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The Politics of Women of the Wall

The Politicization of Religion in Israel

ISRAEL, BORN IN 1948 as the Jewish homeland or state, is a democracy whose national identity is rooted in religion and whose ancient heritage has a tradition of theocracy.¹ Israel's population today includes numerous Orthodox Jews who remain unabashedly committed to theocracy. Consequently, balancing democratic versus theocratic tendencies continues to be a major challenge for Israeli governments, a challenge made more daunting by a proportional representation electoral system, which makes extremist, narrowly focused political parties both viable and influential in Israel.

Thus far in its history, Israel has found it impossible to separate religion from politics, synagogue from state.² Israel's governments, rather than being neutral referees permitting Jews from all branches of Judaism equal opportunity to exercise their religious rights, have passed legislation that enfranchises Orthodoxy and disenfranchises other streams of Judaism. The primacy given to Orthodoxy in Israel has generated acrimony and divisiveness amongst Israeli Jews. The favored position of Orthodoxy also has strained the relationship between Israel and non-Orthodox diaspora Jews

who feel a sense of delegitimization and disempowerment of their branch of Judaism in Israel.

Given Israel's singular mix of democracy and theocracy combined with the heterogeneity of Israel's population, and Israel's role as a spiritual center for a very diverse world Jewry, it seems that controversy over the role of religion in Israeli society was inevitable. The list of issues that have sparked confrontation over religious coercion in Israel is long. Major synagogue and state issues that have grabbed headlines in Israel and the diaspora have included street and business closings on Shabbat; Orthodox rabbis calling on soldiers to disobey their officers if ordered to withdraw from territory; "who is a Jew or a rabbi" and who controls conversion, marriage, and divorce; the seating of non-Orthodox representatives on local religious councils; army exemptions and financial support for tens of thousands of male yeshiva students; thousands of *agunot* unable to remarry under Israeli law administered by Orthodox rabbinical courts; and the denial of freedom of religion at the Kotel.

Of all the issues listed above, the denial of freedom of religion at the Kotel has received the least attention from Israeli citizens and politicians, despite periodic, well-publicized violent attacks by *charedim* on Jewish groups praying at or near the Kotel, and despite the earnest protests that the situation evokes from American Jewry. This essay analyzes the politics of synagogue and state in Israel and explains why the struggle of Women of the Wall, which struck a chord in the American Jewish community, had minimal resonance in the Israeli political system and, consequently, has been delayed for more than thirteen years by ineffectual Israeli Supreme Court decisions and Israeli government stalling tactics.

The Politics of Women of the Wall

The politics of Women of the Wall is multifaceted, for it involves politics in so many arenas—the internal politics of ICWOW, Israeli politics, Israel-diaspora politics, and American Jewish communal politics—each with its own dynamic and all interacting with each other. We begin with an examination of the internal politics of ICWOW in its formative years, followed by analysis of the other facets of the politics of Women of the Wall.

ICWOW'S INTERNAL POLITICS

Numerous political and ideological issues arose during the formative years of ICWOW in early 1989. Who would have the power to recruit new board members, and should recruitment of new board members be regulated so as to maintain some balance in the representation of the various branches of Judaism and of the nonaffiliated? Should we accept board members based solely on their ability to contribute funds to our cause? Should our decision-making process be by majority rule or by marathon rounds of discussions in an exhausting attempt to decide by consensus? What should be done about the unequal sharing of the workload?

The two issues that stand out in my mind as particularly crucial in determining the character of ICWOW are our guidelines for prayer services and our guidelines for media relations during our struggle. The decision to adhere to Orthodox interpretation of Halakhah was made with little debate, but the decision to limit the use of secular media proved to be contentious, as concern for Israel's international image and political standing had to compete with our commitment to women's religious rights—or, to state the issue more broadly, freedom of religion in Israel.

CHOOSING HALAKHIC SERVICES ACCORDING TO ORTHODOXY

From the beginning, ICWOW included women from all streams of Judaism—Orthodox, Conservative, Reform, Reconstructionist, unaffiliated. Nonetheless, ICWOW chose to adhere to Orthodox guidelines. Why?

Part of the answer to this question can be found in the history of women's *tefillah*, or prayer groups. During the 1980s and 1990s, separate services for women developed in the Orthodox movement but not in the Conservative, Reform, or Reconstructionist movements, because women in these three branches already had the option of full participation in egalitarian services. Therefore, it was Orthodox women, the only group of Jewish women still barred from full participation in their synagogue services, who had the incentive for developing models for separate *tefillah* groups. A second reason that the idea for a separate women's service at the Kotel emerged from the ranks of Orthodox women is that many members of the other branches of Judaism had felt alienated from the Kotel for many years because of the *mechitzah*. Non-Orthodox women were often put off by the Orthodox trappings of the Kotel—not just the *mechitzah*, but also the general lack of accommodations for women: no opportunity for organized prayer, no reading tables, a small helter-skelter collection of *siddurim* and *Chumashim* in the women's section. Orthodox women continued to focus on the Kotel as a sacred site where services were similar to those they experienced in their own synagogues. It was daring but natural for Rivka Haut to think of bringing women's Orthodox *tefillah* to the Kotel, because such services had been taking place for years in Orthodox synagogues in New York and numerous other cities.

A third reason for choosing Orthodox services was our awareness that if we did not adopt Orthodox standards, Orthodox women would not attend our services or, in all likelihood, support our struggle. Non-Orthodox women who have been involved in the Kotel struggle have been most generous in allowing Orthodox practice to prevail,³ and our services at the Kotel as well as the solidarity services we sponsored elsewhere therefore have been conducted in accordance with Orthodox standards. Despite this, many Orthodox women, even those who were active in women's *tefillah* groups and leaders of Orthodox feminism, remained reticent and ambivalent about our struggle to pray at the Kotel, and Orthodox rabbis, even those who permitted women's *tefillah* in their synagogues, did not support our right to pray in an identical fashion at the Kotel.

A fourth factor in our choice of Orthodox halakhic guidelines was the pervasive sentiment within our group that the conflict that was increasingly dividing various segments of the Jewish community from one another was tragic and that our group could set an example of *ahavat chinam*, mutual love and respect for Jews across the spectrum.

A fifth reason for adhering to Orthodox standards of Halakhah was legal tactics. By adhering to Orthodox halakhic standards, we narrowed our petition and strengthened our case. ICWOW was not petitioning the Orthodox-dominated religious bureaucracy of Israel for the right to hold Conservative or Reform services. We were petitioning for the right to hold Orthodox services like those held in numerous Orthodox synagogues around the world. Thus, we hoped that we would deprive our opponents, the Orthodox rabbis and Orthodox political parties of Israel, of the argument that what we were demanding was a violation of Halakhah.

The narrow religious sectarianism of our opponents would be exposed if and when they obstructed even services like ours, which numerous Orthodox rabbis permitted in their synagogues. It would be apparent that the violent and virulent objections to our services were primarily due to psychological, social, or political reasons, not halakhic ones. The misogyny of the Orthodox factions that opposed us would be revealed for all to see. This in itself would be a step toward liberating Orthodoxy and the Kotel from the misogyny that was being passed off as Halakhah. Indeed, in 1988, Rabbi Meir Yehuda Getz, then the government administrator of the Kotel, declared that what we were doing was not against Halakhah. Furthermore, in his 1994 Supreme Court opinion, Menachem Elon conceded that ICWOW's services were halakhic, although he argued that *minhag hamakom* (prevailing custom—i.e., *charedi* custom) and *charedi* threats of violence barred us from the Kotel.

Thus far, the Supreme Court has allowed our opponents, who rely upon Elon's arguments, to prevail. Even the court's unanimous May 22, 2000, decision, which strongly castigated the government for years of foot-dragging, contained no practical, enforceable implementation and left our opponents in control of the Kotel. In the longer run, the rigid intolerance reflected in violent attacks on our halakhic services at the Kotel may ultimately undermine our opponents' credibility and their influence over religious life and Jewish holy sites in Israel, including the Kotel.

SETTING POLICY FOR MEDIA AND PUBLICITY

In late 1989, ICWOW presented a Torah to our Israeli sisters and filed our lawsuit against the Israeli government officials responsible for barring us from praying with our Torah at the Kotel. Within days

of these historic events, differences of opinion began to emerge about ICWOW's policy toward non-Jewish media and public relations activity in non-Jewish arenas. ICWOW's leadership at the time was a small group of five or six, and some of the group had begun advocating contacting non-Jewish media, but there was strong opposition to this, and we convened a meeting in our Jerusalem hotel lobby to resolve the dispute. After some intense discussion, which revolved around the power of secular media and the potential damage that negative publicity could do to Israel, a vote was taken that set a policy of barring ICWOW's contact with the non-Jewish, or general, media and restricting ourselves to contacts with Jewish media only. WOW, however, did not adopt such a policy.

I was a strong opponent of seeking coverage in the general media and presented the following arguments in support of my position. The general media are unfriendly to Israel and would seize the opportunity to run a story that showed Israel in a negative light. Israel certainly needs to improve its treatment of women in the home, in the courts, and at work, but I was uncomfortable with the prospect of *The New York Times* running an article about discrimination against women in Iran or Afghanistan, followed the next day or week by an article about ICWOW and religious discrimination against women at the Kotel.

I was also concerned about the broader impact of negative publicity on Israel in the general media. Unfavorable coverage of Israel in the general media could have had political repercussions for Israel far beyond what ICWOW could imagine. A perception of a weakening of American Jewish support for Israel could weaken Israel's position in the American political system.⁴

Finally, and more specific to the Kotel issue, a highly publicized Jewish challenge to Israel's administration of the Kotel could reignite and add credence to challenges to Israel's sovereignty over Jerusalem. If Israel's administration of the Kotel was being challenged by diaspora Jews, Israel's sovereignty over Jerusalem, which contains the holy sites of other religions, could be called into question. Agitation by ICWOW in the general media could potentially fuel demands for the internationalization of Jerusalem and weaken Israel's negotiating position in any peace process. I felt strongly that even though our cause was just, Israel's policy and negotiation strategy on Jerusalem should not be undermined by media attention generated by diaspora Jews.⁵

I also pointed out a possible boomerang effect that potential supporters who felt strongly, as I did, about these issues might be alienated from ICWOW's cause if we were instigators of negative coverage of Israel in the general media.

When we returned to the United States, differences over publicity and public relations surfaced again in the form of two ICWOW directors' suggestion that a resolution supporting ICWOW be introduced in the New York City Council. Once again, I strongly opposed casting the State of Israel as a villain in a general public forum such as the New York City Council. Concern about shielding Israel's international political position and public image carried the day again, and the City Council resolution proposal was abandoned. Sometime later, the board reaffirmed our "no general media" policy again. We were tying one hand behind our back by shunning the general media and negative publicity for Israel, but concern about damaging Israel took precedence at that time.⁶

Thus, the guidelines of our struggle were forged: We would pursue our religious rights strategically and aggressively within the Israeli political and judicial system and seek allies within the diaspora community, but we would stop short of embarrassing Israel in the general media or foreign political arenas.

ICWOW and Israeli Politics

Although ICWOW's struggle was initiated in Israel's Supreme Court, very quickly ICWOW found itself tangled up in Israeli politics rather than Israeli courts. The 1994 Supreme Court decision was a victory in principle for ICWOW because two out of three justices ruled that we had a right to pray according to our custom at the Kotel, and even the one dissenter, Associate Chief Justice Elon, ruled that our services were halakhic.⁷ Practically, however, the decision was a defeat, because in casting the tie-breaking vote in our favor, Chief Justice Shamgar also recommended that ICWOW seek to actualize our rights through Israel's political system, where ICWOW was hard-put to find allies.

ICWOW AND SECULAR ISRAELIS: THE POLITICAL ALLIANCE THAT NEVER MATERIALIZED

Periodically during the State of Israel's history, there have been political clashes and compromises between secular and Orthodox parties and groups. But confrontation between secular and Orthodox Jews in Israel intensified in the 1980s and 1990s.⁸ This intensification can, to a large degree, be traced to two factors: first, the increasing influence that Orthodox parties have gained over government policies,⁹ and second, the increasing impact that Orthodox parties' uncompromising stands have had on the daily lives of secular Israeli Jews.

Given the heated and growing opposition to religious coercion in Israel during the 1990s, it would seem that ICWOW and WOW should have easily found allies in our struggle against the monopolization of the Kotel,¹⁰ but we did not. Israelis opposed to yeshiva army exemptions, coercive Shabbat regulations, and Orthodox hegemony over conversion should have been natural allies of ICWOW and WOW, but the alliance never materialized. A more careful comparison of the Kotel to the other religious controversies reveals a key difference that explains why the other issues have made it onto Israel's political agenda but freedom of religion at the Kotel has not.

SECULAR ISRAEL VERSUS ORTHODOX ISRAEL: THE ISSUES THAT MATTER

The religious issues that have galvanized secular Israelis have one common trait—they matter to secular Israelis! They matter because the Orthodox parties' influence over those issues is perceived as having created major costs or dislocations for secular Israelis.

Secular Israelis have organized major demonstrations and initiated Supreme Court cases to protest coercive and intrusive Shabbat laws, and compromises have been reached, sometimes favoring the Orthodox, sometimes favoring the secular. In the late 1990s, secular Israeli political parties supported the creation of more liberal conversion institutes in order to meet the demographic challenge of integrating tens of thousands of Soviet immigrants, many of whom are not halakhically Jewish. Forty years of vociferous protests by the Conservative and Reform movements about the delegitimization of their rabbis and their conversions never succeeded in making any inroads into Orthodoxy's total monopoly on conversion. Change came only when it mattered to Israelis.

Israelis have also pressed for change regarding the army exemptions for tens of thousands of yeshiva students, exemptions that secular Israelis resent increasingly because of their perception of the role of the Orthodox in resisting ceding territory in return for promises of peace.¹¹ Legislation to restructure these exemptions has been passed, and more proposals for change are under review.

These thorny synagogue-and-state issues are far from resolved, but the Israeli government, Knesset, Supreme Court, and citizenry have grappled with them and moved toward compromise and solutions. Secular Israelis were affected by and agitated about these issues, and they demanded that the political system respond to their concerns.

SECULAR ISRAEL VERSUS ORTHODOX ISRAEL: THE KOTEL DOESN'T MATTER

While all of this took place, however, our lawsuit stagnated in the Court and in a never-ending series of government commissions. The political freeze at the Kotel reflects the fact that the impact of Orthodox monopolization of the Kotel on the lives of secular Israelis is virtually nil compared with the impact of the other issues. Secular Israelis find it hard to fathom why ICWOW would invest so much blood, sweat, and tears for the right to pray near some ancient stones placed there by that rather unsavory character Herod. Well-known Labor Party politician and feminist Yael Dayan, when asked to join ICWOW at a service, hesitated, saying that she found praying in a beautiful field with birds in flight overhead a more inspiring setting.¹² Anat Hoffman, a WOW stalwart and the Meretz Party's representative on the Jerusalem City Council, reports that some of her Meretz colleagues think her Kotel involvement is "crazy." Yet a major plank in Meretz's platform is freedom from religious coercion.

Given secular Israelis' indifference to the Kotel versus *charedi* "territoriality," it made no political sense for Labor or Likud, the two major secular parties in Israel during the 1990s, to waste political capital by antagonizing Orthodox parties over the Kotel issue. The main issues that concerned Labor and Likud in the 1990s were the peace process and security. Neither Labor nor Likud was going to alienate potential Orthodox coalition partners and thus risk losing the opportunity to govern and carry out life-and-death security policies. The Meretz Party also did not ally itself with us, despite the fact that its drive for freedom from religion and our drive for freedom of religion are two sides of the same coin.¹³ Throughout the entire negotiation process between ICWOW and various Israeli governments, there was a convergence in the interests of the secular and Orthodox factions with regard to freezing the current situation at the Kotel. The secular were indifferent to Orthodox control of the Kotel, and the Orthodox were adamant about maintaining it. In the horse trading of Israeli coalition politics, control of the Kotel was one victory that the secular parties could easily grant to the Orthodox parties.¹⁴

ORTHODOX ISRAELI WOMEN SEEKING CHANGE: ANOTHER ALLIANCE THAT NEVER MATERIALIZED

Another segment of the Israeli population that might have lent support to ICWOW but did not was the cadre of Orthodox women who have pushed for higher Jewish learning for women, training women as experts in Jewish law in the areas of divorce, *niddah*, and kashrut, seating women on religious councils, and reform in the area of halakhic divorce. For example, Leah Shakdiel, whose struggle to be seated on the Religious Council of Yerucham led to a landmark supportive Israeli Supreme Court decision, has

been ambivalent about ICWOW and WOW. Support from these Orthodox women would not have carried the day for ICWOW, but it would have encouraged us and reduced our sense of isolation. Why was that support not forthcoming?

There are many possible reasons for Israeli Orthodox women's reticence about the Kotel. Women's rights at the Kotel and women's *tefillah* groups in general are simply a low priority for Orthodox Israeli women¹⁵ compared to the other "growth areas" where they have invested their energy. Given the low priority they assign to women's *tefillah* groups, Orthodox women may feel it is tactically foolish, at least for now, to endorse ICWOW and inflame the *charedim* and alienate rabbis, politicians, and laypeople who might support their other efforts. Perhaps it is also the pluralist overtones of ICWOW, the diversity of our board, and the parallel efforts of non-Orthodox movements to pray at the Kotel that have kept these more progressive Israeli Orthodox women away from ICWOW.

Still, the efforts and successes of these Orthodox women may yet help to pave the way for ICWOW in Israel's judicial and political arenas. The Israeli rabbinate resisted the introduction of women pleaders, *toanot*, in the rabbinical divorce courts, but the Supreme Court overruled the rabbinate. The Orthodox parties resisted seating Leah Shakdiel on Yerucham's Religious Council, but the Supreme Court overruled them. In 1999, Rabbanit Emunah Henkin, whose institution, Nishmat, had recently graduated its first group of "experts" in *niddah*, floated the idea of religious councils paying for the services of these women. This too may lead to confrontation and litigation. As the Supreme Court and the Israeli public become accustomed to seeing the more right-wing elements of Orthodoxy

yield ground, ICWOW may have a greater chance of prevailing in court and in the Knesset. Time will tell whether these Orthodox female leaders in Israel and their supporters will eventually align with ICWOW and WOW.

Perhaps the most surprising case of an Orthodox woman not giving strong support to ICWOW is that of Alice Shalvi, who headed the Israel Women's Network (IWN) during the first ten years of ICWOW's struggle. The IWN included women from all streams of Judaism, and Shalvi was internationally respected as an elder stateswoman of Israeli feminism, yet she was often reported to be downplaying the importance of supporting ICWOW's efforts. This lack of support from Shalvi, who was politically to the left of the other Orthodox women just discussed and who in 1998 crossed over to the Masorati movement, seemed incomprehensible, almost a betrayal. However, when I testified at the Sheves Inter-ministerial Committee hearing in 1991, Shalvi was present and made remarks that clarified her position. She began by explaining that she objected to the transformation of the Kotel into an Orthodox synagogue. This personal conviction prevented her from giving unreserved support for ICWOW's cause, which did not challenge Orthodox control of the Kotel. Notwithstanding her personal position, she then called on the Sheves Committee to accommodate ICWOW's services. As with the Orthodox women discussed above, Shalvi's support would not have won the day for ICWOW, but her unexplained reservations concerning the group were a source of distress for its members for many years, and it probably perplexed and discouraged potential ICWOW supporters. More recently, Shalvi has stated openly and explicitly that ICWOW's struggle is not, in her opinion, an issue that should be given high priority.

For a variety of reasons, some explicitly stated and some not, Orthodox Israeli women did not rally to ICWOW's cause. They did not have the same vision that ICWOW did—that challenging gender discrimination at the Kotel was crucial to liberating Judaism from misogyny and to advancing the entire Jewish feminist agenda.

THE MASORATI AND REFORM MOVEMENTS: CONVERGENT AND DIVERGENT STRATEGIES

The only segments of the Israeli population that actively supported ICWOW were the Masorati and Reform movements. The Reform movement lent a Torah for the first Kotel service in 1988. Members of WOW and ICWOW recall that, in addition to Orthodox individuals, both the Masorati and Reform movements made a Torah available for WOW services in 1989 until ICWOW presented the women of Jerusalem with a Torah of its own in December. Also, during that early period, when the Israeli women were bravely and devotedly maintaining services at the Kotel in the face of great hostility and even violence, several supportive men used to hover on the periphery of the Kotel plaza, which gave the women a sense of security should there be an outbreak of violence. There was discussion and consultation about our lawsuit and the possibility of the Masorati and Reform movements joining us as co-petitioners for equal rights at the Kotel.

However, these two non-Orthodox movements were almost as politically embattled in Israel as ICWOW. Representing a relatively small number of Israeli voters, these two movements had long been discriminated against by the Israeli government. What they lacked in numbers in Israel, they made up for in the large numbers of politically active Jews affiliated with these two movements in the United States. Periodically, the issue of “Who is a Jew or who

is a rabbi” surfaced in Israel in connection with the Law of Return.¹⁶ Each time this happened, an alarm from American Jewry was able to squelch Israeli Orthodox attempts to modify the Law of Return's definition of who qualifies as a Jew. However, as for securing equal rights for their counterparts in Israel, the Conservative and Reform movements had been stymied by the same political forces that stymied ICWOW.

ICWOW was faced with a decision of whether to explore an open alliance with the Masorati and Reform movements or to accept their help and advice as silent partners. In principle, every member of the ICWOW board objected to the discrimination against the Masorati and Reform movements in Israel and believed in equal legal status for all the streams of Judaism. We all sensed that we might be the “nose of the camel” that would introduce the beginning of freedom of religion for all Jews at the Kotel, but we hesitated to weigh down our lawsuit with broader arguments about religious pluralism in Israel. Our chances of establishing women's *tefillah* at the Kotel seemed better if we stuck with our narrowly drawn lawsuit, which petitioned only for Orthodox group services for women. And our progress, we hoped, might indeed pave the way for improving the status of the Masorati and Reform movements in Israel.

So, after internal discussion, we decided it was tactically unwise to openly ally with these two movements. Informal consultation with members of the Masorati and Reform movements continued throughout the long years of litigation, but we each pursued our agenda independently. Sometimes our strategies converged, but sometimes they diverged. In the late 1990s, for example, when the Masorati movement had become more active in its own litigation seeking freedom of religion at the Kotel, there was a risk that its

newly active pursuit of its rights might be used to delay the resolution of our lawsuit, which was by then ten years old. The Masorati movement thoughtfully signed an affidavit stating that its petitions and negotiations should in no way impede or delay ICWOW's claims at the Kotel. On the other hand, ICWOW and WOW were disappointed when the Masorati representative to the Ne'eman Commission voted in favor of Robinson's Arch as a solution for ICWOW and WOW, when we were opposed to this proposal. In the summer of 2000, the Masorati movement reached some sort of agreement with the Barak government allowing egalitarian Masorati services at Robinson's Arch. After about six months, however, the Masorati movement was reportedly dissatisfied with the way the agreement was being carried out.

The Israeli Supreme Court

Like the U.S. Supreme Court, Israel's Supreme Court has become the forum in which politically weak groups seek redress when their basic rights are violated by those who wield greater political power.¹⁷ In the United States, the courts often led the way in civil rights and religious freedom long before elected officials passed legislation to more clearly define and ensure these rights. Likewise, at a time when Israel's Knesset and government were not prepared to grant women freedom of worship at the Kotel, ICWOW turned to Israel's Supreme Court for justice.

Israel's Supreme Court functions in a very different political culture than the U.S. Supreme Court, and it is far less insulated from political pressure than its American counterpart. Israel, unlike the United States, has no written constitution that guarantees such rights as freedom of religion. In the United States, the Supreme

Court may be called upon to decide how best to protect freedom of religion, whereas Israel's Supreme Court must wrestle with the question of whether freedom of religion is part of Israel's political culture at all. The Israeli government's refusal to give comparable recognition and funding to Reform and Conservative rabbis, rites, synagogues, and schools is part of the Israeli government's ongoing establishment of one form of religion, which would be unconstitutional in the United States and which tends to undermine any effort to guarantee free religious exercise.¹⁸

In addition, in the absence of a written constitution, the status and authority of Israel's Supreme Court is tenuous because any decision made by the Court can be overridden by legislation passed by a simple majority in the Knesset. Thus, if the Israeli Supreme Court were, for example, to establish greater religious freedom at the Kotel, the Knesset could annul the Court's decision. Given the political balance of power with regard to religious issues, the Supreme Court would have risked a humiliating reversal if it had tried to order and effectively implement freedom of religion for women at the Kotel. Such a reversal might undermine the prestige and power of the Court for years to come.¹⁹

In the course of the protracted litigation of this issue, one question on which ICWOW and WOW have had some pointed debate is the question of how aggressively our attorneys should push for a clear-cut court decision—win or lose, a clear decision. In 1994, for example, ICWOW wanted to appeal the Shamgar decision that shunted our case into Israel's inhospitable political arena. There was resistance from some members of WOW who did not want to appeal. ICWOW prevailed, but it was quite a struggle. The issue of not antagonizing the Court or forcing a decision surfaced again when ICWOW and WOW differed over whether to reject or

accept the Court's proposal to put the Kotel on the agenda of the Ne'eman Commission. ICWOW resisted this latest attempt at settlement through the political process, but WOW felt that we should accede to the Court's recommendation to show our goodwill and flexibility yet again.

WOW's women, being at the Kotel month in and month out, were less focused on the Court as the only battlefield. They sensed opportunities for introducing more ritual for women at the Kotel and for educational outreach. WOW sometimes felt that less vigorous litigation in the Court might calm the political atmosphere and allow for creating more ritual "facts on the ground" for women at the Kotel. Indeed, while the Court was studiously avoiding making any decision legitimizing our rights, WOW creatively introduced new and uplifting religious experiences at the Kotel that women had not available to them before, such as *Megillah* readings, bat mitzvah celebrations, and learning sessions. Such activities stretched the boundaries of acceptable practice at the Kotel without evoking any violence or government crackdown. The activities even attracted some smiles and an occasional good word from women at the Kotel who normally would count themselves among our critics. This enhancement of religious services for women at the Kotel was an inspiring accomplishment.

WOW was at times concerned that ICWOW's pushing the Court for a decision would force a negative decision that might result in even tighter restrictions at the Kotel, which might then block WOW's growing activities. ICWOW, on the other hand, felt inclined to force the Supreme Court to decide, perhaps because of our remoteness from the positive energy of WOW's activities and perhaps because of our American conviction that Supreme Court judges will not sacrifice their integrity on the altar of polit-

ical bargaining. We thought there was a chance that, if forced to decide, the Court would feel compelled to uphold its two-out-of-three-judge decision, which recognized our right to pray at the Kotel according to our custom.

Ultimately, it didn't seem to make any difference how hard we pushed for a decision, for the Court systematically and resolutely avoided making any decision. Fortunately, no new regulations were promulgated that interfered with WOW's various activities at the Kotel. As long as the Court did not force the issue, our opponents seemed content with the fact that the electrifying and spiritually empowering image of women with a Torah scroll and tallit was barred from the women's section.²⁰ They were either unaware of or willing to tolerate WOW's other religious activities at the Kotel.

ICWOW and the United States: Communal Politics

One of ICWOW's earliest experiences with communal politics in the United States was the 1988–1989 campaign to raise funds for a Torah that ICWOW planned to present to our sisters in Jerusalem. Donations for the Torah and to support ICWOW's struggle poured in from Jews of every stripe, but the strongest support came from the Reform movement. The Association of Reform Zionists of America (ARZA) took on the responsibility of collecting and processing donations from its members. On more than one occasion during this fundraising campaign, I spoke to a prominent Reform movement leader. He asked if we wanted their public endorsement or if it might prove more of a liability than an asset. ICWOW at the time thought it would hurt rather than help. He understood and continued vigorous fundraising efforts for ICWOW.

Jewish communal support for ICWOW took other forms besides fundraising. The American Jewish Congress accepted ICWOW's proposal to present a Torah to the women of Jerusalem as part of an American Jewish Congress mission that included women from across the spectrum of Judaism. During the period when the Mancal Commission was functioning, ICWOW received letters of support from the various institutions of the Reform, Conservative, and Reconstructionist movements. Hadassah, the American Jewish Committee, and US/Israel Women to Women added their voices as well. With this outpouring of support in the form of letter writing to the Mancal Commission, ICWOW was able to testify to the Commission in 1991 that our claim had the support of a large number of American Jews. However, when ICWOW consulted with several of the general communal organizations about joining us as co-petitioners in the second stage of our lawsuit, none would go that far. Fear of alienating donors should their organization become a litigant in a lawsuit against the State of Israel probably held them back.

In contrast to this response from liberal American organizations, Orthodox organizational support for ICWOW was virtually nonexistent during the first ten years of our struggle. Although ICWOW received some financial contributions from Orthodox sources, the financial support from non-Orthodox sources was greater by far. Even American Orthodox feminists kept their distance from ICWOW. The Orthodox Women's Tefillah Network, already in existence when the Kotel struggle began, did not endorse ICWOW. I found that within my own Flatbush Women's Tefillah Group, and in the Riverdale *tefillah* group, feelings about ICWOW were mixed.

No prominent Orthodox female leaders publicly endorsed or joined ICWOW, despite numerous and frequent contacts with

ICWOW and its four Orthodox board members. The Jewish Orthodox Feminist Alliance (JOFA), founded in 1998, ignored the Kotel issue for two years. However, following the May 2000 court decision, there was some movement, and JOFA published a statement congratulating ICWOW, although it stopped short of calling on Orthodox women to support ICWOW and join WOW at the Kotel. No other Orthodox women's organization has expressed any support for ICWOW or WOW. Some Orthodox women seemed concerned about challenging the Israeli government or being involved in a confrontation focused around the Kotel. Another concern voiced by some Orthodox feminists who hung back was that freedom of religion at the Kotel for Orthodox women might strengthen the demand for similar freedom for the non-Orthodox, something these women viewed as undesirable.

Nor did Orthodox rabbis who supported women's *tefillah* in their own synagogues come forward to support ICWOW's lawsuit. Prior to the formation of ICWOW and the initiation of our lawsuit, Rabbi Avraham Weiss did write a letter in May 1989 to Israel's Minister of Religious Affairs, Zevulun Hammer, pointing out that Halakhah permits women to pray with Torah and tallit. He then expressed his support for women's right to pray together anywhere, including the Kotel, as long as they pray as a group that is not a minyan. He called on the government to ensure women's safety while praying at the Kotel. Weiss never lent support to ICWOW and our lawsuit, but his defense of women's halakhic rights to pray with Torah and tallit and to pray as a group at the Kotel is noteworthy.

In sum, ICWOW garnered written endorsements and financial support in the United States from the non-Orthodox streams and from general Jewish communal organizations, which represented a

vast and communally active segment of the American Jewish community, but this kind of support could not deter Israeli politicians from engaging in their bad-faith delaying tactics. As long as denying women's rights at the Kotel wasn't costing Israeli politicians any votes or threatening diaspora support for Israel, Israel's political system was unresponsive to ICWOW's petition.

Some Final Thoughts

The vision and implications of women with a Torah and tallit at the Kotel were intolerable to the *charedim*, controversial to other Orthodox Israelis, and irrelevant to secular Israelis. Given this political reality, the Israeli Supreme Court was the one forum in which ICWOW and WOW could hope that right would prevail over political might. Thirteen years of litigation have shown that the Court has not yet decided to decide. The reasons for the Court's evading the issue are complex. The Court may be protecting its own status in the Israeli political system by refusing to issue a decision that will be reversed by the Knesset. Perhaps unconsciously influenced by the patriarchal values of traditional Judaism and Israeli culture, the Court may simply not comprehend the legitimacy and significance of ICWOW's mission. The Court may view itself as protecting Israeli society from a violent and divisive confrontation over a question that is of little importance to the vast majority of Israelis. The Court may be biding its time, refraining from issuing an enforceable Court order until the political balance of power is more receptive to such an order. Even the Court's unanimous May 22, 2000, decision, which strongly criticized the government's bad-faith foot-dragging, only increased the political pressure on the government. The Court,

once again, stopped well short of imposing a specific solution by judicial order.

It is difficult to predict the long-term prospects for ICWOW and WOW's struggle because of the many factors that could affect the future of women's religious rights in Israel. Among those factors are shifts in Israel's security and economic situation and therefore in the alignment of political parties in government coalitions; developments within Israeli feminism, particularly Orthodox feminism; the types of resolutions that may emerge on religious issues such as conversion, Shabbat laws, and army service deferrals; changes in Israelis' attitudes toward religion as Israel's sizable Arab population (20 percent) and large non-Jewish Russian community become more politically assertive.

Continued external threats to Israel's security sustains the *charedim's* leverage regarding control of the Kotel in exchange for their support of vital military and diplomatic policies of various government coalitions. Likewise, under such conditions, religious coercion at the Kotel has continued to be of little concern to secular Israeli politicians and voters. Certainly, violence at the Temple Mount has made change at the Kotel very hot to handle and discourages secular Israelis from disturbing the status quo.

If, on the other hand, there should eventually be progress toward peace, the *charedim* and other Orthodox parties may find their political clout reduced as Labor and Likud reorient themselves toward dealing with economic and social issues and paying more attention to the needs of voters who currently support the Orthodox parties. If a portion of these Orthodox voters shifts to Labor and Likud, these Israeli political parties may feel freer to resist the religious coercion that mars Israel's image as a democracy. In the competition for a more fluid Israeli electorate, Labor

and Likud may then find themselves competing on issues they ignored before, such as women's rights. Furthermore, if peace blooms, diaspora Jews may feel freer to press for their religious rights at the Kotel. Finally, de-escalation or increased escalation of tension at the Temple Mount may in time bring about a reconsideration of the discrimination against women and non-Orthodox Jews at the Kotel.

Internal social and cultural ferment may also affect the ability of the Orthodox parties to maintain religious coercion in Israel and at the Kotel. As Israel copes with the rights of its Arab population and the personal status of its large non-Jewish Russian population, Israel may be forced to develop more flexible policies on the relationship between synagogue and state and to ponder the meaning of the Jewish State once the Orthodox official monopoly has been eroded. Israeli political leaders may have to rethink their routine capitulation to *charedi* demands that alienate Israeli Jews from Judaism and diaspora Jews from Israel. Orthodox insistence on exclusive control of the Kotel may suddenly seem incompatible with a more diverse and less theocratic State of Israel.

With the easing of Orthodox religious coercion and the growth of multiculturalism in Israel, Israeli Jews may find themselves searching for a form of Judaism that provides a comfortable personal Jewish identity and national Jewish identity for the Jewish State. It would be a fascinating twist in the tortuous history of Judaism's survival if the *charedim*, the Orthodox rabbinate, and the Orthodox political parties were someday to find it desirable to find common ground with the likes of ICWOW and WOW in order to formulate a role for Judaism in Israel that can serve the democratic Jewish State in the future.

LESLIE J. KLEIN



Dominion of Arrogance

Don't pray here

Torah wrapped and bundled
Against the cold December day
We walk in groups to the Wall

Don't pray so we can hear you.

Don't read from our Holy Book

Don't touch our Holy Words

Don't even stand next to us while we pray

You are defiled

You are disturbing us distracting us with your defilement

You are not as Holy as we are

We will spit on you we will throw garbage on you
We will wound you with flying books and chairs
We will bear down upon you with arms linked and feet
stomping

Hovering as the cloud over Sarah's tent
Nourishing as the waters of the moving well
Searing the soul as surely as
Hannah's prayer
This thrumming circle of Torah chant

They will not prevail

No matter how tightly they seek to close the gates
Arms linked and feet stomping power surge false righteousness
Prayers of women will fly over the heavens, chanting Torah words 'til
the slender silver thread gives way
And Life's tenuous hold levels all to one in God's brightness pure soul.