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WOMEN IN TRADITIONAL RELIGIONS:  
REFUSING TO LET  
PATRIARCHY (OR FEMINISM) SEPARATE US FROM THE  
SOURCE OF OUR LIBERATION<sup>1</sup>

Cheryl B. Preston\*

I. INTRODUCTION

The picture of Afghan women under the *burqa* may be the feminist ensign of our age. This image is a powerful one in enlisting the support of feminists, typically pacifists,<sup>2</sup> for war—and if not for war in the sense of an armed invasion of another country, at least for a revival of the feminist disdain for traditional conservative religions.

Erin Silva, a feminist author with a penchant for emphasis, described one international religion as more than merely “patriarchal” (in the negative feminist sense) but rather “fundamentalist,” defined by her as “patriarchy gone berserk,” and ultimately, as “matricidal.”<sup>3</sup> Using a metaphor of a chapel, a house of God, she describes this religion:

The foundation . . . has been reinforced with male superiority, the columns and walls thickened and strengthened with male hegemony, covered with a roof structure of male control and dominion. . . . Through the electrical outlets now runs male chain-of-command-authority rather than the power of the . . . Spirit. . . . And through water pipes runs the pedagogy of unrighteous dominion rather than the living water . . . .<sup>4</sup>

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1. The inspiration for this title came when I was reading from the writings of the Women’s Commission of the Ecumenical Association of the Third World Theologians (EATWOT). They said: “For most of us, doing theology in the colonizer’s language is itself a sign of Third World-ness. Words carry weight, but we refuse to let semantic debate divert us from the course of our liberation.” *WITH PASSION AND COMPASSION: THIRD WORLD WOMEN DOING THEOLOGY*, at ix (Virginia Fabella & Mercy Amba Oduyoye eds., 1988). The words are different, but no doubt the underlying thought is the same.

2. Although not all feminists are pacifists with respect to every conflict, past, present, or proposed, feminists tend to begin from a pacifist position until persuaded otherwise. See Rosemary Radford Ruether, *Feminism Must Rediscover Pacifist Roots*, NAT’L CATH. REP., Dec. 20, 2002, at 22 (“Feminism is integrally linked to antiracism, ecology and peace because all these movements have to do with changing the patterns of relationship from exploitative abuse of some by others to just and harmonious mutuality.”); Carol Anne Douglas, *Off Our Backs*, Nov. 1, 2002, at 4549 (reviewing SEPTEMBER 11, 2001: FEMINIST PERSPECTIVES (Susan Hawthorne & Bronwyn Winter eds., 2002), a collection of anti-war feminist essays suggesting that many feminists are reluctant to respond to the terrorists’ attacks with war); see also Alexandra Marke, *Gender Gap Narrows over Kosovo*, CHRISTIAN SCIENCE MONITOR, Apr. 30, 1999, at 1 (“Historically, women have been more reluctant than men to send soldiers into combat.”); *National Council of Women’s Organizations Statement on War with Iraq*, adopted Jan. 21, 2003, reprinted in *Ms. MAGAZINE*, Spring 2003, at 64-65 (opposing “any preemptive military action against Iraq at this time”); Grace Paley, *Why Peace Is (More Than Ever) a Feminist Issue*, *Ms. MAGAZINE*, Spring 2003, at 66.

3. Erin R. Silva, *Matriarchal Patriarchy: Some Thoughts Toward Understanding the Devaluation of Women in the Church*, *DIALOGUE: J. MORMON THOUGHT*, Summer 1994, at 139, 141.

4. *Id.* at 149. See also Courtney W. Howland, *The Challenge of Religious Fundamentalism to the Liberty and Equality Rights of Women: An Analysis Under the United Nations Charter*, 35 COLUM. J. TRANSNAT’L L. 271, 289 n.67 (1997) (citing D. Michael Quinn, *Plural Marriage and Mormon Fundamentalism in 2 THE FUNDAMENTALISM PROJECT: FUNDAMENTALISMS AND SOCIETY* 181, 240 (Martin E. Marty & R. Scott Appleby eds., 1993)) (referring to “Mormon fundamentalism” in the pejorative sense).

This is Silva's vision of the Church of Jesus Christ of Latter-day Saints, known to most of the world as the LDS or the Mormon Church. How I felt when I read this is how, I suppose, many faithful Muslim feminists feel when they read much of the current press on Islam. Such critics as Silva do not speak to the breadth and depth of my experience as an active member of the LDS Church.

Unquestionably, there are people who, in the name of religion, abuse power; there are extremists and fringes; there are political and cultural perversions of religion—and indeed, the consequences of these perversions frequently visit upon women. But that certainly does not mean that the religion itself, or its members generally, are sexist, or for that matter—that any thinking woman would recoil from Mormonism. Am I less of a feminist because I am deeply religious and devoted to this traditional, conservative organized religion?

Feminists *should* be concerned about issues of gender fairness and respect wherever they arise, especially when religion is used to whitewash political power or mere cultural habits. Moreover, feminists *should* inquire about the need for sex-based practices or doctrines, even within the spectrum of religion. But the usual secular, liberal epistemologies that deny faith within an organized structure may not be the appropriate tools for addressing issues within traditional religious institutions.

Now is a particularly appropriate time for confronting the tension between feminism and organized religion as the trend in the United States moves toward increased acknowledgement of the influence of religion in the lives of professionals,<sup>5</sup> renewed interest in the study of religion,<sup>6</sup> increased activity of religious

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5. See Martha Minow speaks about an increasing number of legal and medical professionals who integrate their professional practice and their religion. See Martha Minow, *On Being A Religious Professional: The Religious Turn in Professional Ethics*, 150 U. PA. L. REV. 661, 662 (2001). She cites the increase in the medical and legal fields as part of a larger trend. *Id.* See also CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT (Michael W. McConnell et al. eds., 2001) (considering what the authors' Christianity means for law and their work); Patrick McKinley Brennan, 16 J.L. & RELIGION 667 (2001) (reviewing CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT, *supra*).

6. See Linda Ammons notes the recent attention to religion in law and other fields. See Linda L. Ammons, *What's God Got To Do With It? Church and State Collaboration in the Subordination of Women and Domestic Violence*, 51 RUTGERS L. REV. 1207, 1211 (1999) (citing Wayne C. Booth, *Deconstruction as Religious Revival*, in CHRISTIANITY AND CULTURE IN THE CROSSFIRE 131, 133 (David A. Hoekema & Bobby Fong eds., 1997); Symposium, *Faith and the Law*, 27 TEX. TECH L. REV. 911 (1996); Symposium, *The Relevance of Religion to a Lawyer's Work: An Interfaith Conference*, 66 FORDHAM L. REV. 1075 (1998); Symposium, *Religion and the Judicial Process: Legal, Ethical and Empirical Dimensions*, 81 MARQ. L. REV. 177 (1998); Robert F. Cochran, Jr., *Christian Perspectives on Law and Legal Scholarship*, 47 J. LEGAL EDUC. 1 (1997). John Coleman documents the recent focus of sociologists on the study of religion. See John A. Coleman, *Public Religion and Religion in Public*, 36 WAKE FOREST L. REV. 279 (2001). "[R]eligion generates more social capital than any other institution in American society. Sociologists have turned, in fresh ways, to religion to discover how it uniquely or disproportionately generates behaviors, attitudes, and resources essential to both civic virtue and citizenship engagement." *Id.* at 281.

feminists,<sup>7</sup> and general resurgence of religion in the public square.<sup>8</sup> The cover of the March 10, 2003 issue of *Newsweek* shouts: "Bush and God."<sup>9</sup> At the same time the globe is shrinking and "the contest over women's roles" becomes "high politics" internationally.<sup>10</sup> In a post-9/11 world, the question of reconciling faith in a traditional religion with feminism and reconciling feminism with organized religious faith has become a front-page concern.<sup>11</sup> It is to the possibilities of such a reconciliation that I write.

I cannot effectively argue against the feminist assertion that traditional organized religions, in fact all major religions in the world, are patriarchal.<sup>12</sup> What

7. Religious women are influencing policy decisions and advancing feminist agendas. See Minow, *supra* note 5, at 673 n.45 (citing Lucie E. White, *Raced Histories, Mother Friendships, and the Power of Care: Conversations with Women in Project Head Start*, 76 CHI.-KENT L. REV. 1569 (2001)).

8. See, e.g., Ammons, *supra* note 6, at 1216 n.35 (citing *See What the World is Reading*, ECONOMIST, Sept. 6, 1997, at 20; and Ron Sellers, *Nine Global Trends in Religion*, FUTURIST, Jan. 11, 1998, at 20, 25) (noting the increase in books on religion and spirituality sold in the United States); Wendy Leopold, *Garrett-Medill Center Examines Religion and Media*, NORTHWEST U. OBSERVER, Feb. 17, 2000, available at <http://www.northwestern.edu/univ-relations/media/observer/category/1999-00/journalism/gmcenter-journal.html> (last visited Sept. 22, 2003) (referencing an "unprecedented renewal of interest in spirituality"); WARREN A. NORD & CHARLES C. HAYNES, *TAKING RELIGION SERIOUSLY ACROSS THE CURRICULUM* 36 (1998) ("Over the last decade a fairly broad consensus about the role of religion in public schools has developed at the national level among the leadership of many religious and educational organizations."). But see STEVE BRUCE, *GOD IS DEAD: SECULARIZATION IN THE WEST* 204 (2002) (arguing that Christianity is "losing power, prestige and popularity").

For many, the 2000 Presidential campaign was a benchmark in the movement toward returning religion to the public square. See Teresa Watanabe, *Church-State Line Is Still Blurred After Rulings*, L.A. TIMES, July 3, 2002, available at 2002 WL 2487500, at A20 (citing as examples the frequent "public testimonials about the place of faith in their lives" of candidates Bush, Gore, and Lieberman in the last election and Bush's faith-based initiatives); Daniel O. Conkle, *Religion, Politics, and the 2000 Presidential Election: A Selective Survey and Tentative Appraisal*, 77 IND. L.J. 247, 265 (2002) ("[T]he 2000 election might herald an increasing emphasis on religion in these contexts."); Ken Herman & Juan B. Elizondo, Jr., *Presidential Hopefuls Talking Religion, to the Dismay of Some*, AUSTIN AM.-STATESMAN, Oct. 12, 1999, at A1, available at 1999 WL 7427910 (noting the increased role of faith in the 2000 presidential election).

On the international level, Richard Falk reports: "Among the surprises of the last several decades has been a multifaceted world-wide resurgence of religion as a potent force in human affairs, suggesting a relevance to the concerns of the public as well as the private sphere." Richard Falk, *Religion and Global Governance: Harmony or Clash?*, INT'L J. ON WORLD PEACE, Mar. 1, 2002, at 337. See also Leti Volpp, *Feminism Versus Multiculturalism*, 101 COLUM. L. REV. 1181, 1206 (2001).

9. NEWSWEEK, Mar. 10, 2003, at cover.

10. Dale F. Eickelman & James Piscatori, *Foreword* to ZIBA MIR-HOSSEINI, *ISLAM AND GENDER: THE RELIGIOUS DEBATE IN CONTEMPORARY IRAN* ix (1999). See also Howland, *supra* note 4, at 273 (discussing the "contemporary rise of religious fundamentalism in Buddhism, Christianity, Hinduism, Islam and Judaism"); Martha Minow, *About Women, About Culture: About Them, About Us*, DAEDALUS, Fall 2000, at 125 (discussing the salience of women's issues in the intense debates over international cultural conflict).

11. See, e.g., Laila Al-Marayati & Semeen Issa, *Muslim Women: An Identity Reduced to a Burka*, L.A. TIMES, Jan. 20, 2002, at M1, available at 2002 WL 2447646; Eileen E. Flynn, *On the Eve of Ramadan: Preparing for Muslim Holy Month, Women Embrace Their Adopted Faith*, AUSTIN AM.-STATESMAN, Nov. 5, 2002, at B1, available at 2002 WL 101145251; Richard Lacayo et al., *An Inside Look at How Women Fared Under Taliban Oppression and What the Future Holds for Them Now*, TIME, Dec. 3, 2001, at 34, available at 2001 WL 29385589.

12. See Vanaja Dhruvarajan, *Religion, Spirituality, and Feminism*, in *GENDER, RACE, AND NATION: A GLOBAL PERSPECTIVE* 274 (Vanaja Dhruvarajan & Jill Vickers eds., 2002). See also Howland, *supra* note 4, at 280 ("The major religions . . . are imbued with patriarchy and with treating women unequally in various contexts."). For a detailed feminist critique of various doctrines, histories, or practices of world-wide religious traditions that are oppressive to women, see Howland, *supra* note 4, at 282-324.

One possible exception is the Church of Christ, Scientists, which was founded by a woman. See *THE LIFE OF MARY BAKER G. EDDY & THE HISTORY OF CHRISTIAN SCIENCE* 71 (Willa Cather & Georgine Milmine eds., 1993). Mary Baker Eddy was a strong proponent of women's rights. See STEPHEN GOTTSCHALK, *THE EMERGENCE OF CHRISTIAN SCIENCE IN AMERICAN RELIGIOUS LIFE* 269 (1973) ("Mrs. Eddy spoke out on the subject of women's rights more explicitly than on any other single issue.").

patriarchy means and what to do about it are my concerns.<sup>13</sup> In this paper I first discuss the Western feminist critique of traditional organized religions and then the believers' critique of Western feminism. Finally, I provide some suggestions, in an international context, on how the feminist faithful might negotiate commitments to both feminism and their religion and how American and secular feminists, as outsiders to other religions, countries, and cultures, might help women in their struggle for empowerment and respect—without arrogance or insensitivity.

## II. INITIAL ASSUMPTIONS AND OBSERVATIONS

I begin with several assumptions that no doubt warrant a deeper analysis than is possible here. First, I take it as a given for purposes of this paper that globalization *happens*, or perhaps, has happened, and a position of isolation or absolute nationalist deference is not practical, or likely, particularly as our government has engaged in war in Iraq.<sup>14</sup> Second, I assume that American feminist thought will have an influence on developing attitudes and policy<sup>15</sup> through influence on United States government policy, which plays out in international diplomacy and economic incentives;<sup>16</sup> through involvement with the United Nations (U.N.) and

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13. "Patriarchy" derives from the Greek and means "rule of the fathers." MAJELLA FRANZMANN, WOMEN AND RELIGION 7 (2000). For a discussion of the term "patriarchy" in the context of LDS theology, see Cheryl B. Preston, *This Old House: A Blueprint for Constructive Feminism*, 83 GEO. L.J. 2271, 2285 n.50 (1995). For a culturally sensitive critique of the feminist obsession with patriarchy, see L. Amede Obiora, *Bridges and Barricades: Rethinking Polemics and Intransigence in the Campaign Against Female Circumcision*, 47 CASE W. RES. L. REV. 275 (1997). "The failure of 'patriarchy' as an explanation for sexual stratification reveals the absence of a pragmatic dimension in monocausal accounts of human motivation and behavior; accounts that do not consider the social refraction of symbols and their meaning." *Id.* at 306. See also FRANZMANN, *supra*, at 9 (quoting Dolores Williams for the proposition that the term "patriarchy" "leaves too much out" when used to describe the oppression of black women).

14. Early commentary on the war in Iraq acknowledges its significance in terms of globalization and suggests a negative impact on international law. See, e.g., Gareth Evans, *The U.S. Versus the World? How American Power Seems to the Rest of Us*, 27-Fall FLETCHER F. WORLD AFF. 99 (analyzing the impact of U.S. actions in a "globalized, interdependent world"); Michael J. Kelly, *Time Warp to 1945-Resurrection of the Reprisal and Anticipatory Self-Defense Doctrines in International Law*, 13 J. TRANSNAT'L L. & POL'Y 1 (2003) (defining this as a period of "geopolitics" of power); Leila Nadya Sadat, *Terrorism and the Rule of Law*, 3 WASH. U. GOLBAL STUD. L. REV. 135 (2004) (discussing the global implications of the U.S. action to bypass the U.N.).

15. "Western liberal assumptions implicit in much of feminist writing, and its essentialist paradigm have been subjected to widespread analysis." Penelope E. Andrews, *Globalization, Human Rights and Critical Race Feminism: Voices from the Margins*, 3 J. GENDER RACE & JUST. 373, 393 (2000).

16. "Feminist legal scholars . . . continue to expose international law's patriarchal edifice. . . . [T]he urgency of gender equality has been given the formal nod in previously recalcitrant quarters; witness, for example, the Beijing Conference and the Platform for Action, the Vienna Conference that preceded it, and the Population and Development conference in Cairo." *Id.* at 392-93.

its Charter,<sup>17</sup> conferences such as the Cairo Conference on Population and Development (Cairo, 1994)<sup>18</sup> and the Beijing Conference on Women (1997),<sup>19</sup> U.N. documents such as the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),<sup>20</sup> the Declaration on the Elimination of Violence against Women,<sup>21</sup> and U.N. sanctioned Non-Governmental Organizations;<sup>22</sup> through public interest groups' publications and educational programs;<sup>23</sup> and through perhaps the most potent disseminator of information ever—the internet.<sup>24</sup> “Feminist networks have developed on all continents. These networks are, in part, a function of advanced communications technology.

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17. See, e.g., Patricia Sellers, *Letter From Afghanistan*, FORTUNE, Feb. 17, 2003, at 42, available at 2003 WL 8253572 (explaining that she traveled to Kabul with a State-Department sponsored delegation of women and declaring that “foreign aid to Afghanistan is directly linked to women’s rights”); Lacayo, *supra* note 11 (describing meetings between the Bush administration and Eleanor Smeal, president of the Feminist Majority, and Mavis Leno, a feminist activist, to discuss the status of women in Afghanistan).

David Moore proffers that many countries seek to send to other international actors signals that show them to be cooperative and reasonable team players. See David H. Moore, *A Signaling Theory of Human Rights Compliance*, 97 Nw. U. L. REV. 879, 902-03 (2003). The desire to send the right signals encourages countries to show evidence of accepting the values of international powers, especially the United States. *Id.*

The question arises . . . why nations would accede to international human rights instruments. The answer lies in the fact that accession, like compliance, can serve as a signal of restraint. . . . Accession may intensify the monitoring and shaming efforts of transnational actors and raise other nations’ expectations of compliance with the risk of greater reputational costs if a signatory deviates, but accession rarely triggers more than minimal monitoring and enforcement by an authoritative organization. On the other hand, the failure to accede risks the cost of being classed with unrestrained states.

*Id.*

18. The 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt focused on adopting a “Programme of Action to improve the status of women and ensure gender equality worldwide. It also identified reproductive rights as a basic human right and that rapid population growth is most effectively slowed when women are able to choose the number and spacing of their children.” *March 1999 Legislative Update, Population Connection*, Mar. 19, 1999, available at [http://www.populationconnection.org/Reports\\_Publications/Reports/report23.html](http://www.populationconnection.org/Reports_Publications/Reports/report23.html) (last visited Apr. 6, 2003).

19. In announcing the Beijing conference, the World Bank’s Electronic Newsletter on Population, Health and Nutrition Issues described the conference goals this way: “The Fourth UN World Conference on Women will be held in Beijing, China, in September 1995. Convened by the United Nations General Assembly, the Conference provides governments from around the world with the chance to assess the progress made in reducing gender inequality, as well as the chance to reaffirm their commitment to the advancement of women. The main document for the Beijing Conference is the draft Platform for Action.” Available at <http://www.world-bank.org/html/extdr/-hnp/hddflash/-issues/00086.html> (last visited Apr. 6, 2003).

20. G.A. Res. 180, U.N. GAOR, 34th Sess., at 193, U.N. Doc. A/RES/34/180 (1979).

21. G.A. Res. 104, U.N. GAOR, 48th Sess., at 217, U.N. Doc. A/RES/48/104 (1993). This declaration seeks change in gender “patterns and stereotypes” that derive from religion. *Id.* See R. Christopher Preston & Ronald Z. Ahrens, *United Nations Convention Documents in Light of Feminist Theory*, 8 MICH. J. GENDER & L. 1, 21 (2001).

22. “[W]omen activists globally have energized the plethora of non-governmental organizations (NGOs) which continue to proliferate. The individual and combined efforts and lobbying of these NGOs have forced governments to consider gender issues, and they have ‘engendered’ organs of civil society.” Andrews, *supra* note 15, at 393-94.

23. Private organizations involved in this work include Amnesty International, Human Rights Watch, and the International Security Assistance Force. One group that includes American feminists and is aimed specifically towards international religious issues is Women Against Fundamentalism. See Howland, *supra* note 4, at 275.

24. The internet makes important documents and associations available to women who, for want of educational, travel, or other opportunities, would otherwise lack access. In *A Feminist Response to the Exon Bill*, 8 HASTINGS WOMEN’S L.J. 79, 79-80 (1997), Sarah Chester points out that the internet can serve various feminist needs by providing openness and anonymity. See also WOMEN AND WORLD RELIGIONS 71 (Lucinda Joy Peach ed., 2002) (observing the “networking connections made possible through the Internet” for women).

... Modern technology has ... increased the international exchange of ideas. Feminism is a natural consequence of this shrinking world."<sup>25</sup>

My third assumption is definitional. For this article, I use the inadequate terms "traditional"<sup>26</sup> and "organized"<sup>27</sup> to describe a group of religions. I prefer these terms to other inadequate words such as "orthodox," "conservative," and "fundamentalist."<sup>28</sup> I wish to distinguish personal faith from organized religion. "Traditional religion" in this article means an organized, institutional faith based on an established canon, and marked by authoritative, hierarchical male leadership, although not necessarily as unified and centralized as in the Catholic Church or the LDS church.

In addition, I use the collective terms "feminist," "American feminist," or "Western feminist" although they each suggest some kind of universality of belief or essentialism that does not exist. But the variation of approaches and purposes among theoretical strains of feminism is far beyond the scope of this paper.<sup>29</sup>

25. Nancy Kim, *Toward a Feminist Theory of Human Rights: Straddling the Fence Between Western Imperialism and Uncritical Absolutism*, 25 COLUM. HUM. RTS. L. REV. 49, 95 (1993).

26. This term is inadequate because Deism is arguably a traditional, but not organized, religion.

27. This term is inadequate because the Woman Church is an organized, but not traditional, religion.

28. Leti Volpp defines religious fundamentalism as "modern political movements that use religion as a basis for their attempt to win or consolidate power and extend social control. . . . [A]t the heart of it all is the control of women's minds and bodies." Volpp, *supra* note 8, at 1205 n.108 (citing Clara Connolly & Pragna Patel, *Women Who Walk on Water: Working Across "Race" in Women Against Fundamentalism*, in THE POLITICS OF CULTURE IN THE SHADOW OF CAPITAL 375 (Lisa Lowe & David Lloyd eds., 1998)). The term "fundamentalism" used in connection with religion is negative and connotes a regime extremely oppressive to women. See generally John S. Hawley & Wayne Proudfoot, *Introduction to FUNDAMENTALISM AND GENDER* (John S. Hawley ed., 1994); *Fundamentalism, Multiculturalism and Women in Britain, Introduction to REFUSING HOLY ORDERS 1* (Gita Sahgal & Nira Yuval-Davis eds., 1992). However, relying on specifics primarily from Hawley and Proudfoot, and Sahgal and Yuval-Davis, *supra*, Courtney W. Howland gives this definition of "fundamentalist" religious groups:

[This group] believes that . . . society need[s] to be rescued from the secular state; rejects Enlightenment norms . . . ; is committed to the authority of ancient scripture; [sees] . . . religious beliefs [as] inseparable from politics, law and culture; relies on an idealized past; is selective in drawing from the past for religious traditions and orthodox practice; centers that idealized past in a patriarchal framework mandating separate gender spheres and a "pristine morality"; rejects outsiders and the concept of pluralism; and is committed to activism and fighting for changed social, political and legal order.

Howland, *supra* note 4, at 277-78.

I see this definition as generally comporting with my understanding of "traditional" religion as I define it for this article. While the definition itself is not terribly negative, the examples of specific practices given in the text of Howland's article as well as in Hawley and Proudfoot and Sahgal and Yuval-Davis are more extreme and more oppressive than what I intend by reference to "traditional" religion. The term used by Howland that most closely resembles my conception of "traditional" religion is "conservative" religion.

Linda Ammons uses the general term "religion." Ammons, *supra* note 6, at 1210 n.9. "The word religion in this Article is defined as organized spirituality . . . . Institutions are formalized rule-based bodies, typically hierarchical in nature, that promote prescribed doctrines of faith and seek to regulate the morality of their believers and sometimes, nonbelievers." She distinguishes it from "fundamentalism." *Id.* "Fundamentalism . . . differs from traditionalism or orthodoxy or even a mere revivalist movement. It differs in that it is a movement in conscious organized opposition to the disruption of those traditions and orthodoxies." *Id.* (quoting Nancy T. Ammerman, *North American Protestant Fundamentalism*, in FUNDAMENTALISMS OBSERVED 1, 14 (Martin E. Marty & R. Scott Appleby eds., 1991)).

Terms even more pejorative than "fundamentalism" include "antimodern[ist]," "obscurantism," and "extremism." See Howland, *supra* note 4, at 276 n.7.

29. See Kim, *supra* note 25, at 96. For a discussion of the range of feminist political philosophies, see Preston, *supra* note 13, at 2290-91. For a simple and straight-forward description of liberal feminism, radical feminism, and social/psychoanalytic (or cultural) feminism, see Kim *supra* note 25, at 52-55. Kim also cites "Marxist feminism, socialist feminism, existentialist feminism, and postmodern feminism." *Id.* at 52 n.11.

### III. THE FEMINIST CRITIQUE OF TRADITIONAL RELIGION

In a discussion of CEDAW, Juliet Sheen asserts that “[r]eligion is so heavily masculinized that the tenets and extensions of religious belief are sometimes, in and of themselves, violations of women’s human rights.”<sup>30</sup> Many feminists would, no doubt, agree; but not all. Within the range of skeptics about organized religion’s role, feminists differ on the extent of masculinization within a religion and the cure. This article is not the place to attempt a meaningful discourse on the range and complexity of feminist challenges to sexist practices conducted in the name of religion. The general content of the critique is not difficult to conceptualize. As theologian Phyllis Trible acknowledges, “[e]vidence abounds for the subordination, inferiority and abuse of women. One has no difficulty in making the case against the Bible,” although the recognition of such evidence for her has not led to abandonment of the Bible.<sup>31</sup> I offer only a brief survey of the feminist critique of organized religion, focusing primarily on the writing of feminist legal scholars.

Some feminist legal scholars have addressed gender-based discrimination in religion and the law’s role in permitting it.<sup>32</sup> Angela Padilla and Jennifer Winrich see the subordination of women to men in the Bible as replicated in law, especially in the law’s treatment of violence against women.<sup>33</sup> Kathleen McDonald argues that “[f]or centuries, Judeo-Christian teachings have espoused the inferiority of women as a means of maintaining patriarchy and male superiority.”<sup>34</sup> Such institutions have also “explicitly and implicitly sanctioned wife abuse.”<sup>35</sup> Linda Ammons takes an even stronger stance, insisting that “Judeo-Christian institutions, ideology, and practices” are in complicity with “promoting the subordination of women and the use of violence as a tool to enforce submission.”<sup>36</sup>

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30. Juliet Sheen, *Burdens on the Right of Women to Assert Their Freedom of Religion and Belief*, in FACILITATING FREEDOM OF RELIGIOUS BELIEF: A DESKBOOK (Lindholm et al. eds., 2004) (hereinafter “FACILITATING FREEDOM”).

31. Phyllis Trible, *The Pilgrim Bible*, in WE BELONG TOGETHER: CHURCHES IN SOLIDARITY WITH WOMEN 16 (Sarah Cunningham ed., 1992). Her “niche” is reinterpreting the Bible and choosing among legitimate readings of Biblical passages. *Id.*

32. Using feminist or woman-centered thinking to examine religion and law, and their relation to each other, produces some fruitful constructions for understanding law as well as religion. For an interesting critique comparing the rigidity and harshness of law to the idol of the patriarchal God the Father found in many Christian traditions, see Emily Albrink Fowler Hartigan, *Out-Lawing God the Daughter*, 9 S. CAL. REV. L. & WOMEN’S STUD. 227 (2000). The twin nature of law and institutional religion is also considered in Angela L. Padilla & Jennifer J. Winrich, *Christianity, Feminism, and the Law*, 1 COLUM. J. GENDER & L. 67, 67 (1991). They conclude, “we cannot ignore religion and still hope to understand the patriarchal legal framework in which women and men operate.” *Id.* at 68.

33. Padilla & Winrich, *supra* note 32, at 87-102.

34. Kathleen A. McDonald, *Battered Wives, Religion, & Law: An Interdisciplinary Approach*, 2 YALE J.L. & FEMINISM 251, 251-252 (1990).

35. *Id.* at 252.

36. Ammons, *supra* note 6, at 1210. “Researchers on domestic violence have found that one of the significant factors contributing to a woman staying in an abusive relationship is a traditional religious belief that the man is to be obeyed . . . religious advocates have explicitly sanctioned violence as a means of keeping the woman in her proper place in the home.” *Id.* at 1209.

The link may not be as strong as Ammons suggests. Religious men and women justify, pacify, and generally address the violence in their lives in religious terms as they do all important life issues. This does not necessarily mean that they are more likely than nonreligious people to experience violence or to excuse violence, only that they cast the issue in religious terms. Ammons also cites authority blaming the problem on misinterpretation of the traditions. *Id.* at 1269 (quoting the Reverend Dr. Marie Fortune and citing Marie M. Fortune, *A Commentary on Religious Issues in Family Violence*, in VIOLENCE IN THE FAMILY: A WORKSHOP CURRICULUM FOR CLERGY AND OTHER HELPERS 137, 138 (Marie M. Fortune ed., 1991) (“Misinterpretation of the traditions can contribute substantially to the guilt, self-blame, and suffering that victims experience and to the rationalizations often used by those who abuse.”)).



McDonald sees progress in that “feminist theologians are applying the feminist method of reinterpretation, revision, and restructuring based on women’s experiences . . . .”<sup>37</sup> Further, she foresees that religions can be reformed as “religious leaders . . . abandon patriarchal beliefs or practices.”<sup>38</sup> “The changes that must occur within organized religion will result not merely from the inclusion of women in the existing male construct, but from women’s questioning, reinterpreting, and, where necessary, rejecting the hierarchical ecclesiastical assumptions and biases against” women, and from legal pressure.<sup>39</sup> She notes that real change in traditional religion requires a balance between respecting the beliefs of a female within the tradition and critical analysis of these traditions.<sup>40</sup>

Another critique is Mary Becker’s proposal that traditional organized religions in the United States should lose their tax exempt status.<sup>41</sup> Although she acknowledges that “religion has often empowered women and has responded to and reflected the beliefs and values of women,”<sup>42</sup> and that women “are, in general, more religious than men,”<sup>43</sup> Becker advocates a denial of postage advantages, tax subsidies, tax exemptions, and government contract awards to religious institutions that discriminate against women.<sup>44</sup> Similarly, Jane Rutherford argues that organized religions should not enjoy a “minister exemption” from gender-based discrimination laws.<sup>45</sup>

One fairly subtle critique of the role traditional religion has played in women’s subordination is described in Susan Dunfee’s *The Sin of Hiding*.<sup>46</sup> She describes the Christian tradition as focused primarily on the sin of pride and the virtue of self-sacrifice.<sup>47</sup> When taking these tenets at face value, women sometimes become so selfless that they end up with no self left.<sup>48</sup> Thus, Christian guilt can become “etched into the secret lives of women who turn against themselves in self-hatred.”<sup>49</sup>

37. McDonald, *supra* note 34, at 252.

38. *Id.* at 292.

39. *Id.* at 294.

40. *Id.*

41. See Mary E. Becker, *The Politics of Women's Wrongs and the Bill of "Rights": A Bicentennial Perspective*, 59 U. CHI. L. REV. 453 (1992).

42. *Id.* at 459.

43. *Id.*

44. *Id.* at 485-86.

45. Jane Rutherford, *Equality as the Primary Constitutional Value: The Case for Applying Employment Discrimination Laws to Religion*, 81 CORNELL L. REV. 1049, 1058 (1996).

46. Susan Nelson Dunfee, *The Sin of Hiding: A Feminist Critique of Reinhold Niebuhr's Account of the Sin of Pride*, 65 SOUNDINGS: INTERDISCIPLINARY J. 315, 316 (1982).

47. *Id.* at 321 (relying on the theological philosophy of Reinhold Niebuhr).

48. *Id.* at 320, 322. In the context of family violence, “[c]lergy have given women advice that focuses on their need to improve their Christian characteristics (i.e., they need to be more loving, more forgiving, more Christian, more prayerful, etc.) not [the man’s] need to stop his unChristian behavior.” Ammons, *supra* note 6, at 1209 n.4 (citing Carol J. Adams, *When God-Talk Enters the Shelter*, VOICE, Fall, 1996, at 1,1)). See also Amy Miles, *Feminist Theories of Interpretation: The Bible and the Law*, 2 GEO. MASON L. REV. 305, 316 (1995) (“Women who are very religious sometimes submit to abuse and violation . . . [having] been raised to believe that Christian women are meek and that claiming rights for themselves is sinful and prideful.”).

49. Dunfee, *supra* note 46, at 316.

Perhaps the most famous feminist legal scholar to critique religion is Mary Daly.<sup>50</sup> In the international context, Mary Daly's book *Gyn/Ecology*<sup>51</sup> characterizes Indian *sati*, Chinese footbinding, and African genital mutilation, among other practices as "sadocratic rituals done to women's bodies and minds,"<sup>52</sup> which have roots in religious traditions.<sup>53</sup> Although not singly pointed at religion, Susan Moller Okin recently answered a related question<sup>54</sup> by concluding that women in "a more patriarchal minority culture [may] . . . be much better off if the culture into which they were born were either to become extinct (so that its members would become integrated into the less sexist surrounding culture)" or that culture become altered to "reinforce the equality of women."<sup>55</sup>

Other feminists in law have joined in the current conflicts over Catholic priests and sexual abuse<sup>56</sup> and international law on human rights and religion.<sup>57</sup> Islam is currently a primary site for the battle between feminists and organized religion, and between secular feminists and religious women who retain membership in traditional religions. As Muslim feminist Meyda Yegenoglu observes, the veiled woman has become the "concrete embodiment" of the perception of the Islamic tradition's inherent oppressiveness and the "monstrous[ness]" of the religious customs of near east societies generally.<sup>58</sup>

#### IV. THE BELIEVER'S CRITIQUE OF AMERICAN FEMINISM

Although some feminists have roundly criticized organized religion, representatives of these institutions, on both the national and international level, have also criticized American feminism. I will discuss six objections, going from what, in my judgment, is the most obvious to the more subtle.

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50. "Mary Daly has become the most formidable and uncompromising critic of all." Ann Loades, *Practical Consequences*, in *FEMINIST THEOLOGY: A READER* 181, 181 (Ann Loades ed., 1990). Her work is widely read and influential. *Id.* Daly's books include *THE CHURCH AND THE SECOND SEX* (1968) and *BEYOND GOD THE FATHER: TOWARD A PHILOSOPHY OF WOMEN'S LIBERATION* (1973).

51. MARY DALY, *GYN/ECOLOGY: THE METAETHICS OF RADICAL FEMINISM* (1978).

52. *Id.* at 69.

53. For example, some groups practice female circumcision as a religious ritual. *See* Obiora, *supra* note 13, at 295-96. *See also* Julie Dimauro, *Toward a More Effective Guarantee of Women's Human Rights: A Multicultural Dialogue in International Law*, 17 *WOMEN'S RTS. L. REP.* 333, 336 (1996) ("Although some Islamic societies insist that [female genital mutilation] is mandated by the Islamic faith, [female genital mutilation] is not observed in some leading Arab countries.").

54. The question was: Is multiculturalism bad for women? Okin's answer and the answers of fifteen other writers are published in *IS MULTICULTURALISM BAD FOR WOMEN?* (Joshua Cohen et al. eds., 1999).

55. *Id.* at 22-23.

56. For instance, Gloria Steinem argues that both the pedophile priests and the children abused are victims of a male-dominated church hierarchy. *Steinem Blames White Male Dominance for Church Sex Scandal*, 9-11, *NEWSMAX WIRES*, Mar. 25, 2002, available at <http://www.newsmax.com/archives/articles/2002/3/24/232249.shtml> (last visited Sept. 23, 2003). *See also* Frances Kissling, *Cardinals' Sin, Clerical Crimes*, *MS. MAGAZINE*, Summer 2002, at 15, available at <http://www.msmagazine.com/summer2002/kissling.asp> (last visited Apr. 13, 2003). Kissling asks why the Vatican ignored on-going reports from nuns of sexual abuse in many different countries. "Priests who abuse and bishops who defend them believe preserving male power and privilege is more important than respecting the bodies and dignity of children and women." *Id.*

57. *See, e.g.*, Eva Herzer, *Afghan Women: A Time of Great Hope and Uncertainty*, *WOMEN LAW. J.*, Fall 2002, at 8; Versa Sharma, *Women & Law in India*, *WOMEN LAW. J.*, Fall 2002, at 19.

58. Meyda Yegenoglu, *Sartorial Fabrications: Enlightenment and Western Feminism*, in *POSTCOLONIALISM, FEMINISM, AND RELIGIOUS DISCOURSE* 82 (Laura E. Donaldson & Kwok Pui-lan eds., 2002). Other Muslim writers echo the sorry sentiment that the veil or the burqa has been made the simplistic symbol of the oppression of Muslim women. *See, e.g.*, Laila Al-Marayati & Issa, *supra* note 11 (arguing that contrary to the suggestion of Western media, wearing the burka is not the major concern of women in Afghanistan nor the reification of Muslim female identity); Lacayo, *supra* note 11 ("To westerners, the most visible symbol of the Taliban's oppressive regime [is] . . . the burka" although many women in Kabul "say the burka is the least of their concerns.").

*A. American Feminists Do Not Respect the "Subjects" of our "Reforms."*

The conduct of outsiders from the West toward the "Third World"<sup>59</sup> must be understood in the context of our colonialist past. Imperialist instincts and racism may taint modern thinking, even by feminists.<sup>60</sup> Women in other countries have been quick to see this all too striking resemblance between modern Western feminists and our Western colonizing forefathers. In Beijing, in particular, some groups labeled feminists as imperialists when those feminists tried to expand norms of radical individualism beyond the issues that other women wanted help on—sexuality and reproduction—to issues these women did not want help on.<sup>61</sup>

Kwok Pui-lan observes that the colonialist view homogenizes Third World women and allows outsiders to justify their imperialism:

The script "saving brown women from brown men" simultaneously constructs brown women as victims of male oppression and objects of compassion by Westerners. . . . [S]uch construction homogenizes women in the Third World, suppressing their differences according to family background, region, ethnicity, class, and religion. Furthermore, they were to be saved from patriarchal oppression by brown men, without any mention of their suffering under imperialism. Brown women constructed as pitiful victims played into the superiority complex of Western audiences, without challenging their complicity in colonialism.<sup>62</sup>

History confirms the notion that "saving brown women from brown men" has always played an insidious role in "helping to camouflage the violence and brutality of colonialism."<sup>63</sup> For example, "British colonial officials in Egypt specifically invoked the veil and treatment of women under Islam as a justification for colonialism."<sup>64</sup>

Karima Bennouna, in response to First Lady Laura Bush's November 2001 address about the plight of women in Afghanistan, highlighted this problem:

59. As the women of EATWOT explain, "The current move to introduce the term 'two thirds-world' attempts to acknowledge that in geographical space, and certainly in population, those who occupy the underside of the purchasing and ruling powers in the human community constitutes *more* than a third." WITH PASSION AND COMPASSION, *supra* note 1, at ix. I choose to use the term "Third World" only because it is more familiar.

60. For a stinging renunciation of feminist paternalism and imperialism, see Obiora, *supra* note 13. See also Tracy E. Higgins, *Anti-Essentialism, Relativism, and Human Rights*, 19 HARV. WOMEN'S L.J. 89, 97 (1996).

Cultural relativists have targeted feminism itself as a product of Western ideology and global feminism as a form of Western imperialism. Ironically, cultural relativists have accused feminist human rights activists of imposing Western standards on non-Western cultures in much the same way that feminists have criticized states for imposing male-defined norms on women.

*Id.*

61. See Higgins, *supra* note 60, at 90. See also Obiora, *supra* note 13, at 276 (confirming that some participants in the Beijing conference resisted the socio-cultural insensitivity of other participants).

62. Kwok Pui-lan, *Unbinding Our Feet: Saving Brown Women and Feminist Religious Discourse in POSTCOLONIALISM, FEMINISM, AND RELIGIOUS DISCOURSE*, *supra* note 58, at 62, 67.

63. *Id.* at 63.

64. Volpp, *supra* note 8, at 1196.

This is part of what was missing for me in Mrs. Bush's radio address and in many discussions in this country of the plight of Afghan women before and since—some acceptance of responsibility, some small reminder of our own complicity in making Afghanistan a haven for theocratic lunacy and repression of women.<sup>65</sup>

In addition to being blinded to our own guilt in supporting repressive regimes, Western feminists may inadvertently reduce Third World women to the category of victim.<sup>66</sup> This characterization unduly empowers the Western world, especially the United States, as the rescuers in an altogether patronizing (matronizing?) fashion.<sup>67</sup> Feminist press about the plight of women in Third World countries frequently fails to see the "creative, innovative" women working within the context of their own histories, cultures, and commitments.<sup>68</sup> As an example, despite a couple of seemingly positive proclamations, discussions in the wake of September 11 have largely classified Afghani women as helpless victims, and left their ability for self-determination ignored.<sup>69</sup> As the United States populace and government debates the future of Afghanistan, the press frequently overlooks the potential of local women to figure in the reconstruction.<sup>70</sup>

Isabelle Gunning offers a refreshingly candid confession of her own initial Western feminist arrogance.<sup>71</sup> She acknowledges her

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65. Karima Bennouna, *Who Takes Responsibility?: Afghan Women's Human Rights and the Role of the United States*, 29 HUM. RTS. 4, 6 (2002).

66. For a detailed analysis of how "the international women's rights movement has reinforced the image of the woman as a victim subject," see Ratna Kapur, *The Tragedy of Victimization Rhetoric: Resurrecting the "Native" Subject in International/Post-Colonial Feminist Legal Politics*, 15 HARV. HUM. RTS. J. 1, 2 (2002). Her article begins with this insightful quotation:

Through traveling to other people's "worlds" we discover that there are "worlds" in which those who are the victims of arrogant perception are really subjects, lively beings, constructors of vision even though in the mainstream construction they are animated only by the arrogant perceiver and are pliable, foldable, file-awayable, classifiable.

- Maria Lugones

*Id.* at 1. See also Obiora, *supra* note 13, at 303 ("Western analyses continue to be informed by misconceived notions of African women as nothing but subjugated and devoid of agency.").

67. See Volpp, *supra* note 8, at 1205 ("[P]ositioning 'other' women as perennial victims . . . denies their potential to be understood as emancipatory subjects."). See also Al-Marayati & Issa, *supra* note 11 ("Stereotypical assumptions about Muslim women are . . . inaccurate . . . [D]espite numerous obstacles, Muslim women are active, assertive and engaged in society. . . . Throughout the world, many Muslim women are educated . . . [and are] catalysts for reform and champions for their own rights.").

68. Laura E. Donaldson, *The Breasts of Columbus in POSTCOLONIALISM, FEMINISM, AND RELIGIOUS DISCOURSE*, *supra* note 58, at 48. "In *Dislocating Cultures: Identities, Traditions, and Third-World Feminism*, Uma Narayan identifies the refusal of subject status to the colonized, that is, the failure to recognize them as creative, innovative subjects of their own history, as one of the most insidious aspects of colonialist representation." *Id.*

69. See Hilary Charlesworth & Christine Chinkin, *Sex, Gender, and September 11*, 96 AM. J. INT'L L. 600, 602 (2002).

70. See *id.*

71. See Isabelle Gunning, *Arrogant Perception, World-Traveling and Multicultural Feminism: The Case of Female Genital Surgeries*, 23 COLUM. HUM. RTS. L. REV. 189 (1992).

own desires to fit the practice [of female circumcision] neatly into a feminist version of the category 'human rights violation' led [her] toward an arrogant attitude that ultimately rendered those African feminists already engaged in a struggle within their cultures over the practice as either invisible or as stereotyped victims with a great need for yet another Western (if racially correct) savior.<sup>72</sup>

Around the world, women's movements are "burgeoning."<sup>73</sup> For instance, the Afghan Women's Council Clinic operating out of Peshawar, Pakistan, runs a clinic, publishes a newsletter, and brings women together to gather testimony of abuses in Afghanistan.<sup>74</sup> In addition, the Revolutionary Association of the Women of Afghanistan has several thousand members and the Afghan Women's Network is busy publicizing the plight of Afghan women.<sup>75</sup>

In the specific area of religion and women, a broadly based global feminist theological group, the Women's Commission of the Ecumenical Association of the Third World Theologians (EATWOT) has publicly "demand[ed] that theological scholarship must undergo a rigorous reassessment of its own role in perpetuating and reinforcing racist attitudes and sexist practices."<sup>76</sup> As members of "authentic Christianity," these women of the Third World are uniting to make their voices heard in theological scholarship and align that scholarship with the social realities they experience.<sup>77</sup>

I am not suggesting that Western human rights activists simply resign to a pluralism that condones any cultural practice, performed in the name of religion or otherwise. Much has been written about the tension between cultural relativism and human rights standards for the treatment of women.<sup>78</sup> There may indeed be abuses that are beyond the bounds of reasonable deference. I argue in this paper that some Western feminists, in their zeal to aid oppressed women world-wide, may have stumbled into age-old traps of arrogance, racism, imperialism and maternalism.

71. See Isabelle Gunning, *Arrogant Perception, World-Traveling and Multicultural Feminism: The Case of Female Genital Surgeries*, 23 COLUM. HUM. RTS. L. REV. 189 (1992).

72. *Id.* at 198.

73. Kim, *supra* note 25, at 94. Nancy Kim cites examples of women's organizations in Africa, Islam, Brasil, Peru, Malaysia, and others. *Id.* Examples include groups such as Women Living Under Muslim Laws, Howland, *supra* note 4, at 275; Sakyadhiti, an international organization of Buddhist women, WOMEN AND WORLD RELIGIONS, *supra* note 24, at 71, and the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children (IAC). For a discussion of the work of the IAC see Obiora, *supra* note 13, at 287, and Dimauro, *supra* note 53, at 340. For an explanation of indigenous feminism in Iran and the dynamics of *shari'a* interpretation and debate, see Mir-Hosseini, *supra* note 10.

74. Bennoune, *supra* note 65, at 5.

75. *Id.*

76. Katie G. Cannon, *Foreword* to WITH PASSION AND COMPASSION, *supra* note 1, at vii. The Women's Commission of the Ecumenical Association of the Third World Theologians (EATWOT) has moved past the rut of victimology and "formed a sisterhood of resistance to all forms of oppression." *Id.* at x.

77. *Id.* at viii.

78. See Martha Minow provides an exceptionally useful catalogue of the various "moves" and counter-moves made by those, on one side, who favor deferring to cultural or regional practices with respect to women and those, on the other side, who see international human rights standards as trumping cultural or regional practices. She includes a chart outlining the position of liberal human rights activists and the responses of cultural defenders. See Martha Minow, *About Women, About Culture: About Them, About Us*, DAEDALUS, Fall 2000, at 134-35.

*B. Secular Feminists Will Never Be Heard If They Dismiss Traditional Religion.*

If the feminist message is posited in a strict polarity between feminism and traditional religion, making women think they have to choose between the two, then many of the world's women will choose their religion. What church-affiliated women, myself included, want from feminists is help in reconciling these elements of our lives, and suggestions for working within our religious institutions. We will discredit anyone who disparages our religious commitments.<sup>79</sup> Miriam Cooke warns that practicing Muslim women "reject the proposition that they cannot be both free and equal with men and good Muslims at the same time,"<sup>80</sup> and Azizah al-Hibri agrees:

The majority of Muslim women who are attached to their religion will not be liberated through the use of a secular approach imposed from the outside by international bodies or from above by undemocratic governments. The only way to resolve the conflicts of these women and remove their fear of pursuing rich and fruitful lives is to build a solid Muslim feminist jurisprudential basis which clearly shows that Islam not only does not deprive them of their rights, but in fact demands these rights for them.<sup>81</sup>

This sentiment is echoed further by Farida Shaheed: "[A] women's movement needs to be perceived as rooted in the cultural reality of the society in which it operates. . . . [D]iscriminatory laws sanctified through Islam cannot be effectively countered with arguments which deny or discard Islam."<sup>82</sup> The same is true for faithful women in any organized religion.

A woman who is a practicing member of a religious institution will inevitably be hesitant to accept advice from someone "who does not understand her value system and her commitment to it."<sup>83</sup> This resistance has been observed by therapists who work with religious women:

79. There is already instinctive defensiveness that must be worked through for many religious women. Farid Esack acknowledges, "[v]ery few questions get Muslim males, and even some women, to put up barricades of defense and apologia as much as that of the discrimination of women in Muslim society." FARID ESACK, *ON BEING A MUSLIM: FINDING A RELIGIOUS PATH IN THE WORLD TODAY* 112, 113 (1999). This can be overcome with sensitivity and patience.

80. Miriam Cooke, *Multiple Critique: Islamic Feminist Rhetorical Strategies*, in *POSTCOLONIALISM, FEMINISM, AND RELIGIOUS DISCOURSE*, *supra* note 58, at 142.

81. Azizah al-Hibri, *Islam, Law and Custom: Redefining Muslim Women's Rights*, 12 AM. U. J. INT'L L. & POL'Y 1, 3 (1997). See also Al-Marayati & Issa, *supra* note 11 ("Muslim populations will be more receptive to change that is based on Islamic principles of justice, as expressed in the Koran . . .").

82. Padilla & Winrich, *supra* note 32, at 69-70 n.12 (citing Farida Shaheed, *The Cultural Articulation of Patriarchy: Legal Systems, Islam and Women*, S. ASIA BULL., Fall 1986, at 38-43). I am curious about her use of the word "perceived." As I discuss later, I think women's liberation should actually be rooted in cultural realities.

83. Rodney W. Burgoyne & Robert H. Burgoyne, *Conflict Secondary to Overt Paradoxes in Belief Systems—The Mormon Woman Example*, 8 J. OPERATIONAL PSYCHIATRY 39, 42 (1977).

The underlying problems of religious women . . . often have some basis in the institutionalized paradoxes inherent in their role in current society. Attacking these reality-based conflicts directly prevents the establishment of a trusting therapeutic relationship because it so greatly assaults [their] belief system. . . [Attempts to help] by those who underestimate this assault yields poor results.<sup>84</sup>

*C. Anything That Attacks Organized Religion Strikes  
Disproportionately at Women.*

Although it is difficult to test accurately for religiosity, studies uniformly show that women are more religious than are men: "That men are less religious than women is a generalization that holds around the world and across the centuries"<sup>85</sup> and simply "is taken for granted."<sup>86</sup> According to a February 2002 ABC-NEWS poll, 44% of all American women attend church on a weekly basis as opposed to 32% of all American men.<sup>87</sup> The 2001 findings of the Barna Research Group<sup>88</sup> in the United States show a similar pattern:

- 42% of women have read the Bible in the past week, compared to 32% of men who report reading the Bible in the past week. (2001)
- Women are more likely than are men to attend church on a given Sunday (47% to 36%, respectively). (2001)
- Women are more likely than men to attend a Sunday school class at church (22% to 16%) or to participate in a small group (20% to 13%). (2001)
- In general, women pray more often than do men, with 88% of women versus 75% of men reporting that they have prayed in the past week. (2001)<sup>89</sup>

84. *Id.* at 39.

85. Rodney Stark, *Physiology and Faith: Addressing the "Universal" Gender Difference in Religious Commitment*, 41:3 J. SCI. STUDY RELIGION 495, 495 (2002). Rodney Stark's article contains the findings of the last complete World Value Surveys, which delineates the statistical difference between the religiosity of males and females for 49 nations. *See id.*, at 497-98, tab.1. In addition, the findings show the breakdown by gender of various indicia of religiosity for eight countries. *See id.*, at 499, tab.2.

86. Allan S. Miller & Rodney Stark, *Gender and Religiosity: Can Socialization Explanations Be Saved?*, 107 AM. J. SOC. 1399, 1401 (2002).

87. Dalia Sussman, *Who Goes to Church? Older Southern Women Do; Many Catholic Men Don't*, ABC News Mar. 1, 2002, available at [http://abcnews.go.com/sections/us/DailyNews/church\\_poll020301.html](http://abcnews.go.com/sections/us/DailyNews/church_poll020301.html) (last visited Dec. 30, 2003).

88. Barna Research Group, Ltd. (BRG) describes itself as "a full-service marketing research company located in Ventura, California. BRG has been providing information and analysis regarding cultural trends and the Christian Church since 1984." Available at <http://www.barna.org/cgi-bin/PageAboutBarna.asp> (last visited Mar. 10, 2003).

89. Barna Research Online, *Gender Differences*, available at <http://www.barna.org/cgi-bin/PageCategory.asp?CategoryID=21> (last visited Dec. 30, 2003).

Internationally, the same trend is evident. For instance, African women are “demonstrably more religious than men” in terms of attendance at churches, mosques, and shrines.<sup>90</sup> Statistics drawn from the European Values Study of 1990 evidence that “everywhere in Europe—whether Protestant or Catholic—women are more religious than men.”<sup>91</sup> In industrial and post-industrial societies, women consistently score ten to twelve points higher than men on a survey that assesses “religiosity” by self-identification, attendance, importance, belief, and effect.<sup>92</sup> This gender gap does not vary much by faith or geography within the industrial and post-industrial world, although there is evidence that the difference in church attendance and religiosity diminishes in younger generations, and may disappear as cultural gender roles homogenize.<sup>93</sup>

In my own religious tradition women comprise 53% of church membership and are significantly more likely than men to actively participate on a regular basis.<sup>94</sup> According to 1998 Vatican statistics the number of nuns is more than twice the number of Catholic priests and non-ordained monks.<sup>95</sup> Similarly, in traditional Hinduism, “women form the largest portion of temple-goers and festival attendants, and women keep traditional domestic rituals alive and pass on the familiar stories of gods and goddesses to their children.”<sup>96</sup> Women are also greater supporters of Buddhist institutions and participants in Buddhist practices than men.<sup>97</sup>

Women seem to have a particular engagement with religion. In her analysis of women and world religions, Lucinda Peach found that even in sexist and patriarchal religious traditions, “women have found solace, inspiration, nurturance, sustenance, and spiritual growth.”<sup>98</sup> Within the sphere of religion women may have more freedom and authority than in their non-religious life.<sup>99</sup> “Devoting their lives to religious practices has often liberated women from a choiceless existence.”<sup>100</sup>

90. Mercy Amba Oduyoye, *Religion's Chief Clients*, in *WOMEN AND WORLD RELIGIONS*, *supra* note 24, at 328, 329.

91. *Women and Christianity: Representations and Practices*, in Xantippa: A Resource Page About Women in the European Union, available at <http://www.helsinki.fi/science/xantippa/wee/wee263.html> (last visited Oct. 10, 2003). The statistics tables are from Pierre Brechon, *Le mystère des identités religieuses masculines et féminines*, in NI EVE NI MARIE: LUTTES ET INCERTITUDES DES HÉRITIÈRES DE LA BIBLE (F. Lautman ed., 1997). See also Harri Heino, *The Status of Traditional Religiosity in the Nordic Countries*, Sept. 7, 1998, available at <http://www.evl.fi/kkh/ktk/norden.htm> (last visited Oct. 10, 2003) (reporting that in Finland, Sweden, Norway and Denmark, women pray more frequently than men).

92. Ronald Inglehart & Pippa Norris, *RISE AND FALL: GENDER EQUALITY AND CULTURAL CHANGE AROUND THE WORLD* 58 (2003).

93. *Id.*

94. David Stewart, *LDS Church Growth Today*, Apr. 14, 2002, available at <http://www.cumorah.com/report.html#activity> (last visited Oct. 10, 2003) “While LDS membership is officially 47% male and 53% [fe]male, among active Latter-Day Saints—especially in areas of predominately convert-based growth—the proportion of women is significantly higher, as is also the case with many other faiths. . . . The Encyclopedia of Mormonism notes that outside of North America, ‘among singles over age 30 who attend church weekly, there are only 19 men for every 100 women.’ Numbers of men and women baptized worldwide are nearly comparable, but women are significantly more likely than men to remain active after baptism.” *Id.* (quoting 4 *ENCYCLOPEDIA OF MORMONISM* 1528 (Daniel Ludlow et al. eds., 1992)).

95. Kari Elisabeth Børresen, *Religion Confronting Women's Human Rights: The Case of Roman Catholicism*, in *FACILITATING FREEDOM*, *supra* note 30.

96. Ursula King, *Hinduism and Women: Uses and Abuses of Religious Freedom*, in *FACILITATING FREEDOM*, *supra* note 30 (citing Klaus Klostermaier, *A SURVEY OF HINDUISM* 375-76 (1994)).

97. See *WOMEN AND WORLD RELIGIONS*, *supra* note 24, at 65.

98. *Id.* at 4.

99. See *id.*

100. *Id.*



Feminists must reassess whether undercutting organized religions without providing alternatives hurts women more than helps them. Because organized religion obviously is important in the lives of many women, a full-frontal feminist attack seems ironic and may help explain why so many women in the United States and around the world are disenchanted with feminism.

*D. Western Historical and Cultural Contexts Are Laden  
with Too Much History.*

I find this slogan both catchy and disturbingly insightful: “We do not have to turn the Past of the West into a Future for the Rest.”<sup>101</sup> The West (and the United States in particular) has taken a very particular path to our current feminism. The industrial revolution, suffrage, and the 1960’s all are important parts of the United States feminist history.<sup>102</sup> However, just because the United States has taken that route does not mean that such a path is desirable or even effective for the rest of the world that has yet to make a similar journey.<sup>103</sup>

Before beginning to renovate someone else’s house, we should examine how well we did with our own. Over the course of the last three or four decades, American feminist thought has swung like a pendulum between various views as it matures and calibrates, accepting new ideas and reassessing prior positions. Among the most notable loci of movement in feminist analysis are between liberal feminism’s formal equality and various asymmetric models,<sup>104</sup> and from essentialist “white feminism” to greater accounting for race and class.<sup>105</sup> With respect to specific issues, feminists have returned to the questions of the

101. Heba Raouf Ezzat, *Secularism, the State, and the Social Bond, in ISLAM AND SECULARISM IN THE MIDDLE EAST* 136 (John L. Esposito & Azzam Tamimi eds., 2000). Amade Obiora cites studies suggesting that, in fact, women in non-capitalist economies may enjoy greater mobility, economic and social autonomy, power, authority and influence. See Obiora, *supra* note 13, at 304. Perhaps these women can find ways to progress through the next century without the regressions on the path that feminists from the West have experienced.

102. See Obiora, *supra* note 13, at 304.

103. See Higgins, *supra* note 60, at 93-94.

[N]on-Western states have argued that the very hierarchy of human rights established in those instruments privileges civil and political rights over economic, social and cultural rights in a way that is biased toward both Western political traditions and the wealth of Western states relative to the rest of the world. Strategic enforcement of existing standards, coupled with the persistence of discrimination and economic inequality in Western nations, have further called into question the adequacy of Western concepts of civil and political rights to ensure human well-being.

*Id.*

104. Later feminists have questioned the initial feminist penchant for formal equality and the branch of feminist theory known as liberal feminism. For an expose tracing the movement from liberal feminism in the area of reproductive rights, see Pamela Laufer-Ukeles, *Approaching Surrogate Motherhood: Reconsidering Difference*, 26 VT. L. REV. 407, 435-36 (2002).

105. Clearly the most significant adjustment in feminist theory and politics came as a result of the recognition of the race and class exclusions from white feminist thought. See Adrienne D. Davis & Joan C. Williams, *Forward to Symposium: Gender, Work & Family Project Inaugural Feminist Legal Theory Lecture*, 8 AM. U.J. GENDER SOC. POL’Y & L. 1, 3 (1999) (suggesting that feminists “reopen” issues of family, work, and social class and “reframe old battles in creative ways”); Joan Williams, *Implementing Antiessentialism: How Gender Wars Turn into Race and Class Conflict*, 15 HARV. BLACKLETTER L.J. 41, 51 (1999) (noting the change in “essentialist” feminist analysis of work and encouraging feminists to “rethink” across classes).

public/privacy split,<sup>106</sup> no-fault divorce,<sup>107</sup> and prison reform and crime,<sup>108</sup> among others.<sup>109</sup> In addition, the results of feminist efforts to readjust gender-role interactions within families in the United States have not been particularly stellar.<sup>110</sup> While in one sense, women were “liberated” in their ability to gain employment, they have not also been liberated from domestic work.<sup>111</sup> Women in the Third World have the chance to avoid our past mistakes and, with some insight, may even avoid the mistakes we are currently making.<sup>112</sup>

Not only does Western culture translate poorly to many countries, women within Third World countries “experience patriarchy differently [among themselves] because of their caste/class, regional differences, [and] ethnicity . . . .”<sup>113</sup>

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106. For a discussion of the renewed feminist inquiry into the value of privacy, see Tracy E. Higgins, *Reviving the Public/Private Distinction in Feminist Theorizing*, 75 CHI.-KENT L. REV. 847, 848 (2000) (arguing that earlier feminist critiques overstated the threat of the public/private distinction and urging a “reexamination” of the feminist position). See also Anita L. Allen, *Coercing Privacy*, 40 WM. & MARY L. REV. 723, 754-55 (1999) (suggesting a feminist “reconstruction” of privacy); Linda C. McClain, *Reconstructive Tasks for a Liberal Feminist Conception of Privacy*, 40 WM. & MARY L. REV. 759, 759 (1999).

107. See Lenore Weitzman, *The Divorce Revolution: The Unexpected Social and Economic Consequences for Women and Children in America*, 189, 189 (1985); Martha L. Fineman, *Implementing Equality: Ideology, Contradiction and Social Change: A Study of Rhetoric and Results in the Regulation of the Consequences of Divorce*, 1983 WIS. L. REV. 789, 826-33; Herma Hill Kay, *Equality and Difference: A Perspective on No-Fault Divorce and Its Aftermath*, 56 U. CIN. L. REV. 1, 56 (1987); Martha Minow, *Consider the Consequences*, 84 MICH L. REV. 900, 902 (1986) (reporting on decline in standard of living of women following divorce). While feminists may not have had a major hand in conceiving no-fault divorce, see Katharine T. Bartlett, *Feminism and Family Law*, 33 FAM. L.Q. 475, 478-79 (1999), the feminists who did participate spoke from a formal equality position in favor of gender-neutral laws. See Deborah L. Rhode & Martha Minow, *Reforming the Questions, Questioning the Reforms*, in *DIVORCE REFORM AT THE CROSSROADS* 191, 195 (Stephen D. Sugarman & Herma Hill Kay eds., 1990).

108. See Dianne L. Martin, *Retribution Revisited: A Reconsideration of Feminist Criminal Law Reform Strategies*, 36 OSGOOD HALL L.J. 151 (1998); Angela Davis & Gina Dent, *Conversations: Prison as a Border: A Conversation on Gender, Globalization, and Punishment*, 26 SIGNS: J. WOMEN CULTURE & SOC’Y 1235 (2001).

109. Earlier feminist initiatives have also been questioned in the area of addicted mothers and prenatal drug exposure. See Karen D. Zivi, *Who is the Guilty Party? Rights, Motherhood, and the Problem of Prenatal Drug Exposure*, 34 L. & SOC’Y REV. 237 (2000). Feminist conceptions of rape as a crime of violence rather than sexuality have also been reassessed. See Samuel H. Pillsbury, *Crimes Against the Heart: Recognizing the Wrongs of Forced Sex*, 35 LOY. L.A. L. REV. 845, 943 (1989) (arguing that the feminist re-characterization of rape suffers from its own shortcomings and requires re-examination).

110. “The humorist for Brigham Young University’s paper, the Daily Universe, offered this theory on the ‘secret’ origins of the women’s movement. He depicted a room full of men studying two graphics. The first graphic shows a husband (carrying briefcase), wife (carrying baby), and child. The arrow points to the second graphic, the transformed family, which is a husband (in recliner), wife (carrying baby and briefcase), and child. The caption reads: ‘Remember, if we can pull this off, men, we’ll have them doing over 85% of the work by the year 1990.’” Preston, *supra* note 13, at 2317 (quoting David Gallagher, *Larger the Life*, DAILY UNIVERSE, July 30, 1992, at 4).

111. See Preston, *supra* note 13, at 2317. See also Rhode & Minow, *supra* note 107, at 193 (noting that working wives still perform 70% of the housework and spend twice as much time as husbands on housework).

112. See, e.g., *infra* note 144.

113. Dhruvarajan, *supra* note 12, at 297.

Not only does the experience of women within different religious traditions vary widely, but the experience of different women within the *same* religious tradition is often radically different, depending on a number of factors, especially cultural and regional differences, but also class status, age, . . . orientation, geographical location (both First World versus Third World as well as rural versus urban), and political affiliation.

It makes sense that solutions will also evolve differently.<sup>114</sup> All the talk about “essentialism” in American feminism should have taught us that individual women even within the same race, class, region, ethnicity, and religion have different goals.<sup>115</sup> Feminists must help women in other traditions “look inward and draw strength from [their] own cultural heritage.”<sup>116</sup>

#### V. SUGGESTIONS FOR RECONCILIATION: SUPPORTING TRADITIONAL RELIGION AND SUPPORTING WOMEN

Respecting the power of organized religion and its place in women’s lives, however, does not mean that there can be no social evaluation or critique of religious institutions. Just because a church membership may come *first* for many women does not negate or diminish other issues that follow second and third, or fifth and sixth. We must still address sexist practices protected in the name of religion and recognize that many women in the world do not “choose” religious affiliation—they have no other authentic options. The question remains: How do we frame a jurisprudence of international feminism within the structures of organized religion? I offer some suggestions, although surely not an exhaustive set.

##### A. Do Not Overestimate Our Own Importance.

Citizens of the United States chronically overstate their importance in the world. For example, *Atlantic Monthly* recently questioned whether Iraq would become “the Fifty-First State” after “the inevitable aftermath of victory in Iraq.”<sup>117</sup> *Newsweek*’s September 23, 2002 cover read “How We Helped Create Saddam And Can We Fix Iraq After He’s Gone?”<sup>118</sup> Both of these major publications assume that the United States is the giant international regulator for whom victory is assured, and who then has the sole responsibility to remake society in Iraq. The first assumption sounds overly optimistic; the second is condescending and arrogant.

Likewise, as feminists in the United States, it is easy to overreach our own boundaries. Ultimately, “only the oppressed can truly name their oppression,”<sup>119</sup> and only the oppressed can define their liberation. This does not mean that out-

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114. See Dhruvarajan, *supra* note 12, at 314.

115. See Joan Chalmers Williams, *Dissolving the Sameness/Difference Debate: A Post-Modern Path Beyond Essentialism in Feminist and Critical Race Theory*, 1991 DUKE L.J. 296 (1991); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990).

116. Dhruvarajan, *supra* note 12, at 314.

117. ATLANTIC MONTHLY, Nov. 2002., at cover.

118. NEWSWEEK, Sept. 23, 2002, at cover. The article begins: “America helped make a monster. What to do with him—and what happens after he’s gone—has haunted United States for a quarter century.” Christopher Dickery & Evan Thomas, *How Saddam Happened*, NEWSWEEK, Sept. 23, 2002, at 34.

119. WITH PASSION AND COMPASSION, *supra* note 1, at x.

siders have no part in the process.<sup>120</sup> On the contrary, outsiders frequently provide critical support, resources, and ideas. But in our role as counselors, we must remember our place. The desire to help women throughout the world is certainly noble, but when dealing with other cultures, backgrounds, and religions, we must defer control and decision making to insiders. Just like the inevitable problems the United States faces with the occupation of Iraq, the occupation of the world with American feminist ideals brings with it many troubling issues.

In addition to respecting the will of those we seek to help, we need to recognize that we are only one group with a place at the table. Another kind of “outsider” with a stake in this process is the religiously-affiliated man. Admittedly, men may have forgotten for too long that they are not the only ones at the table, and they may have tried to usurp too much decision making authority in the past. But, that does not mean that every male in every context is now unimportant.

Rabbi Ze’ev Falk, in his essay on the need for a dialogue between Jewish feminists and orthodox rabbis, acknowledges “[t]hough speaking as an outsider about [tseni]ut—seen as the symbol of feminine submissiveness and anti-sexuality], the writer nevertheless wishes to draw attention to this aspect and to express his belief that Jewish Feminism will find ways to incorporate it in their program.”<sup>121</sup> I know nothing about Rabbi Falk or his treatment of women other than this essay, but I assume his comments and suggestions—if made respectfully—would be helpful to women inside the tradition, just as the suggestions and support of other feminists outside the tradition might be helpful. Rabbi Falk articulates in his essay a hope that is shared by many Jewish women trying to reconcile feminism with their orthodox commitments:

Jewish Feminism could honestly return to the family, even if still patriarchal, and to the synagogue, even if following orthodoxy, without renouncing women’s own tradition, interpretation and spirituality. This path would have a greater effect on traditional Judaism.<sup>122</sup>

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120. The potential for fruitful action between insiders and outsiders is suggested by Berta Esperanza Hernandez-Truyol, *Out of the Shadows: Traversing the Imaginary of Sameness, Difference, and Relationism – A Human Rights Proposal*, 17 WIS. WOMEN’S L.J. 154, 160 (2002).

[In any discursive process of communication,] [w]omen must participate as both the inquired about and the inquirers, permitting discourse on the translations and interpretations from women’s perspectives. Only with women’s presence and perspectives in, for example, the processes of government and governing will women’s concerns and issue become an integral part of, and incorporated into, the human rights processes and the global rights agenda. Many of the gendered shortcomings of the human rights model can be attributed to the exclusion of women from participation in the global processes and institutions.

*Id.*

121. Ze’ev W. Falk, *Gender Differentiation and Spirituality*, 12 J.L. & RELIGION 85, 100 (1995-96).

122. *Id.* at 103.

Many male writers have addressed the issues facing women in traditional religions with sympathy and enthusiasm.<sup>123</sup>

## 2. *Divide Organized Religion from What It Is Not.*

Obviously, outsiders need to recognize the distinction between the religious organization itself, and most of its faithful adherents, and “fringe” or extremist groups. Similarly, we hope the women we are trying to help can separate an American feminist from the “Ugly American”—however they envision him or her.<sup>124</sup> Not every Roman Catholic priest nor Mormon need bear the associational guilt of a few.<sup>125</sup> The reaction of many in the United States following September 11 toward any person who appeared to be Arabic<sup>126</sup> or Muslim,<sup>127</sup> including Sikhs

123. See, e.g., MANFRED HAUKE, GOD OR GODDESS? FEMINIST THEOLOGY: WHAT IS IT? WHERE DOES IT LEAD? 153 (David Kip, trans., Ignatius Press original version, 1993, 1995). Hauke’s suggestion is that Mariology as adopted by the Catholic Church is sufficient to address the concerns of women. *Id.* at 159-60. One example of a religious male feminist is Farid Esack, who “write[s] consciously as a Muslim male” and uses “contextualization” and feminist hermeneutics . . . as a means of addressing” the “very patriarchal constructions” of Muslim law. ESACK, *supra* note 79, at 113. He urges other Muslim males to rise as “Allah’s witness-bearers for justice” against the dehumanization of women. *Id.* For other male writers urging a feminist interpretation of sacred texts or a renovation of male-biased institutional patterns, see, e.g., Theodore Y. Blumoff, *Genesis, Gender and Community*, 9 S. CAL. REV. L. & WOMEN’S STUD. 5 (1999) (offering a feminist interpretation of the Biblical creation story).

124. Certainly, for instance, not all Americans or American government policies are welcomed in the Islamic world. To the extent the Western World continues to be thoughtless and domineering toward some other countries and cultures, the more we give patriarchal and misogynist forces in the East reason to put up barriers of resistance.

A missionary feminist effort assuming West is Best incurs a defensive reaction from members of criticized communities, and thus plays into the hands of those who choose to defend sex subordinating behavior in the name of cultural nationalism. . . . Resistance becomes configured as the necessity of preserving culture, leading to the freezing of particular identifications of culture, which keeps women trapped within the binary logic. Blanket condemnation is less helpful in engendering dialogue than acknowledging that women in the West also have a problem. . . .

Volpp, *supra* note 8, at 1216. See also Dimauro, *supra* note 53, at 338 (“Islamic scholars note that the growth of Islamic fundamentalist movements in the Muslim world has been a reaction to Western, secular influences which have been impugned for the ‘political frustration, economic deprivation and social disorganization of Muslim communities.’”).

125. I could recount a number of terrifically entertaining stories of members of the LDS church gone berserk or demonstrating exceptional lapses in intelligence, many of which have reached national media attention, but I won’t on the hope that you haven’t heard them yet.

126. See, e.g., John Ritter, *Hate Crimes Born out of Tragedy Added Victims*, USA TODAY, Sept. 12, 2002, at A.04; Beth Murphy, *Racial Tensions Mirror History*, INDIANAPOLIS NEWS/INDIANAPOLIS STAR, Jan. 23, 2003, at B03; Karen de Saacute & Michael Bazeley, *Backlash Still Felt Among Immigrants*, SAN JOSE MERCURY NEWS, Sept. 12, 2002, at 14; Richard Winton, *Los Angeles Suspected Hate Crimes Rise 11% in County Report*, L.A. TIMES, Sept. 10, 2002, at B3.

127. A study done by the New York advocacy group Human Rights Watch found that anti-Muslim bias crimes rose 1700% after September 11. See Amardeep Singh, *U.S. Officials Should Have Been Better Prepared for Hate Crime Wave*, HUMAN RIGHTS NEWS, available at <http://www.hrw.org/press/2002/11/usahate.htm>. (last visited Mar. 10, 2003). See also Stevenson Swanson, *Anti-Muslim Crimes Peaked after 9/11: Chicago’s Police Responded Well to Surge, Says Study*, CHIC. TRIB., Nov. 14, 2002, at 11, available at 2002 WL 102893485. According to a poll done by Hamilton College and Zogby International, nearly three out of every four Muslim Americans either know someone who has or have themselves been subjected to discrimination, harassment, or physical assault since September 11. *Hamilton College Muslim America Poll*, May 30, 2002, available at <http://www.hamilton.edu/news/MuslimAmerica> (last visited Mar. 19, 2003). See also Jim Lobe, *How U.S. Muslims View the War on Terrorism*, ASIA TIMES ONLINE, June 1, 2002, available at <http://www.atimes.com/front/DF01Aa01.html> (last visited Mar. 10, 2003).

with turbans,<sup>128</sup> is a painful and vivid example of this problem. We need an accurate, and in fact compassionate, vision of the religion to the extent that it is possible for an outsider to acquire such understanding. If we harbor distorted perceptions of a religion, we lose our credibility and insult its members. Moreover, questioning a religious ideology or a religious institution must never become an attack on its adherents.<sup>129</sup>

A more sophisticated challenge is distinguishing “real religion” or theology from cultural practices that may be the historical residue of a male-dominated society and may not be necessary to the faithful membership in the religious organization. Cultural practices become so familiar and so comfortable that they frequently get mixed up in people’s minds with theology, either because the cultural practices originated in a religious practice years ago or just because they are frequently in evidence among adherents. According to Marie A. Failinger’s analysis of the Lutheran tradition, Martin Luther himself would say that “one should not extrapolate what is normative for Lutherans from how they have conducted themselves over the years” because any human community distorts and misuses theology.<sup>130</sup> “It is possible to separate theological truth from the distortions only by the continuing activity of critique, utilizing reason, experience and Scripture . . . .”<sup>131</sup> The Third World women theologians of EATWOT see the distinction in these terms: “These churchwomen are speaking out against those who care more for their clerical oaths and social roles than for the Word of God.”<sup>132</sup>

When there is cause to view cultural habits with a fresh eye, such habits can sometimes be distinguished as not essential to, and perhaps not even peripheral to, the theology. Here is an easy example. There was a time when every LDS meetinghouse had a basketball court, and the congregation’s team participated with others throughout the region and church-wide in competitive basketball tournaments. The idea was that basketball was a way of keeping youth involved and attracting neighbors who might have an interest in learning about the religion. Yet, when the church started building meeting space in Europe where large buildings with basketball courts were unusual, someone had to re-examine the role of basketball.

We must understand that some cultural assimilation to non-doctrinally based practices may be pivotal to a particular woman’s religious experience. One of the characteristic benefits of religion is the community it provides. It is understandable and legitimate for a woman to want to fit in with other adherents of their faith. In addition, a woman may value and respect the wishes of her par-

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128. “Although the Sikhs are not Muslims, their distinctive turbans have made them the targets of anti-Muslim/Arab hate activities since Sept. 11, 2001.” Murphy, *supra* note 126. See also Jonathan Lemire, *New Leaders, New Mission for Sikh Group*, N.Y. DAILY NEWS, Jan. 15, 2003, at 6 (“Because we often wear turbans, people confuse us with Muslims and often want to do us harm. . . . Since the World Trade Center attack, hundreds of bias incidents against Sikhs have been reported nationwide.”); Ritter, *supra* note 126 (reporting that an Indian Sikh immigrant was shot and killed in Arizona by a person who declared that “all Arabs had to be shot”).

129. See McDonald, *supra* note 34, at 292.

130. Marie F. Failinger, *Gender, Justice and the Left Hand of God: A Lutheran Perspective*, 9 S. CAL. REV. L. & WOMEN’S STUD. 45, 46 (1999).

131. *Id.*

132. Cannon, *supra* note 76.

ents, husband, children or others to conform to the cultural norms. As Vanaja Dhruvarajan reminds us, “[w]omen are often deterred from defying traditions by loyalty to their families and their religious and ethnic communities, even when they aspire to a better life.”<sup>133</sup> Certainly, within the LDS religion there is pressure to assimilate to cultural practices.<sup>134</sup> LDS writer Gail Newbold notes that LDS “society is particularly vulnerable because our lives are so intertwined. . . . Sometimes our own need to be different makes us so uneasy that we squelch our real selves beneath our desire to conform.”<sup>135</sup>

Religious women are not the only ones who may feel a need to belong, even if at a price. Even a superficial study of American fashion magazines and television, and a casual observation of women in the mall reveals that women in our “enlightened” culture are willing to go to some length (or lack of length) to be appealing to men.<sup>136</sup> This comparison is drawn by Ziba Mir-Hosseini: “For many women, hejab is a marker of identity and the essence of their womanhood; it is what makes them acceptable in the eyes of society and eligible as partners in marriage. In this sense, wearing hejab is not so different from other dress statements made by women elsewhere.”<sup>137</sup>

For women who want to blend in and belong, their hope may be that the entire community will gradually move away from practices that are nonessential to the theology and toward greater recognition of the role of women. When the community moves, the women can enjoy the benefit of social reforms and still fit in. But what then will make the community move? Fortunately for those not wanting to *be* the reformers, some women are willing to give up some of the cultural common ground to more easily reconcile their faith with their sense of self-worth. These reformers, then, begin the task of dividing sexist practices from theology.

Dividing theology from cultural habits is especially tricky when those habits reinforce the existing power structure. Needless to say, the work of dividing theology from habits is best done by those within the religious tradition. At the same time, however, feminists from outside the tradition sometimes have a useful perspective and can help by asking questions or drawing comparisons that frame the issues, which then may be resolved by the believer.

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133. Dhruvarajan, *supra* note 12, at 294. See also Kim, *supra* note 25, at 94 (“Despite a personal willingness to change, many women find it easier to adapt to oppressive conditions than to risk condemnation for attempting to change the system.”).

134. See CONTEMPORARY MORMONISM: SOCIAL SCIENCE PERSPECTIVES 74, 80-81 (Marie Cornwall *et al.* eds., 1994) (discussing “the necessity of fitting into the lifestyle and adopting the cultural ethos of the LDS community”).

135. GAIL ANDERSEN NEWBOLD, ON NEW WINGS: MORMON WOMEN REDISCOVER PERSONAL AGENCY AND CONQUER CODEPENDENCY 7 (1992).

136. Elsewhere I have written extensively on portrayals of women, especially white women, in popular culture and what these portrayals mean about women’s continued choices, in spite of the efforts of Second Wave feminists in the United States. See Cheryl Preston, *Baby Spice: Lost Between Feminine and Feminist*, 9 AM. U. J. GENDER SOC. POL’Y & L. 541, 594-600 (2001).

137. MIR-HOSSEINI, *supra* note 10, at 278. See also Dimauro, *supra* note 53, at 336 (“For women in many areas, marriage is the sole means to social and economic survival. Since women are faced with the choice of either being considered unfit for marriage and bringing disgrace upon themselves and their families, or rebelling against the practice, submission to [female genital mutilation] is not essentially voluntary.”).

For instance, when I served on the graduate school council at BYU, we asked three reviewers from another university to evaluate the graduate program of a particular department. This department had no women faculty. At the debriefing meeting, none of the reviewers, including a woman, said anything about the department demographics. I asked the reviewers if they were concerned about the lack of women. The female reviewer promptly responded that she had been concerned and had asked several men in the department about it, but they had explained that in the LDS religious tradition, the emphasis on motherhood means few women work outside the home.<sup>138</sup> I wondered if this reviewer noticed on her tour of the department that all the secretaries and staff were women, or that other departments at the university, such as law, have reasonable numbers of women, or that our graduate school council consisted of two women and one man. On this occasion, I was hoping for the help of an outsider with some influence in the accrediting process to bolster my argument that the department had been remiss in failing to hire and retain women. She failed me.

Outsider feminists need ultimately to defer to those with the greatest stake in a religious institution for answers. At the same time, outsiders can, through questioning, help tease out whether something is going on entirely different from theology. And sometimes it helps feminists on the inside to get support from women on the outside, especially when those women carry some clout.

While dividing theology from culture may not be realistic on the large scale, it can work in individual cases and with incremental steps. Women can start in their own families and with how they teach their children: "Families and communities can bring out social change by altering their daily practices."<sup>139</sup> Many times the most significant changes are generational. We can leave our daughters a better religious community than the one we inherited.

### *C. Find Ways To Work with and Through the Religious Tradition.*

The struggle for women's respect is, at its core, consistent with religious values.<sup>140</sup> For instance, "Hinduism, as other religions, is a profoundly patriarchal, male-dominated religion . . . [but] Hindu religious traditions also contain some rich symbolic and doctrinal resources for the affirmation, empowerment, and dignity of women."<sup>141</sup> Feminists can find both substantive support for women's concerns within a religious tradition, and they can use methods of communication and persuasion that can be readily heard by believers.

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138. There is some truth to the notion that fewer married LDS women work outside the home. During the 1980s, approximately 30% of married LDS women surveyed were employed fulltime, compared with 40% of non-LDS married women. See Tim B. Heaton, *Familial, Socioeconomic, and Religious Behavior: A Comparison of LDS and Non-LDS Women*, *DIALOGUE: JOURNAL MORMON THOUGHT*, Summer 1994, at 169, 172-73. Roughly the same percentage of married LDS and non-LDS women were employed part-time. *Id.* at 181. The statistics, however, are not disparate enough to suggest that this department could find no LDS faculty women on the market.

139. Dhruvarajan, *supra* note 12, at 299.

140. See Dimauro, *supra* note 53, at 337 ("To obtain their cooperation in implementing international standards on the rights of women, we need to show the Muslims in general that these standards are not alien at all.").

141. Ursula King, *Hinduism and Women: Uses and Abuses of Religious Freedom*, in *FACILITATING FREEDOM*, *supra* note 30.



For instance, outsider feminists should respect the commitment to families promoted by all organized religions. Islamic feminists, especially, want the opportunity to participate in society and the economy, but they also emphasize motherhood and families.

Islamic feminism tends to be pro-family and not inherently anti-male. In her book *In Search of Islamic Feminism*, researcher Elizabeth Fernea reports that many Muslim women call themselves “feminists” but want to distance themselves from Western feminism because of its perceived antagonism toward men and the family.<sup>142</sup>

Another example is sexual morality. Ziba Mir-Hosseini concludes her book on gender in Iran with this personal confession:

The gulf between Islamic and feminist notions of sexuality and social morality is still too wide to be bridged. I myself cannot accept certain interpretations of Islam, such as those of the Traditionalists and Neo-Traditionalists . . . ; nor can I accept the kinds of sexual liberation and individualism advocated in certain Western feminist discourses.<sup>143</sup>

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142. Wendy McElroy, *Iraq War May Kill Feminism As We Know It*, FOX NEWS VIEWS, Mar. 18, 2003, available at <http://foxnews.com/story/0,2933,81318,00.html> (last visited June 24, 2003). As Islamic feminists struggle “for legal and economic equality they stress the viability of the family group, a sense of responsibility to the wider group, the importance of religious values.” Sally Cunneen, Book Review, 15 J. L. & RELIGION 507, 510 (quoting ELIZABETH WARNOCK FERNEA, *IN SEARCH OF ISLAMIC FEMINISM: ONE WOMAN’S GLOBAL JOURNEY* 415 (1998)).

143. MIR-HOSSEINI, *supra* note 10, at 278.

Are we certain that the spin on the sexual revolution that now entraps early teenaged girls in the United States into sexual relationships they do not enjoy or understand has been such a wise course?<sup>144</sup>

In speaking of her tradition, Marie Failinger suggests, "Lutheran theology provides [resources] for undermining the rigidification of . . . notions about gender and gender roles."<sup>145</sup> Moreover, "there are . . . Lutheran (and non-Lutheran) ways of making arguments . . ."<sup>146</sup>

There are certainly Mormon and non-Mormon ways of making arguments. A good example is the way Joshua Aker, the only black student in one of my Jurisprudence classes, responded to an email from another student in the all-LDS class.<sup>147</sup>

The question at issue was the merits of affirmative action, why people just do not pull themselves up by their bootstraps, and why white people of this generation should do reparations for the injustice of slavery. Joshua began with building common ground: "You guys are my family . . . because the most significant part of me is that I am a disciple of Christ, not that I'm black. I just want to share with you an angle I'm sure you are aware of but perhaps underestimated." Then he drew on scripture, LDS doctrine, and notions of agency and repentance to make his point:

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144. At the Third Wave Feminism conference held by the University of Exeter, England, Germaine Greer observed that many young girls are now having sex they don't enjoy with consequences they don't understand in order to keep boys they think they need. Germaine Greer, Keynote, *Do We Really Need Men?*, address at the Third Wave Feminism Conference (July 23, 2002). See also Lynne Marie Kohm & Colleen Holmes, *The Rise and Fall of Women's Rights: Have Sexuality and Reproductive Freedom Forfeited Victory?*, 6 WM. & MARY J. WOMEN & L. 381, 415 (2000) (characterizing postmodern feminism as consumed with sex and the "egocentric emphasis on sensual pleasure" at the expense of genuine power and respect).

In a discussion on the Third Wave of feminism in the United States, Regina Austin and Elizabeth M. Schneider express concern about the preoccupation of the next generation of feminists with sex. See Regina Austin & Elizabeth M. Schneider, *Mary Joe Frug's Postmodernist Feminist Legal Manifesto Ten Years Later: Reflections on the State of Feminism Today*, 36 NEW ENG. L. REV. 1, 1 (2001).

Third Wave feminism has tended to focus on sexuality, agency and pleasure without a fuller analysis of other aspects of the body, reproduction, violence, childbirth, menopause, and aging, and the way these other aspects impact on sexuality, agency and pleasure. . . .

[The followers of the Vagina Monologues] do not mention anything other than sexuality, such as jobs, education or health, or even the way in which women's sexuality impacts these areas. Sexiness was the answer to women's inequality; women's freedom was the freedom to flaunt our sexuality, like the riff of Calista Flockhart, TV's Ally McBeal, on the freedom to wear skirts as short as she wants.

This is very tricky stuff and goes back to the way in which sexuality can be simultaneously a tool of oppression and empowerment. Women's interest in sexual freedom, agency and autonomy has the potential to, but does not necessarily, translate into a broader understanding of women's experience and oppression in the world. And sex and sexuality has to be understood in a larger material context.

*Id.* at 10, 23-25. My study also suggests that the careful balance that must be drawn between the desire to be sexy and attractive to men and collusion in one's own objectification is complex, and that women in the United States at the turn of the century are making some dangerous choices in this regard. See Preston, *supra* note 136, at 594-600.

145. Failinger, *supra* note 130, at 48.

146. *Id.*

147. E-mail from Joshua Aker, Student, J. Reuben Clark Law School, to Cheryl B. Preston, Professor of Law, J. Reuben Clark Law School (Feb. 12, 2003) (on file with author).

As Mormons [we] believe that agency is the most important thing we have. . . . Rape is one of the most poignant examples we have of someone having their agency taken away. . . . Now, I'm asking you if you know what happens to a group of people who have been raped for over one hundred years. . . . You have no idea what America's history has done to the morale, sense of identity, sense of hope, sense of belonging of people of color in this country. If you have a hard time overcoming certain weaknesses, even when you have been surrounded by privilege . . . respect that it can be unimaginably hard to overcome personal weaknesses for a person who has been raised in a system of oppression; a place where violence, depression, drugs, no families, etc. are the norm. . . . Might there be any correlations between th[is] issue and what the scriptures say about "the wickedness of the fathers [being] answered upon the heads of the children to the third and fourth generations"?<sup>148</sup>

Feminists have used religious-based arguments before. "Many Christian feminists point to Jesus Christ as the example of treating women as equals; some argue that this behavior contributed to the antipathy he aroused among his contemporaries and to his ultimate crucifixion."<sup>149</sup> Kathleen McDonald suggests this strategy: "To counteract the use ad nauseam of scriptures that justify the domi-

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148. *Id.* See, e.g., *Exodus* 34:7, *Numbers* 14:18 ("visiting the iniquity of the fathers upon the children, and upon the children's children, unto the third and to the fourth generation"); *Mosiah* 13:13 ("visiting the iniquities of the fathers upon the children, unto the third and fourth generations of them that hate me"); *Doctrine & Covenants* 98:37 ("And I, the Lord, would fight their battles, and their children's battles, and their children's children's, until they had avenged themselves on all their enemies, to the third and fourth generation."); *Doctrine & Covenants* 124:50 ("And the iniquity and transgression of my holy laws and commandments I will visit upon the heads of those who hindered my work, unto the third and fourth generation, so long as they repent not, and hate me, saith the Lord God.").

149. McDonald, *supra* note 34, at 296. See also Padilla & Winrich, *supra* note 32, at 106 ("Jesus the Liberator, through the example of his words and acts, did not provide justification for oppression and inequality. Rather, the historical Jesus lived his life by breaking through false distinctions between people, by joining men and women in a community of coequal disciples, and by inverting set patterns of destructive human relationships based on hierarchies that included gender.").

nance of husbands over wives, many authorities point out scriptures specifying not the rights, but the responsibilities of husbands,<sup>150</sup> and verses that advocate the abolition of all human hierarchies.”<sup>151</sup> I assume the same is true within each religious organization.

Not just the content, but also the mechanics of communication should be patterned with the audience in mind. The in-your-face confrontation and hostility used by many feminists in America, probably will not resonate well in traditional religious communities. As lawyers and legal educators we know that “[a lawyer must] be able to recharacterize the underlying philosophical justifications for her legal arguments depending upon whether her audience is more or less sympathetic to any one of a competing number of legal schools of thought.”<sup>152</sup>

Effective communication may require some creativity. Ursula King describes a “new awakening” in India with the rise of feminist activism among young Indian women from the middle classes.<sup>153</sup> They are making “feminism acceptable to the masses of Indian people by using plays, songs, posters, and exhibitions . . . .”<sup>154</sup> Mechanisms of communication and content that integrate with a belief system will be far more effective for secular feminists.

The classic feminist rejoinder to the suggestions in this section is Audre Lorde’s admonition that “the master’s tools will never dismantle the master’s house.”<sup>155</sup> This could be true. But if what you want is to preserve the good and remodel the rest—while the residents are still living within—using the tools the

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150. In the Christian tradition, for instance, see 1 *Cor.* 7:3 (“Let the husband render unto the wife due benevolence.”); *Eph.* 5:25 (“Husbands, love your wives, even as Christ also loved the church, and gave himself for it.”). My favorite passage is in the BOOK OF MORMON, *Jacob* 2:31-35:

For behold, I, the Lord, have seen the sorrow, and heard the mourning of the daughters of my people in the land of Jerusalem, yea, and in all the lands of my people, because of the wickedness and abominations of their husbands.

And I will not suffer, saith the Lord of Hosts, that the cries of the fair daughters of this people . . . shall come up unto me against the men of my people, said the Lord of Hosts. For they shall not lead away captive the daughters of my people because of their tenderness, save I shall visit them with a sore curse, even unto destruction . . . .

And now behold, my brethren, ye know that these commandments were given to our father, Lehi; wherefore, ye have know them before; and ye have come unto great condemnation; for ye have done these things which ye ought not to have done.

Behold, ye have done greater iniquities than the Lamanites, our brethren. Ye have broken the hearts of your tender wives, and lost the confidence of your children, because of your bad examples before them; and the sobbing of their hearts ascend up to God against you. And because of the strictness of the word of God, which cometh down against you, many hearts died, pierced with deep wounds.

151. McDonald, *supra* note 34, at 296.

152. Robin Paul Malloy, *Toward a New Discourse of Law and Economics*, 42 SYRACUSE L. REV. 27, 31-32 (1991). “[C]ompeting views on legal thought are inevitably linked to underlying beliefs concerning such things as conservative, liberal, left communitarian, libertarian or classical liberal values,” and must be accounted for in effective advocacy. *Id.* at 31.

153. King, *supra* note 96.

154. *Id.*

155. *Id.*

156. For a discussion of how making feminist reforms in law are like remodeling an old house, see Preston, *supra* note 13.

inhabitants understand may make sense.<sup>156</sup> Feminists are not unfamiliar with the notion that they must be pragmatic. Perhaps in this situation we must pick and choose our battles to “win the war.” Women can let some sexism slide so that they can still be a part of the religious community/practices, and still make a stand for changes. Women will be more effective if they use the religion’s already established methods of communicating and operating to emphasize the equality of women and men, which God wants anyway.

*D. Feminists May Need to Take a Longer View.*

Some have suggested that we stay out of religion and just focus on the material conditions of women’s lives,<sup>157</sup> which may or may not be separable from religion. As a matter of philosophy, “[f]eminists have consistently aspired to transcend dualisms and live life to the fullest here and now.”<sup>158</sup> But maybe the material conditions of this life are not as important as the spiritual conditions of this life, nor the conditions of a future life. Non-religious people may not be very well placed to understand what religious individuals view as appropriate and worthwhile trade-offs.

Outsiders to religious mindsets may have a limited view of life—a problem connected with the arrogance that comes with over-estimating one’s own importance. Perhaps the most arrogant of feminist illusions of importance is with respect to the Divine. Perhaps what religious feminists can contribute to any debate is the “good news” of ultimate justice, love and mercy. Mary Falinger makes a suggestion that resonates to me:

What Lutheran (and all Christian) doctrine has to contribute to the construction of law beyond secular feminist critique is the acknowledgment of a Creator whose imagination for human goodness and desire for human welfare overwhelms that of lawyers, judges and legislators, when they are acting out of good faith convictions or out of ignorance, intolerance, fear or power-greed.<sup>159</sup>

When approaching issues of the magnitude of religion and the will of the Divine—in our own traditions and certainly in the traditions of others—the appropriate attitude is to be humble, prayerful, open to revelation and respectful.<sup>160</sup> The ultimate liberation—the liberation from sin, death, and the chains of this world—found in religion.<sup>161</sup>

157. See Dhruvarajan, *supra* note 12, at 288.

158. Dhruvarajan, *supra* note 12, at 276.

159. Falinger, *supra* note 130, at 76.

160. In Martha Minow’s concluding paragraph of her article on the tension between cultural tolerance and human rights reforms, she urges that we all acknowledge how our preferences are shaped by cultural practices and that we work with humility to respect everyone’s culture and their options within it. See Minow, *supra* note 10, at 141. For an excellent, in-depth discussion of the role of humility in the practice of law, see Brett G. Scharffs, *The Role of Humility in Exercising Practical Wisdom*, 32 U.C. DAVIS L. REV. 127, 148-57 (1998) (discussing Micah’s injunction to “do justly, and to love mercy, and to walk humbly with thy God” and urging that in addition to being just and merciful, lawyers and judges should be humble).

161. From the Muslim tradition, Rukaiyah Hill Abdulsalam declares, “Once revealed in its entirety the Qur’anic message drastically altered the lives of everyone, especially women . . . . Fourteen hundred years ago women experienced the most wonderfully liberating revolution known in all of world history.” RUKAIYAH HILL ABDULSALAM, *WOMEN’S IDEAL LIBERATION* 63 (1998).

#### IV. CONCLUSION

Mari Matsuda argues that “no person is free until the last and the least of us is free.”<sup>162</sup> I do love the concept. However, in my mind, freeing others does not mean giving them our conception of freedom, much less forcing it on them. People are only free if they can define what freedom is for themselves.

Women, as well as men, should be free to have relationships, responsibilities, and ties. There may be truth in Janis Joplin’s lament: “Freedom is just another word for nothing left to lose.”<sup>163</sup> In particular, women can legitimately sacrifice the kind of empowerment lauded by most American feminists for other important commitments—commitments and values that speak to these women’s souls.

To date, the foray of Western feminists into the global arena reflects mostly liberal enlightenment traditions, which value individualism and autonomy.<sup>164</sup> The feminism of this century in the United States generally rested on such liberal ideals through the 1970s,<sup>165</sup> although many feminists have since begun to resist.<sup>166</sup> The persistent of liberal feminist “individualist” ideals in international feminism is perhaps because feminists sense that women must initially obtain

162. Mari J. Matsuda, *Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, 43 STAN. L. REV. 1183, 1189 (1993).

163. Kris Kristoffersen & Fred Foster, *Me and Bobby McGee* (performed by Janis Joplin), PEARL (Columbia Records 1971).

164. The primary instrument of international feminist law, CEDAW “is most closely aligned with the liberal feminism, or liberal political school of thought.” Jo Lynn Southard, *Protection of Women’s Human Rights Under the Convention on the Elimination of all Forms of Discrimination Against Women*, 8 PACE INT’L L. REV. 1, 9 (1996). CEDAW “seemed simply to rely on Liberal Feminist theories of equality to expand on other U.N. documents.” R. Christopher Preston & Ronald Z. Ahrens, *United Nations Convention Documents in Light of Feminist Theory*, 8 MICH. J. GENDER & L. 1, 18 (2001). However, language in CEDAW directing states to take measures for modifying “social and cultural patterns of conduct” shows that “some ideas from Cultural and Dominance Feminism also influenced the document’s language.” *Id.* See also Volpp, *supra* note 8, at 1201 (“The idea that minority women suffer from their minority cultures also reflects the liberal ideals foundational to the discourse of feminism versus multiculturalism. Liberalism presumes an abstract subject standing separate and apart from the particular and local.”).

165. “In the beginning, not of our universe but of the ‘Second Wave’ of the Women’s Movement, there was only liberal feminism. The defining characteristics of liberal feminism—a focus (almost an obsession) on the individual, an abhorrence of gender-role stereotyping, a commitment to incremental changes, and an ultimate goal of increasing individual choice . . .—meshed quite synergistically with formal equality.” Morrison Torrey, *Thirty Years*, 22 WOMEN’S RTS. L. REP. 147, 147 (2001). See also Annette Ruth Appell, *Virtual Mothers and the Meaning of Parenthood*, 34 MICH. J.L. REF. 683, 747-48 (2001) (observing that early feminists sought to “maximize women’s autonomy”). For a report on the roots of Second Wave feminism and liberal ideals, see Nadine Taub, *The Relevance of Disparate Impact Analysis in Reaching for Gender Equality*, 6 SETON HALL CONST. L.J. 941 (1996).

166. See, e.g., MARTHA MINOW, MAKING ALL THE DIFFERENCE: INCLUSION, EXCLUSION, AND AMERICAN LAW 193 (1990) (challenging the concept of individualism underlying American theories and practice because it is based on male rather than female values.); DEBORAH L. RHODE, JUSTICE AND GENDER: SEX DISCRIMINATION AND THE LAW 306-09 (1989) (summarizing scholarship on relational feminism); Gayle Binion, *Feminist Jurisprudence and the First Amendment: Hearing Another Voice*, 7 S. CAL REV. L. & WOMEN’S STUD. 269-298 (1998) (noting the concern of feminist theorists in the link between the value of individualism in American culture and power structures); Twila L. Perry, *Transracial and International Adoption: Mothers, Hierarchy, Race, and Feminist Legal Theory*, 10 YALE J.L. & FEMINISM 101, 141 (1998) (criticizing the grounding of feminism in liberal notions of individualism) (citing ELIZABETH FOX GENOVESE, FEMINISM WITHOUT ILLUSIONS: A CRITIQUE OF INDIVIDUALISM 7, 27-28 (1991)); Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1, 28 (1988) (arguing that feminist values should revolve around intimacy and community instead of around autonomy and individuality). For a general comparison of liberal and relational feminism, see Joyce E. McConnell, *Relational and Liberal Feminism: The “Ethic of Care,” Fetal Personhood and Autonomy*, 99 W. VA. L. REV. 291, 299-310 (1996).

“rights” before they can begin to explore other kinds of feminist values, including relational or connection-thesis feminism.<sup>167</sup> Or, perhaps, notwithstanding the current theoretical discourse on relational feminism in the United States, “real” feminists or anyone with a realistic concept of Western economic tastes, knows that the road to success is ambition, economic viability, and autonomy.

Although the little liberal feminist voice inside my head (and the heads of many other women) continues to emphasize the importance of paid work and worldly achievements (as well as the need to insist on the power and respect I believe I richly deserve), the other little feminist voice inside my head (and the heads of many other women) rejoices in my connectedness and the obligations it entails—to my children, husband, parents, and religious community. If a situation arose where I were needed to provide full time care or service to one of these more important obligations, I would quit my career, which is an important, but not more important goal. Most women, of course, would do the same. We hope we can reconcile our careers and our families, but if we cannot at a given time, we choose families.

Understanding the competing values of work and family helps in understanding the competing values of religion and feminism. Ideally, religion and feminism work together in a woman’s life to help her reach her full potential. But, if necessary, I am personally willing to make some compromises in my theoretical commitments (feminism) to preserve my religious commitments. Nonetheless, compromise and sacrifice must not be taken to the extreme. I do not suggest that women ought to make inordinate and disproportionate compromises. I believe my husband, and every member of a family or a religious community in the world, should be willing to make compromises within reasonable parameters for these more important values.

A priority for me that is far more important than advancing the goals of relatively privileged and educated North American feminists is my commitment to Jesus Christ, a factor about my experience that informs my scholarship and my perception of subordination. I must constantly compare my other goals against this commitment. I firmly believe that full empowerment of women is consistent with every wish Christ has for us. But, my own ways of achieving that empowerment, and my timing, may not be the best for bringing myself and others to Christ, which is for me the ultimate objective.

For instance, I think it is a legitimate decision for a woman to “let the small stuff sit” for now to preserve service to and involvement in a religious community and to stay true to the ordinances and commands of her religion. In addition, who is to say what is relatively small stuff? Some issue may be smaller than a woman’s main objective and still be bigger than many others. Each woman must gauge for herself which battles are worth fighting, which ones need to be fought now, and which ones can be fought later.

For me, and many of my feminist friends and family, the only possible place is the one where we retain, first and foremost, our commitment to organized religion, yet still we remain fervent feminists. Some will argue that we cannot, then, give 100% to either. But we cannot do otherwise and remain 100% true to ourselves.

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167. See, e.g., Naomi Cahn, *Birthing Relationships*, 17 WIS. WOMEN’S L.J. 163, 163 (1962) (describing relational feminism as a celebration of connection and the valuing of care).