
Hardly a day goes by without a story in the news about women being threatened or harmed in the name of religion. All over the world – from France to India to Turkey to South Africa to the United States to the Middle East – nations are dealing with religious demands on women’s bodies, demands that limit women’s freedoms and at times end in violence. Lisa Fishbayn Joffe and Sylvia Neil, in their new edited volume *Gender, Religion and Family Law: Theorizing Conflicts Between Women’s Rights and Cultural Traditions* bring together a fascinating and comprehensive series of essays that explore this complex tension between religion and democracy around issues in family law. The book takes a comparative legal approach to this tension, which, according to one contributing writer, impacts women’s lives in nearly every country in the world.

Chapters in the book cover issues in Christianity, Islam, Judaism, Mormonism, and several African traditions, and revolve primarily around marriage, divorce, and body cover. The writers – top legal scholars in their fields around the world who refer to one another’s work, with the intriguing effect of creating dialogue within one volume – cover an impressive breadth of international ground from the United States, Canada, the UK, South Africa and Israel, in an attempt to create an overarching and comprehensive theoretical approach to these issues.

Indeed, the undeniable parallels among legal approaches to all these issues – from the *niqab*, to the *agunah* issue (women denied divorce in Judaism), to polygamy, the Islamic *mahr* ("dowry") – paint a troubling and complex portrait of the threat to religious women’s rights in democratic nations across the globe. Even the most liberal democracies seem to be struggling with how to protect women against encroaching religious patriarchal practices. In fact, not only are liberal democracies struggling to protect women, but, as many of the writers show, liberal democracies seem to be tripping up on their own misapplications of concepts of pluralism.

This perceived conflict between feminism and pluralism informs many of the essays, and is explored by Fishbayn Joffe in her riveting introduction. “While there may be general agreement that just laws and social policies should demonstrate respect for women’s individual autonomy,” she writes, “in practice there is often ambivalence about how..."
such respect should be manifested… [T]hose committed to respecting women’s capacity to make their own lives must consider whether this is best achieved through accepting women’s actual choices without comment or by also trying to identify and change the background circumstances that condition these unappealing choices.” (p. xxiii)

The first section of the book outlines some of the ethical legal debates over the place of religion in democracy vis a vis women’s lives. Martha Minow, in describing the “paradox of liberalism”, which she says is “often phrased as how to ‘tolerate the intolerant’”, provides a series of intricate theoretical frameworks for enabling democracies to collaborate with religious cultures in order to protect women’s rights while also protecting basic religious freedoms. Among other things, she describes the complexity of such attempts to protect women when women themselves have a vested interest in group membership, and brings some insight from Professor Martha Nussbaum, who argues for creating frameworks of universal human rights that supersede relativistic cultural claims of religious groups. Ayelet Shachar, continuing this discussion, analyzes calls for “privatized diversity”, which propose allowing religious groups to operate their own separate religious tribunals. She argues that these tribunals do not necessarily protect women, and in fact may push these religious structures “underground” where they are completely unregulated. Similarly, Linda C. McClain, in analyzing calls for a modern millet system, examines issues such as the banning of the veil in countries such as France and Turkey and religious divorce in the UK and concludes that “a call for legal pluralism in the form of a modern millet system in the United States clashes with basic political and family law norms of sex equality.” (p. 81)

The second section looks at specific cases around the world in which civil law and religious law intersect. Susan Weiss describes the groundbreaking use of civil tort law in Israel to protect agunot, women denied divorce in Judaism. Pascale Fournier explores the practices of mahr, Islamic dowries, and the multiple and divergent ways in which this custom may either protect or harm Muslim women. Rashida Manjoo critiques the status given to Muslim family law in South Africa, where she says, “Some states use the right of religious freedom to defend gender-based discrimination in the area of family law, while other states are reluctant to intervene…. ([t]o) avoid entanglement with religion.” (p. 165). Likhapha Mbatha and Lisa Fishbayn Joffé explore the legalization of polygyny in South Africa, and the complexity of feminist opposition to polygyny against the backdrop of accusations that such opposition is rooted in colonialist oppression of African traditions. It is a fascinating
case study that challenges feminist advocates to find approaches that respect tradition while advocating for protection of women.

The third section looks at several specific case studies of religious women making change. Irit Koren looks at Jewish brides who create more pro-feminist wedding rituals, and Fatou Kiné Camara looks at Muslim women’s spiritual rituals in Senegal. The stories, which are more sociological than legalistic, offer an incisive and vibrant portrait of religious women’s agency.

In this third section appears a chapter which I felt did not belong in this book. The chapter, which examines the phenomenon of “yoatzot halakha” – women becoming advisors to other women on matters of menstruation in Jewish law – I felt was falsely self-promoting and disingenuous in its feminist claims. The essay heavily cites the writings of several avowedly anti-feminist religious men, and aggrandizes a phenomenon that is doubtful in its empowerment of women within the law. The program in question is regularly described by its founder as not giving women any actual authority within Jewish law, and meanwhile its founder is quoted in the chapter making the rather obnoxious claim that the program predates and outdoes religious feminism. I am also not certain how this chapter relates to the topic of “family law” that the book aims to cover, since there are no legal issues discussed.

Beyond that, however, the book is a fascinating and intelligent exploration of an important issue that has an increasing impact on women’s lives around the world. The book makes a vital contribution to the field, and should be required reading in women’s studies programs – especially in discussions that seek to understand the complex lives of religious women. The book makes a vital contribution to the process of constructing a comprehensive approach within the context of western democracy to encroaching religious claims on the bodies and lives of women.

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