Israeli legal system. They are *agunot*, i.e. women who are "chained" or "anchored" to their husbands, with no relief available to them, either in the religious system or civil system.[30]

The plight of the *agunot* is indeed the most extreme expression of women's inferiority under Jewish family law. However, a deeper reflection of the law reveals that this is but one reflection of structural inferiority that is built into the system of Jewish family law.[31] This inferiority permeates all three levels of marital life: in the entry to marriage, during marriage, and in the dissolution of marriage through

[30] Women's organizations and the rabbinical establishment (rabbinical authorities, rabbinical courts, etc.) are in sharp disagreement as to the actual number of *agunot* cases in Israel. The disagreement is over which circumstances specifically constitute that state. For instance, while women's organizations classify the conditioning of a *get* upon surrender of the woman's property rights as a refusal to grant the *get*, rabbinical courts will not recognize that woman as an *agunah*. Consequently, women's organizations maintain that there are several thousand women who are being refused a *get*, while the rabbinical establishment claims there are only several dozen of them. The problem of the *agunot*, however, is inherent to the Orthodox Jewish law of marriage and divorce, and is not unique to Israel. *See* PINHAS SHIFMAN, CIVIL MARRIAGE IN ISRAEL: THE CASE FOR REFORM (Jerusalem Inst. For Israel St. 1995); HAUT, *supra* note 28. Since it is common to all Jewish communities, and it exists wherever Jewish people wish to follow both their religious laws and the laws of the state in which they live, an international coalition of Jewish women called ICAR (both the acronym of International Coalition for Agunah Rights, and a Hebrew word meaning 'the most important thing') was formed in 1991. ICAR's goal is to advance solutions for the problem of the *agunot*. Despite the fact that their suggestions are all within the framework of Jewish law, they have mostly been met with resistance and antagonistic reactions.

[31] Halperin-Kaddari, *supra* note 25, at 464.

divorce. The point is that women's structural inferiority in family law in Israel has grave detrimental consequences on the position of women in other areas outside of family life. Thus, as explained above, the discriminatory process of divorce often leads women to give up their legal property and monetary rights so as not to get into the intolerable position of *agunah.* In other words, women's economic situation is jeopardized as a direct result of the religious law of divorce. Nonetheless, the discrimination at the dissolution of a marriage is only part of the picture. Jewish law perceives marriage as a system of mutual rights and responsibilities, clearly based on traditional separate-spheres gender ideologies.[32] The husband works outside the home and is responsible for the wife's sustenance, while the wife works inside the home and is responsible for all the housework and childcare and is also obligated to personally serve the husband. In addition, any property the wife may have had upon marriage becomes subject to her husband's management, and her earnings are put against her right to maintenance.[33] This system may have reflected gender balancing and mutuality appropriate to the social and economic conditions of the time it was designed,[34] however its application to present social norms has devastating effects upon women.

All this affects women's position far beyond the particular context of divorce and its consequences. Women's awareness of their inferiority projects on their self perception and the perception of their marital relationship. Their inferiority is internalized, and an opposite process of empowerment occurs. As the family is the basic unit of socialization, these perceptions structure the socialization process of

---

[32] Pnina N. Levinson, *Women and Sexuality: Traditions and Progress*, *in* WOMEN, RELIGION AND SEXUALITY: STUDIES ON THE IMPACT OF RELIGIOUS TEACHINGS ON WOMEN 45 (Jeanne Becher ed., 1991); Hava Lazarus-Yafeh, *Contemporary Fundamentalism--Judaism, Christianity, Islam,* 47 JERUSALEM Q. 37 (1988).

[33] MOSHE MEISELMAN, JEWISH WOMAN IN JEWISH LAW, (Ktav Pub. 1978). These specific economic rules, unlike the rules that pertain to the actual marital relationships, can be altered by the couple if they agree to do so.

[34] RACHEL BIALE, WOMEN AND JEWISH LAW: AN EXPLORATION OF WOMEN'S ISSUES IN HALAKHIC SOURCES (Schocken Books 1984); JUDITH HAUPTMAN, REREADING THE RABBIS: A WOMAN'S VOICE (Westview Press 1998); Saul Berman, *The Status of Women in Halakhic Judaism*, *in* THE JEWISH WOMAN: NEW PERSPECTIVES (Elizabeth Koltun ed., Schocken Books 1976).

children within the family.[35] The patriarchal family has long been the subject of feminist critique.[36] The summary of the law that was presented here demonstrates that in a sense, the vices of the patriarchal family, which at present are generally a reflection of strong social norms, are, in fact, normatively sanctioned under Jewish religious law and are consequently part of the Israeli legal system itself. Thus, for example, the well-known circular interaction between the women's economic dependency within the "private" family and their secondary position within the "public" market is clearly endorsed under the law itself. The difference in wage work patterns based upon gender lines can thus be seen not just as a reflection of social norms, but as an expression of the legal order.[37] In other words, the familiar social reality of separate spheres and gender roles linked to the patriarchal family structure is in fact legally endorsed and sanctioned under the Israeli legal system as a result of its incorporation of the religious law in matters of marriage and divorce.

IV. SEMI-FORMAL EXPRESSIONS OF RELIGION-STATE INTEGRATION

For the purpose of this discussion, semi-formal expressions of the interconnection between religion and state in Israel concerning women are defined as instances where women's rights, concerns, and interests are being effectively prejudiced as an indirect result of the rule of religious law in matters of marriage and divorce, or of another formal-

---

[35] SUSAN OKIN, GENDER, FAMILY AND THE STATE (Basic Books, Inc. 1989).

[36] *Id.*; Martha A. Fineman, *Legal Stories, Change, and Incentives--Reinforcing the Law of the Father*, 37 N.Y.L. SCH. L. REV. 227, 249 (1992); Frances Olsen, *The Family and the Market: A Study of Ideology and Legal Reform*, 96 HARV. L. REV. 1497, 1507 (1983).

[37] Statistical data reveals that, for example, even when the wife works full-time in the labor market, she still devotes twice as much time to unpaid household and family work as her husband. *See Time Use in Israel - Time Budget Survey 1991/92*, Jerusalem: Central Bureau of Statistics.

legal integration of religion and state. The clearest semi-formal expressions are reflected within the physical space where religious law governs, namely the religious courts, and relate to the actual possibility of women to participate equally with men in all levels of their operation.

Starting from the highest level of participation, namely that of judges, the various laws dealing with religious courts have been interpreted by Jewish, Muslim and Druze religious leaders to mean that only men can serve as judges in these courts. Consequently, Israel has expressed its reservation with regard to Article 7(b) of the CEDAW Convention concerning representation in public life, including in judicial posts.[38] Nonetheless, from examining recent developments within Orthodox Judaism, one could have suggested that at least with respect to Judaism, change is not impossible. The observant Jewish community is undergoing an evolution with respect to women's learning.[39] As more and more women master *halakhic* (Jewish law) knowledge and its developmental tools, and as the drive towards inclusion gains force, demands that women be included into the actual *halakhic* process as recognized by the State in the very form of rabbinical judges can be expected.[40] From the constitutional perspective, this will bring about an unprecedented entanglement of civil law in religious matters. Since rabbinical courts have formal jurisdiction within the Israeli legal system, and since they are subject to the supervision of State officials (such as within the Ministry of Religion) and their appointments are regulated by the civil law, and since they are also subject to the scrutiny of the High Court of Justice, it could be assumed that if and when such demands for inclusion are made by women, the civil legal system--through the High Court of Justice--will have to intervene. This is an unprecedented intervention

---

[38] *See supra* note 21 and accompanying text.

[39] *See, e.g.*, TAMAR EL-OR, NEXT PESSACH: LITERACY AND IDENTITY OF YOUNG RELIGIOUS ZIONIST WOMEN (Am Oved Pub. 1998) (Hebrew).

[40] We are already witnessing the beginning of this process in the form of a special program in one of the orthodox institutes for higher *torah* learning for women in Israel that trains women to be "*halakhic* advisors" on matters of family purity and reproduction. *See* Larry Derfner & Debbi Cooper, *A Step Up for Orthodox Women*, JERUSALEM POST, Oct. 8, 1999, at 6B.

because none of the conflicts involving women's demands for inclusion into the religious sphere, so far, have presented such an acute tension between women's rights to equal participation and unsettled interpretation of *halakha*,[41] in a setting that is under the overall control of the civil system, and in a matter that distinctively implicates women as a whole.

However, the normative layer on this last point has just in fact been changed, quite unexpectedly. Once again, the pattern of subordinating gender equality to religious demands has taken its toll, in the most recent amendment to the 1951 Women's Equal Rights Law.[42] This amendment passed in January, 2000, which has made some substantive and important revisions to the 1951 law, not only maintained its original qualification that excluded the law from applying to the area of marriage and divorce, but has added another qualification for religious reasons. This qualification applies to the novel affirmative action norm that was introduced in the amendment, and qualifies it from applying to religious roles, including religious judicial roles. Thus, quite ironically, the former discussion has turned moot through the act of the civil legislature, who has closed a window of opportunity that the religious community had started to open.

The case of women's certification as rabbinical advocates, which we examine next, seems similar to the previous analysis. However, notwithstanding the external resemblance, the substantive issues are quite different primarily because the case of rabbinical advocates does not raise such serious and deep *halakhic* contention and perhaps does not even raise any *halakhic* controversy. The issue of women representing clients in rabbinical courts presents a most interesting and significant development. Certified attorneys, whether male or female,

---

[41] This issue is unsettled in terms of *halakhic* interpretation. Rabbi Uziel, the first *Sepharadi* Chief Rabbi of Israel, and one of the great *Sepharadi* religious sages in the twentieth century, had in principle permitted women to serve as religious judges. *See* Ben-Zion Meir Chay Uziel, *Mishpetei Uziel*, *in* CHOSHEN MISHPAT 5 (1964). For an analysis of *halakhic* opinions regarding women religious judges, see ARIEL ROSEN-ZVI, ISRAELI FAMILY LAW: THE SACRED AND THE SECULAR 246-47 (Tel-Aviv Univ. 1990) (Hebrew); Shlomo Riskin, *Women as Canon Teachers*, *in* A GOOD EYE: DIALOGUE AND POLEMIC IN JEWISH CULTURE 698-704 (Ilan Nahem ed., Hakibbutz Hameuchad Pub. 1999) (Hebrew).

[42] Draft bill amending the Women's Equal Rights Law (no. 2), 1999 H.H., 371.

can always represent clients in rabbinical and other such religious courts in any and all matters. Both rabbinical and Moslem courts recognized the competence of rabbinical or *sharia* (Moslem) advocates, who were allowed to represent clients in the relevant religious courts, regardless of whether or not they were certified attorneys. The Rabbinical Advocates Regulations for 1967[43] originally applied to men alone, since it required graduation from a *yeshiva* (an institute of higher learning of religion and religious law, traditionally for men alone) as a primary condition for qualification as a candidate to the profession. The law was amended in 1991 to include graduates of other educational institutions of higher learning which are recognized by the Chief Rabbinical Court as eligible to train candidates for the profession. As of yet, no regulations or other directives were passed to establish the criteria for such recognition. It was not until 1994, after an institute for higher Torah learning for women petitioned the High Court of Justice, that the Chief Rabbinical Court decided upon the criteria for its recognition.[44] The High Court of Justice reviewed those criteria, and found that some of them, such as the requirement of full-time everyday studies for a full two years, were intended to make it impossible for women students to qualify for candidacy, and were thus considered discriminatory and void. Several dozen women, all of whom were religiously committed, have since passed the examinations and are now functioning as rabbinical advocates. Not surprisingly, their representation is, as of now, primarily made up of female clientele, and their performance can often be perceived to be feminist in its nature.[45] Notwithstanding the fact that this legal accomplishment had not significantly opened the doors of rabbinical courts for women, since, as we have seen, female attorneys could always represent clients there, and despite its narrow scope that does not pertain to the actual *halakhic* process, this

[43] The Rabbinical Advocates Regulations, 1967, K.T. 2119, 16.

[44] H.C. 6300/93, The Institution for Rabbinical Advocates Training v. The Minister of Religion 48(4) P.D. 441.

[45] Ronen Shamir et al., *Mission, Feminism and Professionalism: Women Rabbinic Advocates Within the Orthodox-Religious Community*, 38 MEGAMOT 313, 348 (1997) (Hebrew).

development should not be undermined. Even while recognizing the substantive differences as to the nature of the *halakhic* question involved in the two cases, the specific achievement presents a concrete accomplishment on at least two levels: one is internal, i.e. geared towards women themselves, and the other is external, i.e. geared towards the religious establishment outside of women. On the internal level, this move has led to the creation of a cadre of women committed to serve the interests of female litigants. On the external level, it has crossed the barrier against women's formal functioning within the *halakhic* world, and has even generated respect and estimation as to their capabilities. All this may have invaluable ramifications for the future struggle over women as rabbinical judges.

Within that physical space of rabbinical courts, where Jewish law governs, there is yet another expression of women's inferior position as unequal participants. Under Jewish law, women are not qualified to be witnesses in the manner in which the institute of testimony was conceived by Jewish law.[46] *Halakhic* authorities throughout the ages, however, have found various solutions and means to accept women's testimony. Hence, rabbinical courts routinely accept women's testimony and practically accord it the same evidentiary weight that is accorded to men's testimony.[47] While this is a sensible solution, it only relates on a very pragmatic level, and brings no redress on a substantive, ideological, and educational level.

Other semi-formal expressions of the integration of religion and state in Israel stem from other legal arrangements apart from the rule of religious law in the area of family law. These arrangements may include regulations of religious dietary laws (*kashrut*), supervision over the Sabbath as the official day of rest for the Jewish population, and other legal arrangements which all come under the heading of "religious legislation,"[48] and often carry particular adverse implications for women. In two instances, such arrangements have

---

[46] ROSEN-ZVI, *supra* note 29, at 243-45; Gershon Holtzer, *A Woman's Testimony in Jewish Law*, 67 SINAI 94, 112 (1970) (Hebrew); MEISELMAN, *supra* note 33.

[47] ROSEN-ZVI, *supra* note 29.

[48] CHARLES S. LIEBMAN & ELIEZER DON-YEHIYA, RELIGION AND POLITICS IN ISRAEL 24-28 (Indiana Univ. Press 1984).

resulted in litigation that confronted these detrimental effects on women. The first instance relates to the regulation of religious services in Israel, which includes the official positions of municipal rabbis[49] and the operation of religious councils in every municipality.[50] The second instance relates to the religious supervision over the Western Wall. Although the two instances relate to altogether different circumstances, they are both expressions of the effect that religious legislation may have on women, and both reflect women's attempts to challenge them. Furthermore, they indicate two different outcomes of these challenges.

With respect to the first set of circumstances, following two landmark Supreme Court decisions in 1988, women were granted the right to participate in the Committee for Selection of municipal Chief Rabbis and the right to participate in municipal religious councils. In *Poraz v. Tel Aviv Mayor,*[51] the Supreme Court allowed women to participate in the Committee for the Selection of the Tel Aviv Chief Rabbi, emphasizing that exclusion of women from serving on political committees which dealt with religious matters, constituted discrimination and was therefore void. In *Shakdiel v. Minister of Religious Affairs,*[52] the Supreme Court granted Leah Shakdiel, one of the pioneering Orthodox-feminist activists, the right to be elected to the religious council of the town of Yeruham in southern Israel. In both cases, which were decided in close proximity, the Court emphasized the secular nature of the disputed positions and functions. It should be noted that despite the landmark *Shakdiel* decision, which opened the doors for women who wished to serve on municipal religious councils, the number of women on municipal religious councils remains small. In 1996, out of 139 religious councils, only twelve councils included a woman.[53] Almost a decade after the

---

[49] Regulation of Rabbis Elections, 1974, K.T. 3271, 532.

[50] Jewish Religious Services Law (Combined Version), 1971, S.H. 130.

[51] H.C. 953/87, Poraz v. Shlomo Lahat, Mayor of Tel Aviv, 42(2) P.D. 309.

[52] H.C. 153/87, Shakdiel v. The Minister of Religious Affairs and Others, 42(2) P.D. 221.

[53] This information was obtained by Ms. Atara Kenigsberg, administrator of the Forum on Women's Status at Bar-Ilan University, after going through the records of all religious councils in the country.

Supreme Court decision, women still have great difficulties in getting elected to municipal religious councils.[54]

The case of the Women of the Wall serves as an opposite illustration of the effect of religion on Jewish women. This affair began in December 1988, when a group of Israeli and foreign women, representing all religious streams in Judaism, prayed together and read from a *Torah* scroll in the women's section of the Western Wall while wearing prayer-shawls--all practices which are traditionally reserved for men alone. The group was interrupted, attacked, and dispersed by ultra-orthodox men and women who were offended by its non-traditional practices. In March 1989, the group petitioned the High Court of Justice after being violently attacked on repeated occasions when they tried to pray, even without prayer-shawls and *Torah* scrolls. They asked the court to protect their right to freedom of religion by guaranteeing their right to pray as they wished at the Western Wall. In December 1989, the Minister of Religion amended the Regulations on the Protection of Sacred Places for the Jewish People for 1981 to include a provision that prohibits the engagement in religious rituals at the Western Wall that are not in accordance with the custom of the place and that offend the feelings of those praying there.[55] The petitioners then amended their petition to include the nullification of this amendment. The Court gave its majority decision in January 1994, denying the petitions, but recommending the establishment of a governmental committee to fully investigate the subject and search for an alternative solution that would "guarantee freedom of access to the Wall while minimizing the offense to the other worshippers at the sight."[56] The group had to petition the High Court of Justice once again in 1995, to hasten the work of that committee. After many delays, deliberations of several committees, and the passage of two sets of elections in Israel, the bottom line recommendation was that

[54] It should be noted, though, that the current conflicts regarding the operation of religious councils relate to the partaking of representatives of the Conservative and the Reform streams of Judaism, and not to the question of women's participation.

[55] The Regulations on the Protection of Sacred Places for the Jewish People (Amendment), 1989, K.T. 5237, 190.

[56] H.C. 257/89, Anat Hofman v. The Commissioner of the West Wall, 48(2) P.D. 309.

the women be allowed to pray in the manner they wished, but in a secluded section of the Wall, removed from the main public area, that serves as an archeological garden. The women objected to this solution, both in principle and for practical reasons.

In May 2000, a unanimous Court finally accepted the women's position, ruling that the women's principled right to pray in their manner at the Wall had already been recognized in its 1994 decision, and that the committees' recommendation did not conform with that holding. Consequently, the Court directed the government to make, within six months, the appropriate arrangements to enable the women's group to pray at the Wall, with minimum offense to other worshippers, and with the provision of the necessary security measures.[57] The decision was met with much criticism from religious circles, adding to the growing estrangement between large parts of the religious public and the Supreme Court.[58] Within only a few days, the Knesset passed, in a preliminary reading, one of the ultra-Orthodox party's bills to issue a seven-year jail sentence to any woman who prayed at the Wall donned with *tallit* and *tefillin*, or who read from the *Torah* aloud at the Wall. The preliminary reading passed with a majority of 32-26, including several members of the Knesset from non-religious parties.[59]

Significantly, though, lack of sympathy and understanding of the women's struggle has characterized the secular public and the media as well. The press coverage included much speculation as to the women's cause and motives. It seems that from both sides, the religious and the secular, women's spiritual needs and religious interests are still hard to accept.[60] Thus, perhaps not surprisingly, the

---

[57] H.C. 3358/95, Anat Hofman v. Director General of the Prime-Minister's Office (May 20, 2000) (not yet published).

[58] Thus, for example, Chief Rabbi Bakshi-Doron was reported to condemn the Court's decision as a step in creating a schism in the nation. *See Chief Rabbi Attacks the High Court of Justice*, HA'ARETZ (visited May 22, 2000) <http://www2.haaretz.co.il/special/cotel/a/113799.asp>.

[59] *See* Editorial, *The Knesset has Shamed Itself*, HA'ARETZ (June 2, 2000) <http://www2.haaretz.co.il/special/cotel/a/182295.asp>.

[60] *But cf.* Pnina Lahav, *Up Against the Wall: The Case of Women's Struggle to Pray At the Western Wall in Jerusalem*, ISRAEL STUD. BULL. (forthcoming) (on file with author),

State's request for a rehearing of the case with an expanded panel of justices was granted, even though it is quite rare that unanimous decisions are given a rehearing.[61] This struggle, then, is not over yet.

Bearing in mind the outcome of the first Court ruling, Professor Susan Sered offers an interesting explanation for the differing results of these two conflicts--representation in religious bodies,[62] and Women of the Wall. She suggests that in the former, the conflicting parties succeeded in constructing the controversy in secular terms, thus managing to devoid it of any religious implications. In the latter, however, the women's attempt to present their struggle as a rebellion and not as revolution failed, and the religious establishment's opposition perceived it as pertaining to very theological underpinnings.[63] This thesis is relevant to the Courts' decisions as well, two of which were decided by the former Deputy Chief Justice, Professor Menachem Elon, an orthodox judge and an expert on Jewish law. In the *Shakdiel* case, Justice Elon made it a central point of his decision to stress the secular nature of the operation and the workings of religious councils, which enabled him to present the controversy as purely one of civil constitutional law that pertains to the right to equality, and not as a religious controversy at all. His decision in the *Hoffman* case, on the other hand, reads like an academic article in Jewish law, presenting a scholarly analysis of women's obligation and permission to perform *mitzvot* (religious decrees) in general, and women's permission and right to pray in prayer-groups in particular. Unlike the other two Justices, Elon constructs the controversy in religious terms, interpreting the regulations' reference to "the custom of the place" as one pertaining to the religious conventions, thus enabling him to give deference to the Chief Rabbi, who had obviously

---

suggesting that this is another expression of Israel's public general hostility to any feminist cause.

[61] H.C.R. 4128/00, Director General of the Prime-Minister's Office v. Anat Homan (July 13, 2000) (not yet published). An unusual panel of nine justices will rehear the case.

[62] Sered discusses separately the issue of participation in the body that elects municipal rabbis, and detects similar traces in this case and the case of religious councils. Since the two cases were decided in proximity, and the legal issues and their confrontation by the Court were in fact the same, I see no reason to separate the two.

[63] Susan Sered, *Women and Religious Change in Israel: Rebellion or Revolution*, 58 SOC. OF RELIGION 1, 24 (1997).

rejected altogether the women's initiative. Although he clearly sympathized with women and had demonstrated their conformity with Jewish law, he nonetheless expressed some reservations as to the motives of some of them, and on the whole, has preferred conventional religious practice and custom over the women's cause, rejecting their claim for a concrete right to pray at the Wall. Thus, by placing the controversy within the purely religious sphere, women and their rights were physically and figuratively distanced from the scene.

In light of this analysis, the second and most recent Court ruling in this affair can be seen as an attempt to relocate the controversy into the secular-constitutional sphere. Justice Maza, who wrote the decision and was joined by two women justices, had very carefully isolated the normative rights-talk from the previous case, and concluded that two of the three justices in that case had acknowledged the women's principled right to worship at the Wall. While this conclusion certainly carries a subjective interpretive component, the attempt at removing the religious contents from the scene is evident. It remains to be seen what direction this interplay will take upon the rehearing of the case.

V. INFORMAL EXPRESSIONS

For the purposes of this discussion, informal expressions of the interconnection between religion and State in Israel concerning women, include episodes where women's rights, concerns, and interests are being effectively prejudiced with no relation whatsoever to the rule of religious law over marriage and divorce or to any other formal, legal integration of religion and state. As explained above, this is the area in which the conventional feminism-multicultural debate is indeed relevant. Examples of such informal expressions of the interconnection between religion and state in Israel abound. Perhaps the most obvious one has to do with the highest form of the public sphere, namely political participation. In Israel, some of that

public political space is in fact inherently closed to women, inasmuch as it is occupied by religious parties, which view politics and leadership roles as exclusively male. The current reality is that out of 120 seats in the Israeli parliament, twenty-eight are occupied by religious parties, making almost a quarter of the seats de facto closed to women. Thus, with no formal or legal sanctioning, women are partially precluded from political integration. One could, of course, argue that there is a place for formal involvement, from the exact opposite direction: the State should actively prohibit such exclusively male-represented political parties. This approach implies actual State intrusion into what is usually perceived as "internal affairs" of a community, albeit a religious community. It challenges the basic definition of the question as an internal one to community alone.[64] Moreover, it suggests that the State can legitimately impose certain values, such as gender equality, upon all its citizens.[65] These are all aspects of the intense debate on pluralism, multiculturalism, and cultural relativism, which has prevailed within the Israeli society in recent years,[66] though with not much attention devoted to explicit feminist concerns. Although this specific example of legislative and governmental representation has not yet been directly confronted, a position such as that of Frances Raday, who argues against the promotion of multiculturalism at the expense of women's rights and gender equality, could perhaps lead to legitimization of State regulation of religious political associations.[67] An opposite, more communitarian and cultural-relativist approach would obviously lead to a firm rejection of such a suggestion.

The next example perhaps demonstrates the best case study of the feminist-multicultural dilemma within the Israeli context. In July 1997, the Ministry of Traffic adopted a trial policy of sex-segregation

---

[64] Martha Minow, *Pluralisms*, 21 CONN. L. REV. 965 (1989).

[65] Yael Tamir, *Two Concepts of Multiculturalism*, *in* MULTICULTURALISM IN A DEMOCRATIC AND JEWISH STATE, *supra* note 1, at 79-92.

[66] *See supra* note 1.

[67] Raday, *Religion, Multiculturalism and Equality*, *supra* note 16. This would also be the outcome of Okin's approach, as reflected in Okin, *Is Multiculturalism Bad for Women?*, *supra* note 4.

in part of several bus lines that mainly serve the ultra-Orthodox population in Jerusalem and in Bnei-Brak. This policy was based on recommendations of a committee that the Traffic Minister had appointed to investigate ways to encourage the use of public transportation by the ultra-Orthodox communities.[68] While maintaining the personal option of each passenger for mixed sitting, the policy sanctioned the voluntary ordering of the ultra-orthodox population to direct separate embarking, debarking, and sitting in the buses. The voluntary arrangement would provide for men to enter and sit at the front of the buses, while women were to occupy only the back parts of the buses. This arrangement was to be achieved by convincing passengers to abide by the community's values and beliefs. Incidentally, the committee upon whose recommendation the policy was adopted apparently included only one woman, and among the sixteen participants of the discussion during which the policy was adopted, which included representatives of the bus companies and of the ultra-orthodox community, only one woman was present.[69] Immediately following the Ministry's decision, the Israel Women's Network appealed to the High Court of Justice, arguing that the policy was discriminatory against women because it physically and symbolically relegated them to the rear parts of society. Relying on the famous holding in the U.S. Supreme Court case *Brown v. Board of Education,*[70] the Network argued that such an arrangement of "separate but equal" violated the principle of gender equality. The State's response to the appeal clearly demonstrated the ideology of multiculturalism. In emphasizing the initiative as coming from the religious community and mostly directed at that community alone, the voluntary acceptance of the policy by the community, the overall satisfaction of the passengers, and the lack of any complaint by passengers, the State denied the network's contention of gender

[68] Recommendations of the Committee to Encourage the Use of Public Transportation within the Ultra-Orthodox Sector, May 1997 (on file with the author); Israel Women's Network appeal to the High Court of Justice in H.C. 5079/97, Israel Women's Network v. The Minister of Traffic (on file with the author).

[69] Appendix to the Israel Women's Network appeal, *supra* note 68.

[70] 347 U.S. 483 (1954).

discrimination altogether. Another line of argument in that direction that was raised in the media was the willing cooperation of the women themselves, who arguably prefer sex segregation, which enables them more freedom of movement in the back of the buses.

In a hearing three years after the appeal, following quite a few delays, the Network was practically convinced by the High Court of Justice to withdraw its appeal. In so doing, one can speculate that the Court indicated its hesitancy to confront the delicate subject of multiculturalism, and its apprehension of being once again blamed for intruding into religious affairs and circumventing religious freedoms of closed communities.[71] Nevertheless, by this move, the Court has also maintained the status quo, which, as shown by the Network's appeal, can be clearly perceived as marginalizing and in effect discriminating against women. If the former example demonstrated women's exclusion from the political sphere and encroaching upon their political space, this example demonstrates women's marginalization and encroachment upon their very physical and geographical space. The point is that both these episodes do not result in any sense from the formal, legal connection between religion and State. Thus, they demonstrate the argument that informal expressions of this integration are no less significant for the situation of women than the formal ones. Furthermore, they highlight the relationship between this subject-matter and the complex question of multiculturalism in Israel.

[71] During the 1990's, the tension between the High Court of Justice and the religious community in Israel had risen to an unprecedented peak. Menachem Hofnung, *The Unintended Consequences of Unplanned Constitutional Reform: Constitutional Politics in Israel*, 44 AM. J. COMP. L. 585, 604 (1996); Ariel Rosen-Zvi, *A Jewish and Democratic State: Spiritual Parenthood, Alienation and Symbiosis--Can We Square the Circle?*, 19 TEL AVIV U. L. REV. 479, 520 (1995) (Hebrew).

VI. CONCLUSION

The overall expressions of the influence of state and religious relationships on women's lives in Israel result in a combined effect of oppression of women, both in the private and in the public spheres. Unequal power within the family results in women's subordination in the private sphere, while power is all too often denied to women in the public sphere. While the formal integration of religion and State in Israel is central to this, the semi-formal and informal expressions of these relationships are no less significant. From a theoretical perspective, it is misleading to construct the formal expressions in terms of the feminist-multicultural debate since the formal imposition of the minority culture over the majority makes any claim for respect and preservation ironic. The context of the formal expressions of an integration between religion and state should be analyzed in simple human rights discourse, and the conclusion should be clear: the imposition of patriarchal religious norms over unwilling individuals cannot be justified on any legal grounds, and no multicultural arguments are relevant here. The context of the informal expressions of the integration between religion and state is the appropriate one for the multicultural discourse. In addition to the conventional arguments within the feminist-multicultural debate, the Israeli case holds another dimension. When contemplating the need to accommodate the minority culture in order for its preservation, the overall context of the integration between religion and state cannot be ignored. In light of the overall context, it is arguable that the threat of further imposing religious norms over the majority is more realistic than the threat of the cultural minority's extinction. In that case, much of the multicultural argument loses its force.

Under the current political situation, structural changes regarding the various expressions outlined in this article are rather improbable. The only venue for reform at present seems to lie within the internal mobilization of women in the religious community itself. The Orthodox feminist movement, which is slowly gaining momentum in Israel, represents the potential for social, institutional, and even

normative reform of the religious community. Although this movement is still confined only to the moderate segment of the Orthodox community (and even there it faces tremendous internal opposition), it nonetheless signals the possibility of internal change even where no formal external pressure has been imposed.