

LAW AND RELIGION

Women's Rights and Religious Law

Domestic and International Perspectives

Edited by
Fareeda Banda and Lisa Fishbayn Joffe

Women's Rights and Religious Law

Domestic and International
Perspectives

Edited by
**Fareda Banda and
Lisa Fishbayn Joffe**

First published 2016
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

and by Routledge
711 Third Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

© 2016 selection and editorial matter, Fareda Banda and Lisa Fishbayn Joffe;
individual chapters, the contributors

The right of Fareda Banda and Lisa Fishbayn Joffe to be identified as the author of the editorial material, and of the authors for their individual chapters, has been asserted in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

Trademark notice: Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Library of Congress Cataloguing in Publication Data

Women's rights and religious law : domestic and international perspectives / Edited by Fareda Banda and Lisa Fishbayn Joffe.

pages cm. – (Law and religion)

Includes bibliographical references and index.

ISBN 978-1-138-85597-7 (hbk) – ISBN 978-1-315-72000-5 (ebk)

1. Women—Legal status, laws, etc. 2. Women and religion. 3. Religious law and legislation. 4. Women's rights. I. Banda, Fareda, editor.
II. Joffe, Lisa Fishbayn, editor.

K644.W67 2016

342.08'78—dc23

2015030060

ISBN: 978-1-138-85597-7 (hbk)

ISBN: 978-1-315-72000-5 (ebk)

Typeset in Galliard
by Out of House Publishing



Printed and bound by CPI Group (UK) Ltd, Croydon, CR0 4YY

Women's Rights and Religious Law

The three Abrahamic faiths have dominated religious conversations for millennia but the relations between state and religion are in a constant state of flux. This relationship may be configured in a number of ways. Religious norms may be enforced by the state as part of a regime of personal law or, conversely, religious norms may be formally relegated to the private sphere but can be brought into the legal realm through the private acts of individuals. Enhanced recognition of religious tribunals or religious doctrines by civil courts may create a hybrid of these two models.

One of the major issues in the reconciliation of changing civic ideals with religious tenets is gender equality, and this is an ongoing challenge in both domestic and international affairs. Examining this conflict within the context of a range of issues including marriage and divorce, violence against women and children, and women's political participation, this collection brings together a discussion of the Abrahamic religions to examine the role of religion in the struggle for women's equality around the world. The book encompasses both theory and practical examples of how law can be used to negotiate between claims for gender equality and the right to religion. It engages with international and regional human rights norms and also national considerations within countries.

This book will be of great relevance to scholars and policy makers with an interest in law and religion, gender studies and human rights law.

Fareda Banda is a Law Professor at SOAS, UK where she teaches courses on Women's Rights, Family Law and Law and Society in Africa.

Lisa Fishbayn Joffe founded and directs the Project on Gender, Culture, Religion and the Law at the Hadassah-Brandeis Institute of Brandeis University, USA.

Law and Religion

The practice of religion by individuals and groups, the rise of religious diversity, and the fear of religious extremism, raise profound questions for the interaction between law and religion in society. The regulatory systems involved, the religious laws of secular government (national and international) and the religious laws of faith communities, are valuable tools for our understanding of the dynamics of mutual accommodation and the analysis and resolution of issues in such areas as: religious freedom; discrimination; the autonomy of religious organisations; doctrine, worship and religious symbols; the property and finances of religion; religion, education and public institutions; and religion, marriage and children. In this series, scholars at the forefront of law and religion contribute to the debates in this area. The books in the series are analytical with a key target audience of scholars and practitioners, including lawyers, religious leaders, and others with an interest in this rapidly developing discipline.

Series Editor: Professor Norman Doe, Director of the Centre for Law and Religion, Cardiff University, UK

Series Board:

Carmen Asiaín, Professor, University of Montevideo

Paul Babie, Associate Professor and Associate Dean, Adelaide Law School

Pieter Coertzen, Chairperson, Unit for the Study of Law and Religion, University of Stellenbosch

Alison Mawhinney, Reader, Bangor University

Michael John Perry, Senior Fellow, Center for the Study of Law and Religion, Emory University

Titles in this series include:

Religious Expression in the Workplace and the Contested Role of Law
Andrew Hambler

Religion in the British Constitution
Liberty and Limitation
Javier Oliva and Helen Hall

Forthcoming titles in this series include:

Constitutionalism, Democracy and Religious Freedom
To be Fully Human
Hans-Martien ten Napel

Contemporary Northern Nigeria is under review with the University of California Press. She holds a PhD (2012) in the Study of Religion from Harvard University and has held postdoctoral fellowships at Brandeis University (2013), UC Berkeley (2013), and the Forum Transregionelle (EUME) at the Wissenschaftskolleg in Berlin (2013–2014).

Lisa Fishbayn Joffe directs the Project on Gender, Culture, Religion and the Law at the Hadassah-Brandeis Institute of Brandeis University. The mission of the GCRL Project is to produce scholarship that explores the tension between women's equality claims and religious laws. She is an expert on women's rights under Jewish family law and African customary law and on the intersection between secular and religious law. She has co-edited several anthologies, including *Gender, Religion and Family Law: Theorizing Conflicts Between Women's Rights and Cultural Traditions* (Brandeis University Press, 2012), and *The Polygamy Question* (Colorado University Press, 2015). Her next project, on women's rights and Jewish divorce, is entitled *Gender, Justice and Dialogue in Jewish Law*. She is editor of the Brandeis University Press Series on Gender, Culture, Religion and the Law and is co-founder of the Boston Agunah Taskforce, devoted to research, education and advocacy for women under Jewish family law.

Celene Ibrahim holds a joint appointment between Hebrew College and Andover Newton Theological School as Islamic Studies Scholar-in-Residence. She co-directs the Center for Inter-Religious and Communal Leadership Education, a premiere global hub for interreligious studies, and publishes widely on themes ranging from Muslim feminist theology and Qur'anic studies to Islamic leadership in North America.

Rabbi Aryeh Klapper is Dean of the Center for Modern Torah Leadership, Rosh Beit Midrash of its Summer Beit Midrash Program and a member of the Boston Beit Din. He previously served as Orthodox Adviser and Associate Director for Education at Harvard Hillel, as Talmud Curriculum Chair at Maimonides High School and as Instructor of Rabbinics and Medical Ethics at Gann Academy. Rabbi Klapper has published in *Tradition*, *Meorot*, *Dinei Yisrael*, *Beit Yitzchak* and other journals and has presented at numerous academic and community conferences. He is a popular lecturer who is consulted internationally on issues of Jewish law and whose work is cited regularly by both academic and traditional scholars.

Pnina Lahav is a Professor of Law at Boston University. She is a graduate of the Hebrew University in Jerusalem, Yale Law School and Boston University. She earned several prestigious fellowships including a Rockefeller Fellowship, a fellowship at the Center for Advanced Studies in the Behavioral Sciences at Stanford, CA and a fellowship at the Center for Advanced Studies at the Hebrew University in Jerusalem. She also served as a Religion Fellow at Boston University's School of Theology. Professor Lahav has published numerous articles on constitutional law, freedom of expression and women's rights. Most recently she has been working on

the issue of women's prayers in Judaism and Islam. She is the author of the acclaimed biography *Judgment in Jerusalem: Chief Justice Simon Agranat and the Zionist Century* (University of California Press, 1997) and is the editor of several other volumes. Presently she is working on a biography of Golda Meir through the gender lens.

Yael Machtinger is a PhD Candidate in Socio-Legal Studies, at York University. Machtinger's Doctoral Dissertation, supported by the Social Sciences and Humanities Research Council Doctoral Fellowship, Ontario Graduate Scholarship, and Religion and Diversity Project Fellowship, explores overlapping Jewish and secular legal norms relying on socio-legal literatures on religion, identity and culture, as well as gender and storytelling. Applying social theory, religious feminism and legal pluralism, Machtinger examines women's narratives of being "chained" to a marriage. Machtinger is also an award-winning teaching assistant in the Law and Society Program.

Frances Raday, Professor of Law, is Director of the Concord Research Center for Integration of International Law in Israel at the Haim Striks Law School, COLMAN. She is a Special Rapporteur of the UN Human Rights Council, in the Expert Working Group on Discrimination Against Women, and previous Expert Member of the Committee for the Elimination of Discrimination Against Women. Raday is Professor Emerita, Hebrew University, Lieberman Chair for Labour Law; Honorary Professor, University College London; and Doctor Honoris, University of Copenhagen. She is the author of numerous academic books and articles on labour law, international human rights law and feminist legal theory.

Anne Saris is a law professor at UQAM (Lld). Her research focuses on the phenomenon of internormativity (overlapping of different norms such as religious norms, ethical norms and legal norms) and the analysis of state law and its agents from both an insider and outsider perspective. Her areas of expertise include women's human rights, civil law (legal personhood, legal status of the body faced with the advances in biotechnology, family law), and law and religion. Her research combines a theoretical (overlapping of normative orders) and ethnographic approach (empirical research on the different modes of alternative dispute resolution and conflict prevention used by Canadian Muslim women in family matters in Montreal for instance).

Sima Zalcberg Block holds a PhD from the Department of Sociology and Anthropology, Bar-Ilan University, and an MSc from the Faculty of Industrial and Management Engineering at the Technion – Israel Institute of Technology. She has been a researcher of social and policy issues at The Myers-JDC-Brookdale Institute in Jerusalem, for more than a decade. In recent years she has been writing and teaching on issues related to gender, religion, modern-Orthodox society and ultra-Orthodox society in Israel and the United States. Her most important publications deal with the hasidic women of the Toldot Aharon extremist sect.

Acknowledgements

The genesis of this book was a year-long collaboration between SOAS, University of London and the Hadassah-Brandeis Institute Project on Gender, Culture, Religion and the Law at Brandeis University on the theme of *Gender, Religion and Public Life*. It was funded by the British Council trans-Atlantic “Bridging Voices” programme through the auspices of the Henry Luce Foundation. The project explores the role of religion in the struggle for women’s equality around the world. The Project on Gender, Culture, Religion and the Law was founded and is supported by a generous gift from the Sylvia Neil and Dan Fischel Philanthropic Fund.

Our thanks go to our colleague Lynn Welchman who worked with us to conceptualize the project. We owe an enormous debt of gratitude to John Eekelaar who has helped in every conceivable way. He read many versions of the book proposal and has been key in the editorial process of this book. Thank you John. We are also grateful for research and editorial assistance from Rachel Putterman, Zaneefa Walsh and Morgan Flanagan-Folcarelli.

Our thanks are also due to all those who participated in the two workshops held at SOAS and Brandeis in 2014. Thank you also to Tim Rivera, formerly of the British Council. Fareda would like to acknowledge the kindness and hospitality of the NYU Law School community during her sabbatical in the autumn (fall) of 2014. We have had the good fortune to work with an encouraging editorial team at Routledge: Annabelle Harris, Mark Sapwell and Olivia Manley. Thank you!

It goes without saying that without our contributors, this book would not have been possible. To all, our heartfelt gratitude for your time and contributions.

Contents

<i>List of contributors</i>	vii
<i>Acknowledgements</i>	x

Introduction	1
FAREDA BANDA AND LISA FISHBAYN JOFFE	

PART I

Gendered rites: gendered rights? 11

1 Culture, religion and women's international human rights	13
FRANCES RADAY	
2 Marriage, religion and gender equality	32
JOHN EEKELAAR	
3 Gender, religion and human rights in Africa	45
FAREDA BANDA	
4 Implications of the Vatican commitment to complementarity for the equality of the sexes in public life	68
MARY ANNE CASE	

PART II

Negotiating gender and religion in state law 89

5 Between strict constructionist sharī'ah and protecting young girls in contemporary Northern Nigeria: the case of child marriage (ijbār)	91
SARAH ELTANTAWI	

vi *Contents*

6	Family law reform, spousal relations, and the “intentions of Islamic law”	108
	CELENE IBRAHIM	
7	The woes of WoW: the Women of the Wall as a religious social movement and as a metaphor	123
	PNINA LAHAV	
8	Religious coercion and violence against women: the case of Beit Shemesh	152
	SIMA ZALCBERG BLOCK	
PART III		
	Religious divorce in civil courts	177
9	The impact of “foreign law” bans on the struggle for women’s equality under Jewish law in the United States of America	179
	LISA FISHBAYN JOFFE	
10	Systemic misunderstanding between rabbinical courts and civil courts: the perspective of an American rabbinical court judge	202
	RABBI ARYEH KLAPPER	
11	Socio-legal gendered remedies to <i>get</i> refusal: top down, bottom up	223
	Yael MACHTINGER	
12	Challenging stereotypes: gender-sensitive imams and the resolution of family disputes in Montreal	255
	ANNE SARIS	
	<i>Select bibliography</i>	278
	<i>Index</i>	307

Introduction

Fareda Banda and Lisa Fishbayn Joffe

Religion and gender equality: defining the conflict

Required, rejected, regulated or relegated to the private sphere, religion is everywhere. Far from fading into insignificance following developments in scientific knowledge and the move towards an ill-defined “modernity”, religions and religious discourses have taken even greater hold in all societies. It is telling that regardless of the framing of the state’s relationship to religion, secular or devout, religion still manages to permeate public discourse and to regulate behaviour.

The struggle for gender equality is a key challenge in both domestic and international affairs. Every generation confronts the desires of members of various religious communities to follow their religious belief. Recent decades have seen the rise of human rights as the global normative framework seeking to direct relations amongst citizens and most importantly between citizens and governments. The intersections of gender, religion and human rights often give rise to competing claims that are difficult to reconcile in both domestic and international policy. Indeed, the global re-turn to religion(s) is also linked to dislocation and the heightened sense of physical and economic insecurity being experienced around the world. Human rights activists cannot afford to dismiss it as irrelevant, and to label religious adherents as irrational. Scope and space for meaningful conversations have to be found. Academics and policy makers have addressed these conflicts in the context of a range of issues including marriage and divorce, reproductive decision-making, violence against women and children and women’s political participation.

This anthology also seeks to move beyond the focus of most lawyers and human rights scholars on comparative textual analyses and attempts to reconcile religion with human rights norms. It does some of that. However, the emphasis is on empirically grounded studies of religious law as it is being conceived, practised and interpreted in various communities, from the Hausa in Northern Nigeria to Muslim families in Montreal and Jewish communities in Beit Shemesh, Boston and Toronto. These snapshots of the lived realities of communities of faith provide important insights into the ways in which religious principles are being manipulated, co-opted, contested and reshaped to meet the evolving challenges that face the societies under review.

Gender, religion and equality are the fault lines of the twenty-first century. While both the right to profess and practise a religion and the right to live one's life free from discrimination, including on grounds of sex, are recognized in international and regional human rights, gender and its interpretation is more contested. While many choose to elide sex and gender using the two as synonyms, others interpret gender in more complex ways, including as encompassing plural sexual identities and other intersections.¹ The meaning of gender changes depending on who is using the term and in what context. For our purposes, we adopt the definition of gender within the international human rights framework:

The term "sex" here refers to biological differences between men and women. The term "gender" refers to socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women. This social positioning of women and men is affected by political, economic, cultural, social, religious, ideological and environmental factors and can be changed by culture, society and community.²

Of course, a view of gender that is rooted in a binary, male-female, sex model, misses a crucial element of gender that is its pluralism. Under secular law in some segments of the world, gender is arguably becoming less relevant. Widening recognition of a broad and fluid range of gender identities that are not correlated with sexual morphology (at birth, or at all) and advanced technologies that enable gender transition make invocations of gender more complex and challenging.³ In previous centuries, secular law had to be concerned with the gender of its subjects because so many rights and privileges were gender differentiated. One could not establish rights to inheritance or family property, the capacity to perpetrate or be the victim of a sexual assault, or entitlements to vote and serve in public office, without knowing the gender of the claimant. In the twenty-first century, few of these gender differentiated legal categories remain intact. The recognition of gender equality in family law, criminal law, property law and citizenship render these issues moot. With the advent of same-sex civil marriage, perhaps the most significant context in which the law must concern itself with gender has fallen away. It is equally true to say that the growing recognition of same sex marriage has had a negative impact on gender relations in parts of the global South. Religion and culture have been invoked to denounce the developments in the North and as a justification for not extending rights to minorities.

Gender has not faded away in the context of religion to the same extent. Many of the rites and rituals associated with religious practice continue to be gender differentiated. These include rights to enter and exit marriage, rights and duties related to public religious worship and interpretation of sacred

texts and obligations under codes of modesty and honour. Accordingly, areas of life that are regulated by religious norms continue to generate conflicts between gender equality and religious doctrine and to provide occasions for working out how changing notions of appropriate gender relations can be meshed with religious values.

States seeking to ensure that there is no normative dissonance between their international and regional commitments and arguably also religious ethos, do so by entering reservations to international human rights treaties. It is telling that the instrument most consistently reserved with reference to religion is the UN Convention on the Elimination of all Forms of Discrimination against Women, 1979 (CEDAW).⁴ Concluding observations to CEDAW show that, in practice, there is little to distinguish between states with reservations and those without in their implementation of the Convention.⁵ In part this may be explained by the elision of religion and culture identified by Raday.⁶ While the formal legal position is that these reservations breach article 27 of the Vienna Convention on the Law of Treaties, which provides that national law must yield to international obligations, religious observers would note that "God is bigger than any state" so that one's obligation is to obey one's religion rather than either state or international law.⁷ This in turn puts women of faith in an invidious position.

The meaning of gender as a concept thus lies at the fault line between orthodox strands of the three Abrahamic religions and nominally secular, but no less passionate, human rights advocates. Because gender reflects the ways in which all societies construct social norms, it is everywhere: in religious and secular spaces; in majoritarian faiths as well as ones practised by minorities; and of course in the ways in which people of no faith regulate their lives.

Many explorations of these conflicts have tended to focus disproportionately on Muslim women or women in Islam. They tend to dwell on two issues: dress (usually women and the veil) and women in the family.⁸ It is true that many of these works offer important and challenging critiques of the increasingly narrow and male-centric interpretations of the religion.⁹ Still, the impression created by the apparent deluge of literature, and case law, on "Muslim women" is of Islam as a uniquely oppressive religion, not least in Europe. Even books that seek to engage with the ways in which religion in general treats women, tend, in the end, to focus their attention on Islam. Examples of this trend are widely available. In the provocatively titled *Does God Hate Women?*, in a chapter which anticipates a charge of Islamophobia, the authors note: "It is not as though we've ignored the sins of other religions...but there's no denying that Islam is leading the pack in the misogyny stakes."¹⁰

Muslim feminist theorists have noted how the motif of a need to rise to the defence of the "imperilled Muslim woman" has been taken up by both western feminists and critics of Islam. Disappointment with the progress of domestic feminist projects led to a turn outward towards gender conflicts that could be characterized as "spectacularly oppressive and easy to organize

around” in other cultures.¹¹ Forced veiling and murder or maiming motivated by concerns of honour are offered as the paradigm context of conflict between religion and human rights in liberal democracies.¹² But focus only on these extreme situations masks the more mundane and widespread role that traditional religions, including but not limited to Islam, play in perpetuating gender inequality. Moral panics about the impact of “creeping Shariah law” in the West have both exaggerated the role Islamic law adjudication plays and under-estimated the extent to which civil family law is enmeshed with a range of religious family law rules that also discriminate against women. This book, therefore, explores themes of gender, religion, equality and human rights under the law in Judaism, Islam, Catholicism, Scientology, Rastafarianism and indigenous belief systems.¹³

The expanding scope of this analysis is the focus of Part 1, *Gendered rites: gendered rights?* In the first chapter, *Culture, religion and women’s international human rights*, Frances Raday provides a detailed historical account, describing the genesis of human rights protections for women and challenging the notion of a fundamental inconsistency between a commitment to gender equality and respect for religious faith. Raday’s focus is on the three Abrahamic faiths. While the human rights regime is indeed “the child of secularism”, it is based on a consensus affirmed by adherents to many different religious traditions. She traces the ways in which human rights norms have come into conflict with a range of religiously justified practices and describes twenty-first-century reactions against the success of these initiatives. She argues that the recurrence of these rearguard actions in the context of women’s human rights work requires strict vigilance and caution lest the impulse to accommodate religious claims allows these gains to be lost.

Minority religions are often ignored or lack recognition and thus protection from religious discrimination for the adherents. Parties to marriages conducted under the auspices of these religions may therefore lack the benefits and protections of civil marriage. John Eekelaar’s chapter, *Marriage, religion and gender equality*, uses discussion of English doctrine on the validity of marriage ceremonies to explore the role of the state in recognizing and validating religious marriage. While the recent decision of the United Kingdom Supreme Court in *Hodkin v. Registrar General*¹⁴ recognized Scientology as a religion, allowing their churches to be registered for performing legally recognized marriages, Eekelaar points out that the system of requiring religious marriages to be performed in registered buildings in order to acquire state recognition creates anomalies and seems in practice to have restricted the recognition of marriages by many British Muslims. Women in these marriages may be subject only to Islamic legal norms and have no access to English courts.

Fareeda Banda’s chapter, *Gender, religion and human rights in Africa*, looks at feminist academic accounts of the shift in the understanding of gender from pre-colonial to colonial African States. She highlights how the imposition of colonialism and the religions that followed led to changes in gender

relations. Banda's chapter also considers the decision of the regional human rights body, the African Commission, to recognize the rituals and practices, which included worshipping of their ancestors, of the Endorois indigenous group in Kenya as falling within the purview of "religion". In looking at national case law on the exclusion of Rastafari boys and men, Banda relies on the insights of masculinity studies, which have highlighted the disproportionate gendered impact of the stereotyping of men as breadwinners. Denying a man the right to work because he wears his hair in dreadlocks is, in effect, a form of emasculation. Men are the families' agents for securing livelihoods of the group at large. Additionally, requiring Rastafari to cut off their dreadlocks, which they sincerely believe to be a central tenet of their religion, not only negates their ability to practise and manifest their religion, but also leads to what Yoshino has termed enforced covering.¹⁵

The chapter by Mary Anne Case, *Implications of the Vatican commitment to complementarity for the equality of the sexes in public life*, traces the evolution of the use of complementarity by the Holy See in its gender discourse. This work helps to explain how the well-documented clashes over the meaning of gender that occurred between religious leaders led by the Holy See and more secular minded delegates at the fourth women's conference held in Beijing in 1995 and subsequent developments came to be. She traces a significant transformation in Catholic understandings of the nature of gender to a twentieth-century reaction against progressive claims from women's ordination, acceptance of contraception and toleration of homosexuality. She describes the impact these notions of gender have had on the Vatican's intervention in international law and domestic policy across Europe. She concludes that analysis of Pope Francis's attitude towards questions of gender does not suggest a change in the Church's approach to these issues or its role in international gender discourse.

The Holy See is not alone. It often acts in alliance with the Organisation of Islamic Cooperation (OIC), a group of 57 states straddling four continents.¹⁶ Member states of the Organisation of Islamic Cooperation decided to incorporate a religious view of gender within a human rights framework, which took Sharia as its starting point.¹⁷ This is exemplified by the Cairo Declaration on Rights in Islam, which makes religion the foundation and interpretive lens through which human rights are to be understood.¹⁸ The situation is complicated by the fact that many OIC member States have also ratified international human rights instruments requiring equality between men and women, some with, and others without reservations, thus creating normative dissonance and uncertainty. This has negative consequences for women.

Part II, *Negotiating gender and religion in state law* presents case studies in Islam and Judaism that explore how a range of political and cultural factors shape the expression, understanding and resolution of disputes regarding women's rights and religious law. In *Between strict constructionist shari'ah and protecting young girls in contemporary Northern Nigeria: the case*

of *child marriage* (*ijbār*), Sarah Eltantawi presents the results of her field-work in Northern Nigeria investigating initiatives to outlaw child marriage. Nigeria, a Federal state, has a plural legal system. Eltantawi examines the reasons why some in the North are demanding that Sharia law should apply in both criminal and family law cases. Although not permitted by legislation protecting the rights of children, there is a high rate of (girl) child marriage which some justified by reference to the Sharia. Eltantawi's interviews showed that many people, including Islamic legal authorities, were appalled at the abuse of young girls. Her chapter traces the political tensions and legal interpretive strategies used to avoid the application of religious law in order to protect girls from early marriage and the health and emotional suffering it entails. Her analysis demonstrates how women's rights advocates invoking international human rights norms have sought to use the re-interpretation of Sharia as an occasion to encourage egalitarian change.

Celene Ibrahim also explores the resources Islamic legal authorities have at their disposal to resolve tensions between women's equality claims and Islamic laws regarding marriage and divorce. In *Family law reform, spousal relations, and the "intentions of Islamic law"*, Ibrahim describes how the strategy of identifying the potentially egalitarian "higher principles" which underpin discriminatory Islamic law norms has led to progressive family law reform, such as the expansion of opportunities to use premarital contracts to opt out of default marital conditions and the changing role of custom in the development of marriage norms. She suggests how such links can legitimate suspect feminist reforms, rendering them "halal" in the eyes of pious interlocutors.

In *The woes of WoW: the Women of the Wall as a religious social movement and as a metaphor*, Pnina Lahav explores a long-standing dispute in Israel over the right of women to pray as they wish at the Western Wall in Jerusalem. The wall is believed to be a remnant of the second Temple, destroyed by the Romans in 70 CE. Jewish worship is permitted at the site only in accordance with Orthodox practices. The area is split into a large section reserved for men and a smaller one for women. Women are forbidden to bring a Torah scroll on to the site or to read from it. Since the 1990s, women have lobbied and sued for the right to do so. Lahav describes the history of this legal conflict, which culminated in a 2012 court decision denying the rabbinate of the Western Wall in Jerusalem the right to exclude women who seek to read from the Torah and pray wearing tallit. She considers how this struggle reflects changes in women's advocacy for equality under Jewish law and changes in relations between the Jewish communities inside and outside Israel.

The final chapter in this section, by Sima Zalcberg Block, deals with another religion-based conflict over women's access to public space in modern Israel. *Religious coercion and violence against women: the case of Beit Shemesh* explains how a series of incidents ranging from vandalism and verbal abuse to more severe physical violence have been deployed to terrorize women and exclude them from the public sphere. These activities are perpetrated by local groups of radical Haredim (ultra-Orthodox), who see themselves as soldiers in the

struggle for modesty, responsible for maintaining the purity of the community. Block links these developments to the rising demographic and political power of ultra-Orthodox Jews in Israel, analyzes the meanings behind these activities, identifies and characterizes the perpetrators, and describes how women's advocates are using the civil courts to push back against perpetrators and the timid, putatively secular, local governments which enable them.

Those seeking to re-interpret religious law and resist religiously based extremism are not necessarily secular people who reject the value of religion or the roles it assigns to women. Many theorists, activists and plaintiffs in legal cases are women who define themselves as traditionally religious but want to use progressive modes of interpretation and resources provided by the civil law to encourage adoption of more egalitarian conceptions of the tradition they cherish. From within religion come feminisms that demand respect for the inherent equality and dignity of women's roles as mothers, homemakers and caregivers. These voices echo the approach of difference feminists, also called cultural feminists with their insistence on different strengths and spheres of influence, grounded in mutual respect. A complex reading of the role of gender and religion in human rights struggles requires attentiveness to the ways in which religious women exercise agency in seeking remedies for inequality under religious norms, which allow them to remain connected to cherished religious communities and religiously mandated roles rather than to purport to offer only the possibility of exit from them. In Part III of this book, *Religious divorce in civil courts*, four authors explore the ways in which women seek to express themselves and manage the relationship between civil and religious law in the North America. They bring to these analyses very different expertise and perspectives.

Lisa Fishbayn Joffe begins the section, in Chapter 9, *The impact of "foreign law" bans on the struggle for women's equality under Jewish law in the United States of America* with an analysis of a troubling trend in legislatures across the US. A moral panic about the possibility of enforcement of inegalitarian Shariah laws has led many states to pass bans on the enforcement of foreign or religious law contracts in American courts. Joffe points out, however, that while there are some cases involving the enforcement of Islamic law contracts in the US, there is a much more substantial history of secular enforcement of contracts to accept rabbinical court arbitration. In particular, she notes the ways in which Jewish family law has become enmeshed with civil family law in order to provide protections to women denied a divorce or subjected to extortion in order to win their freedom from their Jewish marriage. Joffe cautions that the success of these laws that purport to have been passed in the name of vulnerable women may have the perverse effect of undermining the best protections they have.

A Jewish divorce can only be granted by a husband to a wife. A woman whose husband is unable or unwilling to grant her a divorce is an *agunah*, (a chained woman), chained to a marriage that is dead in all but name. Aryeh Klapper is an ordained Orthodox rabbi who sits as a judge on the Beit Din