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The Attitude Towards the Other in Jewish and Islamic Religious Websites

Steinitz, Oren Z.

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The Attitude Towards the Other in Jewish and Islamic Religious Websites

by

Oren Z. Steinitz

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Abstract

This dissertation focuses on Jewish and Islamic websites that allow their visitors to pose questions relating to religious law to well-known rabbis and *muftīs*, receive an answer on the website itself; and, in some cases, comment on the scholars' answers. The Q&A reviewed focused on the attitudes towards various 'others': members of other faiths, members of a nation in conflict with their own, and those challenging traditional religious gender roles. Utilizing a discourse analysis, case study approach, several research questions are posed: are online Questions and Answers compatible with traditional religious Q&A or are the websites creating a new form of religious discourse? Are online Q&A marking the boundaries of a religious Enclave, and who is setting these boundaries? How are the various 'others' treated? Is the medium actually creating a democratic, rational-critical discourse, resembling Habermas' ideal public sphere? And does the medium's public nature enable the religious scholars to assume the role of public intellectuals?

The theoretical framework for the dissertation is outlined in Chapter II, which reviews the concepts of the "other" and the "Enclave". The chapter then turns to theories of public discourse, primarily Jürgen Habermas' "Public Sphere," as well as the rise (and perhaps fall) of public intellectuals and an evaluation of the internet as a vehicle for democratic public discourse. Chapter III examines the development of Jewish and Islamic law, with a special focus on the Q&A genre. Chapter IV evaluates Q&A websites as an ideal public sphere, as well as in comparison to traditional Q&A. The second part of the chapter presents a case study dealing with social interaction with non-Jews and non-Muslims, which aids in defining the characteristics of

online Q&A. Chapter V focuses on a political ‘other’; it reviews Q&A from Jewish Religious-Zionist and Islamic “Centrist” websites, focusing on issues related to the Israeli-Palestinian conflict. Chapter VI focuses on the ‘other’ from within – Jewish and Muslim women who challenge their conventional religious roles. The dissertation ends with Chapter VII, presenting the study’s conclusions, as well as a look into current trends in online religious discourse, beyond the realm of Q&A websites.

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Hell is others

–Jean-Paul Sartre, *Huis-Clos*

Question

Dear rabbi! I have an argument with one of my friends and I would be happy if the rabbi would solve the issue for us. We were nine people in a prayer service and a non-religious repair-man who came to fix something at the synagogue. I told my friend that we should ask him to complete the prayer-quorum [of ten] and my friend said that a nonobservant [Jew] cannot join a prayer-quorum as he publicly desecrates the Sabbath and does inappropriate things, so he cannot join us. Is this true? [...] After all, we are not completely righteous either, and there is no person who does not sin?

Answer

A person who is an atheist and does not believe in the Master of the Universe, to add him to a prayer quorum is merely a mockery towards the Heavens. So, it depends on what kind of nonobservant [Jew] we are talking about. Usually, if we are talking about a *Mizrahi* person [of Middle Eastern origin–O.S.] then he is a believer and observes some traditions in one way or the other, and then like you said, not very different from us who are not completely righteous. But if he is a nonobservant Ashkenazi [Jew of European origin–O.S.] then he is probably also an atheist and you cannot add him [to the quorum] unless it is known that he is indeed a believer.¹

¹ Yanir, Zvi, “Minyan,” *Kipa*. 29 Sivan, 5767. <http://www.kipa.co.il/ask/show/121568>.

Chapter I:

Introduction

New modes of communication that have appeared in the internet realm, such as e-mail and chat rooms, have blurred the traditional distinction between “Talk” - a continuous exchange of thoughts taking place with the parties having no significant amount of time to formulate their answers; and “Text” - which is pre-planned and not necessarily immediate. New terminology, such as TextTalk, was introduced to describe the unique style of communication that has developed in chat rooms, featuring distinct elements such as textual representation of tones, emotions and bodily gestures.² Religious websites featuring an “ask-a-scholar” section provide a fascinating example of a medium blurring the boundaries between the norms of written works and spoken conversation.

In recent years, Internet websites in which religious scholars answer the surfers’ religious-law³ related questions have become increasingly common in both the Jewish and the Islamic worlds. Although a lot has been written regarding how the web’s lack of centralized supervision allows anyone to spread their ideas,⁴ radical though they may be, the Internet also allows web-surfers from all over the world access to esteemed spiritual leaders, regardless of their geographical location. In addition, the questioners enjoy relative anonymity, which allows them to present delicate questions that one might not dare to ask a scholar face-to-face, for

² Suler, “Text Talk: Psychological Dynamics of Online Synchronous Conversations in Text-Driven Chat Environments.”

³ “Religious law” is the term that I would use for both halakhic and *shar‘ī* laws.

⁴ Rodman, “The Net Effect: The Public’s Fear and the Public Sphere,” 18, 27.

various reasons.⁵ The respondents, on their part, enjoy an unprecedented opportunity to spread their agenda all over the world, using a medium that is accessible to every web-surfer.

Since Islam and Judaism, by their very nature, do not distinguish between ritual and other aspects of life, the questions sent to these religious Q&A websites deal with a diverse array of subjects. One subject that appears frequently on those websites is the attitude towards the “other.” The “other” can be a member of a different religion or denomination, a non-observant Jew or Muslim, or even someone who expresses an unpopular political opinion. Some of those questions are theoretical theological questions, dealing with the other’s metaphysical status, and some of the questions are practical, dealing with the daily interaction with the other, e.g. medical treatment of the other, dining with the other and eating his foods, economic ties with the other, entering their houses of worship and even taking part in their mourning rituals and celebrations.

The study focuses on Orthodox Jewish and Sunni Muslim websites, as these groups contain a wide spectrum of views while displaying a strong commitment to religious-law. The questions and answers reviewed deal with the attitudes towards various ‘others,’ including members of other faiths, with a special focus on Jewish-Muslim relations in light of the Israeli-Palestinian conflict, as well as ‘internal others’ such as Muslims or Jews who try to challenge the current hegemony on women’s place in public ritual. The focus on inter-faith and intra-faith relations is derived from the assumption that the interaction between religious and non-religious groups is affected by factors that are not always based solely on religious texts and traditions. Such factors include religious radicalization, particularism, xenophobia, and the way religions—which treat their moral values as an absolute truth—cope with Western humanist values, specifically cultural relativism, equality and the perception of human life as an ultimate value. It

⁵ For example, these websites feature a significant number of questions regarding sexual orientation and identity.

is also important to take notice of the way the representation of the “other” assists in constructing the image of the “self” and defines the acceptable boundaries of the religious community.

The focus on Internet websites arises from the notion that in societies which make frequent use of the web, it functions as a “seismograph” that absorbs and represents contemporary mindsets. It appears that the internet-based religious discourse, young as it may, has its own influence on contemporary religious societies and the interaction between them. For instance, the fact that many sites offer their surfers an opportunity to post their responses and voice their opinions with regard to the scholarly answers creates a new form of religious discourse in which the interaction between the common believer and the scholars becomes more egalitarian. This new type of interaction raises questions regarding the scholars’ authority within cyberspace and beyond it, as well as questions concerning the influence of the surfers’ participation on the borders of the “legitimate” halakhic/*shar’i* discourse.

Utilizing a discourse analysis, case study approach, this qualitative study will examine English, Hebrew and Arabic websites featuring prominent religious scholars. No interviews – offline or online – were conducted, and no participating observations were used. I refrained from submitting any questions to the various websites and did not comment on any of the scholarly answers.⁶ In examining the respondents’ answers I will be posing such questions as: which sources they cite and which ones they ignore? How they treat the tension between religious and secular moral values? Is the image of the “other” presented in the discourse is based on actual acquaintance with her/him? And is the discourse concerning the “other” on the websites is different from the discourse in other religious sources? The study’s comparative approach will be applied to such issues as: whether the mindsets that Jewish websites present are parallel to the

⁶ For an explanation of the different methodologies utilized in the field of Internet Studies see Jensen, “New Media, Old Methods–Internet Methodologies and the Online/Offline Divide,” 47–50.

ones presented on the Muslim websites; which issues the two religions regard differently; and if there is any noticeable reciprocal influence between the two religions. As Islam and Judaism share some common features with regards to both theology and their legal system, it is tempting to assume that trends emerging in one religion are immediately mirrored in the other. On the other hand, some practitioners of these faiths will often be highly insulted by the premise that their faith is anything but unique. Thus, a comparative study can portray a more nuanced picture of the similarities and differences between the two religions' on-line discourses. It will probably be impossible to determine unequivocally whether one religion's online clerics are consistently more tolerant towards the "other" than the other's. However, such a study can demonstrate whether the two religions are going through a process of radicalization or moderation when compared to previous discourses, or if they are moving in opposite directions. Additional issues to be examined include: the topics that occupy the questioners and that often come up on the websites; how the different faiths deal with specific topics and whether web-based scholarly answers can be examined academically using the same approaches as would be applied to any other type of religious-law literature.

In addition to the answers by the religious scholars, one must also take notice of the choice of questions, the way they are worded, and the visitors' comments to the scholarly answers. The questions may be asked by believers who are facing dilemmas concerning their lifestyle, who sincerely wish to find out their religion's view on the topic; but since the questions are publicly accessible, one must also take into consideration the possibility that surfers post questions in order to publicly spread their own agendas. Moreover, it is possible that some of the question were "pre-ordered" by a certain religious scholar or his followers, and were designed to allow the cleric to publicize his perspective on the issue. True, such phenomena may also apply

to traditional rulings, but the public nature of the Internet, and the fact that the websites enjoy such wide circulation, may especially encourage such phenomena. In addition, the fact that many sites offer their readers an opportunity to post their comments and voice their opinions creates a new form of religious discourse in which the interaction between the common believer⁷ and the scholars becomes more egalitarian, a lot less formal, and often less polite and less reverent. This new type of interaction raises challenges regarding the scholars' authority within cyberspace and in the actual religious communities, as well as questions concerning the influence of the surfers' comments on the halakhic/shar'ī discourse.

The reviewed websites are, I believe, a representative sample of both Orthodox Jewish and Sunni Islamic Q&A websites. Six Jewish websites were included in the sample: *Kipa*, *Moreshet*, *Yeshiva*, *Moriyah*, *ravsharki.org* as well as the Q&A section featured on the *Y-Net* news portal. All of these websites are based in Israel, and feature almost exclusively Hebrew content; therefore, all featured quotations from these websites are translated by me. While there are indeed several English Jewish websites offering a halakhic Q&A section, the most famous of them being *Ask Moses*,⁸ they tend to target a non-observant population and the answers given on these sites are not of the same caliber as those on the sites included in the study. The reviewed websites all fall within the Orthodox spectrum, but while sites like *Yeshiva* and *Moriyah* are clearly on the right end of the spectrum, none of the reviewed websites would define themselves

⁷ While it is impossible to know whether the websites' surfers are indeed "common believers," or some select groups or individuals, one can attempt to analyze the surfers' profile according to language register and the subjects that occupy them. The amount of questions dealing with sexuality and high-school dating, for instance, hints that many teenagers use these websites.

⁸ *Askmoses.com* is a site run by Chabad Lubavitch, which – despite its significant size – is often seen as a fringe group within the Jewish Orthodoxy. See Rubinstein and Lior, "Chabad."

as Ultra-Orthodox or *haredi*. This is due to the fact that such websites simply do not exist, probably due to the general Ultra-Orthodox antagonism towards the internet.⁹

The Islamic sites sample includes Centrist sites *Islam OnLine*, *OnIslam*, *Wahhabī* site *Islam Q&A*, Modernist *Understanding Islam* and Traditionalist *Sunni Path*. While I did encounter other Q&A websites, such as *E-Fatwa*, these websites only featured *fatāwa* that were previously published in other media, and cannot be classified in the same category as the other websites. Other than *Sunni Path*, which contains exclusively English content, the featured websites are all multi-lingual. *Islam OnLine* and *OnIslam* feature two editorially independent sections, in English and in Arabic; *Understanding Islam* featured Q&A in both English and Urdu; and the *fatāwa* on *Islam Q&A* are available in no less than twelve different languages. Unless otherwise noted, the English quotations from these websites are all in the original English, including the Arabic transliterations.¹⁰ Segments translated from Arabic are marked as “my translation.”

The theoretical framework for the dissertation is outlined in Chapter II. This chapter reviews the concepts of the “other” as well as the “Enclave” – a theory outlined by Emmanuel Sivan used to describe fundamentalist societies. The second part of the chapter focuses on theories of public discourse, mainly Jürgen Habermas’ “Public Sphere,” as well as the rise (and perhaps fall) of public intellectuals in the twentieth century. The chapter ends with a brief evaluation of the internet as a vehicle for democratic public discourse. Chapter III provides an examination of the different mechanisms applied in the Jewish and Islamic legal processes in order to cope with

⁹ See chapter II. One exception to this rule is the *Doresht Zion* website, featuring answers by Sephardi *haredi* Rabbi Ben Zion Muṣafi. His answers, however, are extremely brief and resemble rabbinical responsa given by text-messages (*shut SMS*) – a genre that is beyond the scope of this study. See <http://www.doresht-zion.co.il/>

¹⁰ *Islam Q&A*, for instance, uses a double-a to note the long *fathāh alif* sound (e.g. – *kaafir* instead of *kāfir*).

changing circumstances, with a special focus on the Q&A genre in both legal systems. Chapter IV presents an evaluation of the Q&A websites as an ideal public sphere, allowing for rational-critical discussions, as well as in comparison to traditional Q&A. The second part of the chapter presents a case study dealing with social interaction with non-Jews and non-Muslims, which aids in defining the characteristics of online religious Questions and Answers. Chapter V presents another case study, this one focusing on a political ‘other’. This chapter reviews Q&A from Jewish Religious-Zionist websites and Islamic “Centrist” websites, focusing on issues related to the Israeli-Palestinian conflict. The last case study is presented in Chapter VI, this time focusing on the ‘other’ from within – Jewish and Muslim women who challenge their conventional religious roles. The dissertation ends with Chapter VII, presenting the study’s conclusions with regards to online Q&A as compared to traditional discourse; online Q&A as an ideal public sphere; boundaries of the religious Enclave; and the religious scholar as a public intellectual. The chapter ends with a look into current trends in online religious discourse, beyond the realm of Q&A websites.

Existing Studies

After conducting a review of existing studies, it appears that there are no specific studies—excluding my own M.A. thesis—that deal specifically with the attitude towards the other on religious websites, either Jewish or Muslim. Nevertheless, it appears that the interest in such websites is rapidly increasing, and a number of studies concerning them have been published. Islamic sites have, however, provoked greater scholarly interest than Jewish sites. This trend is not surprising, since Islamic rulings are often perceived by popular media as threatening and therefore relevant to Western everyday life, whereas Jewish rulings are considered to affect only

the lives of Orthodox Jews. Thus, it is no wonder that online Jewish responsa are mostly referenced to by journals and newspapers that are directed at the Israeli Orthodox-Jewish sector.

Perhaps the study most similar to this project is the article “The Wasaṭī and Salafī approaches to the Religious Law of Muslim Minorities” by Uriya Shavit.¹¹ Shavit deals with *sharʿī* Q&A specifically related to the lives of Muslims who are living as a religious minority, usually in the west. The author surveys a number Q&A websites, representing the Centrist (*Wasaṭī*) and fundamentalist (*salafī*) schools of Islamic law, but does not pay much attention to the fact that the scholarly answers are given online. Instead, Shavit considers it obvious that these websites are representative of current Islamic discourse.

Gary Bunt has published several books and essays dealing with Islam and Cyberspace. In 2000 he published his book *Virtually Islamic*, dealing with the variety of Islamic sources that can be found on the net.¹² Bunt focused on the primary sources—the Qurʾān, and the *Sunnah*—as well as online sermons, the variety of Muslim voices offered on the net, and the future of Islamic Cyberspace. In addition, Bunt dealt with online *sharʿī* Questions and Answers, although he focused mainly on questions related to the Muslim’s daily life, and did not relate to “otherness,” with the exception of one question dealing with homosexuality.¹³

In 2003, Bunt published another book - *Islam in the Digital Age: E-jihad, Online Fatāwā and Cyber Islamic Environments*. The book deals with three primary topics: E-Jihad and the use of computer based aggression (“hacking”) as a means of struggle; online responses to 9/11; and online counseling and virtual *fatāwā*.¹⁴ Similarly to his previous works, this book’s treatment of online Q&A disregards the question of the attitude towards the other, and deals mainly with the

¹¹ Shavit, “The Wasaṭī and Salafī Approaches to the Religious Law of Muslim Minorities.”

¹² Bunt, *Virtually Islamic*.

¹³ Ibid., 117–118.

¹⁴ Bunt, *Islam in the Digital Age: E-Jihad, Online Fatwas and Cyber Islamic Environments*.

difference between Sunni websites and sites belonging to other streams of Islam. In the book's preface, Bunt provides a thorough review of studies dealing with Islam and the Internet. This review did not contain any evidence of a study dealing with the attitude towards the other on the Internet, or a comparison of Jewish and Islamic websites. Bunt's most recent book, *iMuslims*, deals primarily with "unique online Muslim identities and conceptions of Islam as well as the blurring between these and their offline equivalents."¹⁵ He focuses on the Blogosphere, social network websites, and other "cyber-Islamic environments" (CIE) as well as online forms of Islamic activism, including Jihad campaigns. The book does not deal with *fatāwā* at all, and does not seek to compare CIE with cyber environments related to other faiths. Another noteworthy project developed by Bunt is his own website, *VirtuallyIslamic.com*.¹⁶ The site provides news and updates concerning Islam and the web. It includes a thorough list of sources; a Blog (Web-Log) in which Bunt updates his readers on the latest research developments; and information regarding Bunt's publications and academic activity.

Another noteworthy study, dealing with online Islamic legal discourse but not with *fatāwā* per-se, is Carmen Becker's article "Following *Salafī Manhaj* in Computer-Mediated Environments: Linking Everyday Life to the Qur'ān and the Sunna."¹⁷ Becker deals with the way Muslims following the *salafī* stream of Islam—which calls for a return to the basic sources of Islam, the Qur'ān and the *ḥadīth* rather than relying on later legal works—are utilizing the internet in order to support their religious path. The study focused on access to online authoritative Islamic sources, as well as how *salafīs*, leaders and laity, use online chat rooms and forums in order to discuss and interpret religious legal issues.

¹⁵ Bunt, *iMuslims: Rewiring the House of Islam*.

¹⁶ Bunt, "Virtually Islamic: Research and News about Islam in the Digital Age."

¹⁷ Becker, "Following the Salafī Manhaj in Computer Mediated Environments: Linking Everyday Life to the Qur'an and the Sunna."

As noted previously, the number of studies concerning online Jewish Q&A is significantly lower than of those dealing with Muslim scholarly opinions. In fact, I have only found a small number of scholarly treatments of the subject, and even less studies dealing specifically with online Q&A. Aviad HaCohen published the article “‘Atra Qadisha’: Halakhic Rulings and Virtual Rabbinate” that appeared in a collection titled *Rabbis and Rabbinate: The Challenge* (2011).¹⁸ In his article, HaCohen attempts to identify the main characteristics of the online Jewish world, with special focus on Q&A websites. The author deals mostly with what distinguishes the new medium from traditional forms of responsa, and does not offer a close reading of specific Q&A. I previously published an article with similar aims, and a different methodology, with much of its content appearing in chapters three and four of this dissertation.¹⁹

Azriel Weinstein published two short articles in the journal *De’ot*, belonging to the Modern-Orthodox “Ne’emanei Torah v’Avodah” [Torah and Labour Faithful] movement,²⁰ dealing with Jewish life on the Internet. The first article dealt with religious forums, and it is of no interest to my project. The second article, “Mara d’Atara” [local—or “on site” - authority], examines online Jewish halakhic rulings, and seeks to define their distinctive characteristics.²¹ Weinstein is chiefly interested in pluralism, and examines which sites represent a variety of opinions within the Orthodox discourse, and which ones adhere to a single line of thought. The article mainly examines questions dealing with sexuality, and the only time it relates to the attitude towards the other is, once again, when dealing with questions of homosexuality.

¹⁸ HaCohen, “‘Atra Qadisha’: Halakhic Rulings and Virtual Rabbinate.”

¹⁹ Steinitz, “Responsa 2.0: Are Q&A Websites Creating a New Type of Halachic Discourse?”

²⁰ A movement founded by members of religious kibbutzim, dedicated to promoting Modern Orthodoxy in Israeli society. See: <http://www.toravoda.org.il/>

²¹ Weinstein, “Mara d’Atara: ‘Al Posqim v’Pisqot Hilkhatiyyot ba’Internet [Heb: On Halakhic Rulings and Rulers on the Internet].”

Chapter II:

Theoretical Background

The Other

The idea of the “other” was introduced by G.W.F. Hegel (1770-1831) who argued that “human consciousness is incapable of perceiving itself without recognition from others.”²² Hegel illustrated this point using a “Master/Slave” analogy—two concepts which he argued to be mutually defining. While the Master appears to be all-powerful, his ability to attain self-awareness depends on the existence of his Slave. The Master forces his Slave to work in poor conditions so that his needs and desires can be fulfilled, while the Slave, on his part, can only satisfy his Master by repressing his own wants and “overcoming” himself. The Slave, by doing so, “develops an ability to transform both himself and the natural world on which his labour is bestowed,” and the Master, on his part, becomes completely dependent on his subjugated other. He cannot transform the natural world through work, so he remains “locked within a static self which is not truly his.”

The concept of otherness was later developed in the Existential and Phenomenological schools of thought, especially by existentialist philosopher Jean Paul Sartre (1905-1980).²³ Sartre asserted that “our sense of self depends on our being the object of another’s gaze,” an assertion which is based on a paradox—our sense of self is strongest when we feel that we are the subjects of the gaze, and feel that we can perceive the world around us without anyone else interrupting our vision, but ironically, only when we become the *object* of the other’s gaze, do we actually

²² Cavallaro, *Critical and Cultural Theory [electronic Resource]*, 120.

²³ Ibid.; Ashcroft, Griffiths, and Tiffin, *Post-Colonial Studies [electronic Resource]*, 169–170.

come into being. Our very existence is derived of the other's recognition of us, but on the other hand, it is the other's gaze that "deprives us of any real sense of autonomy and mastery." Thus, in his book *Anti-Semite and Jew*, Sartre rejected the definition of a Jew as one belonging to a specific national or a religious community, and instead determined that a Jew is someone who is situated as an object of hatred by an anti-Semite²⁴. It is the anti-Semite, Sartre claims, who defines the Jew.

Current use of the term, specifically in post-colonial theory, is often attributed to the work of psychoanalyst and cultural theorist Jacques Lacan.²⁵ In his work, Lacan differentiated between the "Other" and the "other." The "Other," or the *grande-autre* [great Other], is - similarly to Sartre's definition - the one "in whose gaze the subject gains identity." This Symbolic Other is "not a real interlocutor," but is personified in other subjects that may represent it, like a mother or a father. In post-colonialism, the Other is often compared to the imperial discourse - or the empire itself—in two main fashions: first of all, it "provides the terms in which the colonized subject gains a sense of his or her identity as somehow 'other' dependent"; second, the Other becomes "the ideological framework in which the colonized subject may come to understand the world."²⁶

The "other"—with a small 'o'—refers to an 'other' which resembles the self, and is exemplified by a child observing his or her image in the mirror. The image which the child sees is sufficiently similar to the child for them to recognize it, but it is also "separate enough to ground the child's hope for 'anticipated mastery.'" In post-colonial theory, the "others" are various subordinate groups and individuals that were colonized and marginalized by the (usually

²⁴ Sungolowsky, "Criticism of Anti-Semite and Jew," 69.

²⁵ Ashcroft, Griffiths, and Tiffin, *Post-Colonial Studies [electronic Resource]*, 169–170.

²⁶ Ibid., 170–171.

Western) imperial discourse.”²⁷ Such others include women, homosexuals, people of color, and disabled individuals, who were seen as deviations from the norms the “self” group—the patriarchal, heterosexual, white society.

An example of the Western attempt to define itself as superior in relation to subordinate society is examined in Edward Said’s (1935-2003) 1978 *Orientalism*. In his book, Said argued that the eighteenth-century and nineteenth-century Western (specifically British and French) depictions of the Orient are flawed from their very nature, as they are not generated from actual facts but through “imagined” constructs.²⁸ Such constructs essentialize the East and present it as a static, homogenous society, sharing qualities that are inherently different (and by definition inferior) to those of the “Occident.” In addition, Said, influenced by the writings of Michel Foucault, related the large body of Orientalist literature to theories of discourse and power.²⁹ These writings, he claims, are both a product of the European colonization of the Middle East, and an instrument in the process. They seek to validate Western values, economic systems and structures of domination by defining anything that seems at odds with the Western institution as the other. Not only do the Orientalist scholars deny the history and culture of the colonized people, they are also blind to the resistance generated among these subjugated societies in response to the colonizing act.

Unlike post-colonialist studies such as *Orientalism*, which examine how societies subjugated (or previously subjugated) by the West are situated as others, this study focuses on the other from the point of view of two groups that were never a dominant part of the Western discourse—traditional interpretations of Judaism and Islam, which see their religions as absolute

²⁷ Cavallaro, *Critical and Cultural Theory [electronic Resource]*, 122–3; Ashcroft, Griffiths, and Tiffin, *Post-Colonial Studies [electronic Resource]*, 170.

²⁸ Said, *Orientalism*.

²⁹ Cavallaro, *Critical and Cultural Theory [electronic Resource]*, 126; Halliday, “‘Orientalism’ and Its Critics,” 148–9.

uncompromisable truths. While post-colonialists such as Homi K. Bhabha claim that the global revolution skipped the “displaced or the dispossessed,” and that the “globe is shrinking [only] for those who own it,”³⁰ this study will demonstrate how these two groups often make use of current Information Technology in order to reinforce their identities as antitheses to dominant Western and liberal values. It is important to emphasize that this study by no means relates to Judaism or Islam as monoliths. There are many Jews and Muslims who have adopted Western values as significant components of their identity in addition to—or instead of—the religious components of it. This study, however, relates specifically to Jewish and Muslim groups who adhere to fundamentalist interpretations of their religion’s legal system. Such groups, who are overly concerned with maintaining clear boundaries between them and their surrounding societies so are referred to by Emmanuel Sivan as “Enclaves.”

Fundamentalism: The Enclave and Contrapuntalism

The “enclave” is a term coined by Emmanuel Sivan in the opening article for the book *Fundamentalism Comprehended*, used to describe fundamentalist societies.³¹ Before addressing the enclave itself, it is important to note that using the term ‘fundamentalism’ to describe certain interpretations of Islam and Judaism, is by itself problematic. First of all, the term ‘fundamentalism’ historically refers to a specific American Protestant movement, advocating a literal interpretation of scriptures. Moreover, in both the Jewish and Islamic worlds, adherents do not generally refer to themselves as fundamentalists, but simply as ‘Jews’ or ‘Muslims,’ and by doing so imply that their interpretation of their faith is the only legitimate one.³² In this context,

³⁰ Cavallaro, *Critical and Cultural Theory [electronic Resource]*, 126.

³¹ Sivan, “The Enclave Culture.” The book is the fifth in *The Fundamentalism Project* - a series examining contemporary militant and political religious organizations struggling against modernization in their societies.

³² Heilman, “The Vision from the Madrasa and Bes Midrash: Some Parallels between Islam and Judaism,” 71.

however, the term ‘fundamentalism’ refers to any religion or religious movement which is “assertive and uncompromising in its attachment to what its adherents view as the authentic and hence ‘fundamental’ tenets of the faith.”³³ Such societies often view the world as divided between good and evil, and scorn the possibility of even limited alterations to their traditions, “even, and perhaps especially when the tenor of the times seems to demand accommodations.”³⁴ According to Sivan, the main impulse for the creation and development of fundamentalist movements is the fear of losing members to outside communities. In order to analyze the social and cultural dynamics within these groups, Sivan turns to Anthropologist Mary Douglas’ cultural theory.³⁵

According to Douglas, shared cultural ideas (regarding time, space, human nature, ethics, etc.) are structured in any social context in a way that allows those within it to negotiate their way through constraints they encounter in daily life, in order to make sense of the world they live in.³⁶ Social contexts, she claims, are determined by two major constraints: “*Group* constraints determine the extent to which people are restricted in their social relations by their commitment to a human group. *Grid* constraints restrict *how* (rather than with whom) people interact by virtue of their category.”³⁷ By combining these two dimensions, Douglas suggests a typology allowing a comparative analysis of social contexts. The typology includes three major types of social contexts: the *hierarchy*, the *market* and the *enclave*.

The hierarchy is more assured of its group boundaries and therefore can channel its energy mostly towards making sure its various compartments are interacting smoothly with each

³³ Heilman, *Sliding to the Right: The Contest for the Future of American Jewish Orthodoxy*, 81.

³⁴ Ibid.

³⁵ Sivan, “The Enclave Culture,” 16.

³⁶ Ibid., 16–17; Douglas, *In the Wilderness: The Doctrine of Defilement in the Book of Numbers*; Douglas, *Cultural Bias*.

³⁷ Sivan, “The Enclave Culture,” 16–17. My italics.

other.³⁸ The market, the least restrictive of the three social contexts, consists of “individually negotiated social networks with little interference of group or grid.”³⁹ The enclave⁴⁰ is often a community’s response to problems with its boundaries. Neighboring central communities may seem appealing, members tend to slip away, and the fundamentalist community does not seem to be able to stop the drift. The future of the community, as it seems, appears to be at stake. Since the community lacks the resources to punish or reward its members, the only control it has over them is moral persuasion. It situates itself as an opposition to the outside society and basically tells its members they can choose whether they wish to be “inside” or “outside”—whether they wish to belong to the ‘true’ faith or a false imitation. Those outside the enclave’s boundaries are not necessarily harmful to the enclave, but function in a role that Emile Durkheim defined as ‘criminal’—meaning that their actions “...*seem* harmful to the society that represses them, that penal rules express, not the conditions which are essential to social life, but those which *appear* such to the group...”⁴¹

According to Sivan, fundamentalist religious groups see themselves as enclaves separate not only from other faiths but also from the general secular society, from non-enclavist interpretations of their own religions—and I would add, even from other enclavist groups within their own traditions⁴²—which are often perceived as inauthentic and illegitimate.⁴³ Such non-enclavist groups treat their religious identity as only one of their multiple identities and emphasize what Douglas refers to as “contrapuntal belonging”—the ability to embrace cultural

³⁸ Ibid.

³⁹ This is not to say that enclavist groups do not make use of market strategies in order to attract new members. See Adraoui, “Salafism in France,” 367–8.

⁴⁰ Low grid/high group.

⁴¹ Durkheim, *The Division of Labor in Society*, 73.

⁴² A good example of this would be the tensions present between different Chassidic groups. See for instance, this report about the struggle between followers of the Chabad and Gur groups in the city of Arad, Israel. Shani, “Shabbat b’Arad: ‘imutim Bein Hassidei Gur V’habad.”

⁴³ See also Heilman, “The Vision from the Madrasa and Bes Midrash: Some Parallels between Islam and Judaism,” 71; Adraoui, “Salafism in France,” 364–8.

values derived from various groups, even if they appear potentially rivalrous.⁴⁴ According to Samuel Heilman (2006), contrapuntalism does not only allow people to simultaneously live in multiple cultures—or ‘plural life-worlds’—but “also grants them some modicum of autonomy in making and establishing those affiliation.”⁴⁵ Thus, if plural life-worlds require competing, or contradicting loyalties, individuals can handle them by redefining these rivalries as insignificant, or by treating these loyalties as situational and subject to changes whenever necessary.

The Enclave in Islam and Judaism

As noted, the choice to focus on enclavist versions of Islam and Judaism presents a methodological problem. The distinction between enclavist and contrapuntal groups is not dichotomous, as some groups would display a hybrid identity characterized by both contrapuntal and enclavist trends, some would not define themselves as enclavist or fundamentalist—and members would often find such terms to be derogatory—while demonstrating enclavist attributes, and some groups that were at one point characterized as belonging to one end of the spectrum often drift towards the center or beyond it as circumstances change. Thus, while it is quite obvious that groups such as *salafi* (fundamentalist) Islam and *ḥaredi* (ultra-Orthodox) Judaism easily fall within the enclavist classification, and that Reform or Conservative Judaism, or Ismāʿīlī Islam—all of which strongly emphasize contrapuntal belonging—will not be included in the study, the classification of other streams may be more complex.

Two groups that would feature in significant parts of the study, despite the fact that their identity cannot be classified solely as enclavist, are Religious-Zionism and *Wasatiyyah* (Centrist) Islam. On one hand, these are two groups that present themselves as ‘normative’, and generally

⁴⁴ Douglas, *In the Wilderness: The Doctrine of Defilement in the Book of Numbers*; Heilman, *Sliding to the Right: The Contest for the Future of American Jewish Orthodoxy*, 3.

⁴⁵ Heilman, *Sliding to the Right: The Contest for the Future of American Jewish Orthodoxy*, 3.

see their faith as not only a central component in their lives, but as their defining identity.⁴⁶ On the other hand, these groups contain a variety of views, especially with regards to various ‘others,’ some of them demonstrating a degree of contrapuntalism. While these groups often do present a fair degree of involvement in general society and its political system, they frequently do so in order to impose their religious values on general society, without making any compromises themselves.⁴⁷ Thus, while not remaining isolated from other groups, they still present themselves as a morally superior enclave within their surrounding society, with set boundaries defining who is an insider and who is an outsider. This approach was identified by Charles Liebman and Eliezer Don-Yehiya as “expansionism.”⁴⁸ The examination of websites featuring scholars from these streams is particularly relevant, as the multi-faceted nature of these groups creates a discourse regarding the borders of their enclave, determining what views are considered legitimate within their discourse and which views are heretical. As will be seen, the web-based discourse on this subject is maintained and challenged by both scholars and laity.

The use of the web by enclavist—or part-enclavist—societies for religious purposes may seem counter-intuitive for several reasons. First, the Internet, and information technology in general, is frequently perceived as the hallmark of Western lifestyle,⁴⁹ the very same lifestyle these societies often shun. Leaders within these communities sometimes express their concerns that the consumption of Western culture and Western technology present the “danger of being swallowed by [Western] materialism and possessed by their possession.”⁵⁰ Moreover, mass media, be it

⁴⁶ A more elaborate discussion of these two groups will be found in the chapter “Attitudes towards Liberal-Democratic Values”

⁴⁷ See Liebman and Don-yehiya’s discussion of ‘expansionism’ in *Civil Religion in Israel*, 185.

⁴⁸ This approach will be discussed extensively in the chapter “Significant Others.”

⁴⁹ Heilman, “The Vision from the Madrasa and Bes Midrash: Some Parallels between Islam and Judaism,” 79.

⁵⁰ Ibid., 78–79.

printed newspapers and magazines, radio, television, audio and video recording, or the Internet, can bring a multitude of dangers straight into the homes of adherents without the filtering of the enclave's leadership. Such dangers may be in the form of exposure to pornography or violence, but also to voices from outside the enclave: other faiths and different interpretations of their own traditions.

These reasons led to an inherent distrust of the media among enclavists, as well as a desire to regulate it and use the Western technology to provide alternative sources of (often anti-Western) information to members of their groups.⁵¹ Such alternatives included cable and satellite broadcasts by Orthodox Jewish groups in Israel and the United States, the use of audio tapes to distribute Khomeini's ideas before the Iranian revolution of 1979, and the use of synagogue pamphlets as an alternative to the hegemonic secular media, which strengthens the Orthodox community's alienation from Israel's secular population and institutions.⁵² The introduction of the Internet, however, brought with it a whole new set of opportunities⁵³ and challenges to enclavist societies. As the web introduces exceptionally easy access to controversial material, some religious authorities have prohibited the use of the net altogether. Religious objection to the Internet, however, seems to be weakening as time goes by, and current scholarly efforts now focus on encouraging the use of "safe Internet" service providers, and avoiding inappropriate material.

In 2001 Rabbi Yuval Cherlow, a moderate Zionist Rabbi, was asked (on-line!) whether it is permissible to have Internet access at home, and what is "the" halakhic stance regarding the

⁵¹ Ibid., 79.

⁵² Cohen, "Politics, Alienation, and the Consolidation of Group Identity: The Case of Synagogue Pamphlets."

⁵³ Shekih Yusuf Al-Qaraḏāwī, for instance, emphasizes the value of the Internet for *da'wa*, namely spreading Islam among non-Muslims or Muslims who no longer practice their religion. See <http://www.islamonline.net/English/Qaradawi/index.shtml>. (Retrieved January 2007. Access through *archive.org*).

Internet in general⁵⁴. Cherlow responded that a thorough halakhic discussion about the Internet has yet to be held, but that certain authorities, like Rabbi Shlomo Aviner,⁵⁵ prohibit surfing the Internet altogether. In his view, however, supervised surfing, together with instructing your children regarding what sites are to be avoided, while emphasizing the merit of religious websites, can actually bear a real educational value. Aviner himself published occasional web-based video lessons on *Ma'aleh*, a website dedicated to Religious Zionism⁵⁶. Even in Ultra-Orthodox circles, in which the Internet had been considered taboo at first, some authorities are realizing that it is not possible to ignore this technological development.⁵⁷ Instead of ignoring or condemning the very use of the Internet, these authorities emphasize the need for “kosher” or “safe” Internet service providers, who do not allow the surfer to access inappropriate content. Some scholars, such as the Rebbe of Belz, permit surfing only for employment or commercial purposes.

The picture is very similar in the Muslim world. When asked about protecting young children “from the evils of media”, Egyptian Sheikh ‘Abd al-Majīd Šubḥ answered, similarly to Yuval Cherlow, that parents should “instill in our children some kind of conscious immunity against the negative effects of the media rather than exclusively prohibiting it”, and emphasized the educational challenge involved in exposure to the Internet and other forms of mass media⁵⁸. Much like their Jewish counterparts, some Muslim scholars emphasize the benefits of a filtered Internet service, which disables access to inappropriate websites. Sheikh Fayṣal Mawlāwī,

⁵⁴ Cherlow, Yuval, “*Internet b’Migzar haDati Le’umi*”, *Moreshet*, 3.6.2001.

<http://www.moreshet.co.il/web/shut/shut2.asp?id=560>; Cherlow, Yuval, “*Ha’im l’Hakhnis, Internet haBayta?*”, *Moreshet*, 14.7.2001 <http://www.moreshet.co.il/web/shut/shut2.asp?id=955>. Both websites retrieved January 2007.

⁵⁵ A prominent Religious-Zionist Rabbi.

⁵⁶ See, for instance: <http://www.maale.org.il/faq.php?id=23457> (Retrieved January 2007).

⁵⁷ Sela’, “HaRebbe m’Belz L’hasidayv: Yesh Davar Kazeh haNiqra Internet.”

⁵⁸ Šubḥ, ‘Abd ul-Majīd, “Protecting Out Children from the Evils of Media”, *Islam OnLine*, 20.6.2001. http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503544136. (Retrieved March 2007).

Deputy Chairman of the European Council for Fatwā and Research, even ruled that setting up an Internet service provider which does not block offensive or inappropriate sites, is forbidden according to Islamic law⁵⁹. According to Mawlāwī, if a service provider allows access to websites other than “Islamically-acceptable” ones, its owners and managers would share the sins committed by their clients when viewing forbidden content, because they assisted them in obtaining the offensive material.

While the aspects of the Internet feared by religious clerics are often shared with other forms of mass media, the web is also often uniquely perceived as a democratic medium⁶⁰—another attribute which enclavist societies tend to reject. As will be seen, this aspect is particularly significant when dealing with Q&A websites that allow surfers and scholars to engage in religious discussions that disregard their status in the religious hierarchy. In order to understand the challenges brought upon by democratic media, a general discussion of democratic public discourse theory is called for.

⁵⁹ Mawlāwī, Fayṣal, “Filtering an Internet Service”, *Islam OnLine*, 1.12.2003.
http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503547660 (Retrieved March 2007)

⁶⁰ See Rodman, “The Net Effect: The Public’s Fear and the Public Sphere,” 28.

The Public Sphere

While often criticized, and provoking a great deal of scholarly controversy, German philosopher Jürgen Habermas' (b. 1929) public sphere theory⁶¹ is still a widely used benchmark for evaluating forms of democratic public discourse regarding social and cultural issues.⁶² In his book, *The Structural Transformation of the Public Sphere*, Habermas emphasizes the distinction between 'private' and 'public'—a distinction which he traces back to ancient Greece, in which “the sphere of the *polis* was separated from the private realm of the *oikos*.”⁶³ Public life was centered in the market place and in assemblies where anyone entitled to the status of a citizen could come and discuss the matters of the day. While the influence of this classical conception of public life on Western thought is clear, institutional forms of publicness did not remain constant throughout history. During the European Middle Ages, for instance, an egalitarian public sphere did not exist, and publicness was a status preserved exclusively for kings and lords.⁶⁴ This “representative publicness,” in which public opinion is dictated by those possessing a higher social status, was most prominent in the fifteenth and sixteenth centuries, after which it began its gradual decline.

The bourgeois public sphere, which Habermas is particularly concerned with, existed for a brief period in late seventeenth and early eighteenth century Europe, specifically in Germany, England and France.⁶⁵ The emergence of this new type of public life coincided with the development of capitalism and the changes in the structure of political power in Western Europe. The term 'public authority' began to relate less to the domain of the courtly life and more to the

⁶¹ Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*.

⁶² El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 23.

⁶³ Thompson, “The Theory of the Public Sphere,” 175; El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 24.

⁶⁴ Thompson, “The Theory of the Public Sphere,” 175.

⁶⁵ El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 24; Thompson, “The Theory of the Public Sphere,” 175–176.

actions of the emerging state system, “which had legally defined spheres of jurisdiction and a monopoly on the legitimate use of violence.”⁶⁶ At the same time, the concept of ‘civil society’ emerged as a “genuine domain of private autonomy [that] stood opposed to the state.”⁶⁷ This domain included both economic activities as well as the “institution of sociability and discourse” that were not exclusively tied to the economy⁶⁸. Between the new stately public authority and the private civil society, a new sphere emerged—the bourgeois public sphere.

The rise of this new public sphere was closely tied to two major developments—the emergence of the critical periodical press and “a variety of new centers of sociability in the towns and cities of early modern Europe.”⁶⁹ Critical journals and newsletters began to appear in Europe during in the late seventeenth century, and became increasingly concerned with issues related to politics and society. At the same time, coffee houses flourished all over Europe—approximately 3000 coffee houses were opened in London alone by the year 1810. Many of the new journals were closely tied with the coffee house clientele, and political commentaries and satires published in them became a central conversational topic in the various coffee houses. In addition, the journals set the stage for members of the literary public to publish their own thoughts and opinions through critical reasoning.⁷⁰

According to Habermas, the periodical press had a crucial influence over the development of the modern state’s institutional form⁷¹. As the parliaments were constantly put under the public’s lens, they became much more open to criticism and gradually abandoned their right to censor publications. Moreover, as modern state constitutions ensured that freedom of

⁶⁶ Thompson, “The Theory of the Public Sphere,” 176.

⁶⁷ Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 12.

⁶⁸ Calhoun, *Habermas and the Public Sphere*, 8; Thompson, “The Theory of the Public Sphere,” 176.

⁶⁹ Thompson, “The Theory of the Public Sphere,” 176–177.

⁷⁰ El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 26.

⁷¹ Thompson, “The Theory of the Public Sphere,” 177; El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 26.

speech and freedom of expressions were basic civil rights, “the political role of the public sphere was formally recognized in law.”⁷² While, according to Habermas, these developments are evidence of the bourgeois public sphere’s role in the shaping of the modern Western state, the public sphere in its eighteenth century form declined very quickly.

Several factors contributed to the decline of the bourgeois public sphere and the rational-critical debates that characterized it. First, the strict separation between the authoritative state and civil society, that made room for the public sphere, began to blur when states “assumed an increasingly interventionist character and took more and more responsibility” with regards to the citizens’ welfare.⁷³ At the same time, organized interest groups took a more assertive and active role in the actual political process, and were no longer satisfied with debates and the publication of critical articles. Also, institutions that proved to be crucial to the development of the public sphere declined in importance. Coffee shops and saloons became less and less prominent, and more importantly, the periodical press made room for large-scale commercial media institutions.

According to Habermas, while the small-scale periodicals promoted an intellectually meaningful exchange of opinions, commercialized mass-media did not succeed in enhancing public critical debates as it became “just another domain of cultural consumption.”⁷⁴ Instead of high-quality political information, the media became the servant of political interest groups, focusing on the personal lives of political figures instead of their position on crucial issues. New media techniques, he claims, are used to award authoritative figures “the kind of aura and prestige which was once bestowed on royal figures by the staged publicity of feudal courts.”⁷⁵ Under such circumstances, private organizations and public relations firms are becoming more

⁷² Thompson, “The Theory of the Public Sphere,” 177.

⁷³ Ibid., 177–178.

⁷⁴ Ibid., 178; El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 27.

⁷⁵ Thompson, “The Theory of the Public Sphere,” 178.

and more influential in the shaping of the political discourse, the government interferes in the private realm, and the general public is being excluded from public discussion and the decision making process.⁷⁶ As public discourse no longer emphasizes critical activity, but promotes political apathy, “the world fashioned by the mass media is a public sphere in appearance only.”⁷⁷

Even though Habermas argued that the developments discussed above have completely altered the nature of public life, he maintains that the bourgeois public sphere exemplified certain concepts that are still relevant today.⁷⁸ According to John Thompson (1993), the most important of these ideas is “what Habermas sometimes refers to as the ‘critical principle of publicity.’” Unlike ‘publicity,’ which in the modern sense refers mainly to advertising, the critical principle of publicity is “the idea that the personal opinions of private individuals could evolve into public opinion through the process of *rational-critical* debate which was open to all and free from domination.”⁷⁹ Even though the eighteenth century bourgeois public sphere proved to be a limited fulfillment of this concept, Habermas still claims that “the critical principle of publicity retains its value as a normative ideal,” which can be used as a benchmark for assessing the limitations of existing institutions.

Habermas’ Critics

As can be expected, Habermas’ theory attracted a fair bit of criticism, even from the point of view of those who do find the idea of the public sphere to be “indispensable to critical social

⁷⁶ El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 27–28; Thompson, “The Theory of the Public Sphere,” 178.

⁷⁷ Calhoun, *Habermas and the Public Sphere*, 23; Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 171.

⁷⁸ Thompson, “The Theory of the Public Sphere,” 178–179.

⁷⁹ Ibid. My Italics.

theory and to democratic political practice.”⁸⁰ Some critics, such as Geoff Eley, pointed to the fact that Habermas focused exclusively on the *bourgeois* public sphere, and thus excluded other forms of public discourse that were common in early modern Europe, and could have been just as significant.⁸¹ According to Eley, popular political movements were quite common at the time, and it cannot be assumed that such movements shared the same characteristics as the bourgeois public. Moreover, he claims, the relationship between the bourgeois public sphere and other popular social movements, including “popular peasant publics, elite women’s publics, and working class publics,” was at time rivalrous.

Adding to this point, other critics indicate that while the bourgeois public sphere was theoretically based on the principle of open access, it was in fact restricted to an educated, financially endowed, predominantly male elite⁸². Habermas himself contradicted his notion that issues of social status were irrelevant to the public sphere, as he admitted that it worked best when its participants were limited to educated, white males.⁸³ As indicated by Thompson, a number of feminist critics, such as Joan Landes, argued that the marginalization of women in the public sphere was not only the result of historical circumstances, but was in fact “constitutive of [its] very notion.”⁸⁴ According to her, the public sphere was juxtaposed with the private sphere “in a gender-specific way.” As the public sphere was perceived to be the domain of reason, men were seen as suitable participants, while women—who were perceived to be inclined to lighthearted conversations—were thought to be more suited to dealing with the domestic, private realm. Nancy Fraser, on her part, asserts that a reasonable conception of the public sphere would

⁸⁰ Fraser, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy,” 57.

⁸¹ Ibid., 60–61; Eley, “Nations, Publics, and Political Cultures: Placing Habermas in the Nineteenth Century.”

⁸² Thompson, “The Theory of the Public Sphere,” 181; Fraser, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy,” 63.

⁸³ El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 26.

⁸⁴ Thompson, “The Theory of the Public Sphere,” 181–182; See also Landes, “Further Thoughts on the Public/private Distinction.”

allow the inclusion of issues and interests that “bourgeois masculinist ideology labels ‘private’ and treats as inadmissible.”⁸⁵

Another type of criticism regarding Habermas’ theory was outlined by Thompson, who claims that the weakest sections in the book are not those dealing with the bourgeois public sphere itself, but those dealing with its decline.⁸⁶ According to Thompson, Habermas’ accounts of the transformations that took place in the nineteenth and twentieth centuries are questionable, and some of the empirical data are somewhat dated. Furthermore, Thompson raises the question of whether the author was right to interpret these changes “as a sign that the public sphere of debating citizens had collapsed into a fragmented world of consumers who are enthralled by the media spectacles unfolding before them and manipulated by media techniques.” While Thompson agrees that there is some merit to Habermas’ argument, and that media-based political campaigns demonstrate the close relations between politics and public relations, he also claims that Habermas’ treatment of “recipients of media products” as a captivated and manipulated audience is highly exaggerated. Moreover, he claims, Habermas’ “thesis of refeudalization of the public sphere” fails to recognize the notion that new types of media in general—and electronic mass media in particular—have created new means of social interaction that cannot be seriously compared with “the theatrical practices of feudal courts.”⁸⁷ According to Thompson, while medieval courtly manners were related to people sharing the same spatial-temporal context, in the age of mass electronic media political leaders can appear before an audience of millions who are “widely dispersed in space (and perhaps also in time).” Thus, he claims, the thesis of refeudalization must be ignored when trying to apply the public sphere in a contemporary context.

⁸⁵ Fraser, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy,” 77.

⁸⁶ Thompson, “The Theory of the Public Sphere,” 182–183.

⁸⁷ *Ibid.*, 183.

Perhaps more importantly, Thompson asserts that the Habermasian public sphere is essentially dialogical,⁸⁸ i.e. it is based on the concept that “individuals come together in a shared locale and engage in dialogue with one another, as equal participants in a face-to-face conversation.” This version of the public sphere, however, hardly resembles the types of communication taking part in the mass-media era. While Habermas recognizes the importance of the critical press in the formation of the bourgeois public sphere, his theory does not relate to the printed articles themselves but to the face-to-face conversations stimulated by it. Thus, according to Thompson, it is easy to see why Habermas’ accounts of modern communication media, such as radio and television, were mostly negative. This was not only due to the commercialization of the media, but also because the type of communication situation created by it. While radio and television created new forms of conversation, such as talk shows and panel discussions, they were not analogous to the critical-rational debates that were the essence of the bourgeois public sphere. Habermas claimed that today “the conversation itself is administered,”⁸⁹ and that instead of active debates between educated and informed citizens, we witness a “privatized appropriation of a conversation carried out in their name.”⁹⁰

Public Discourse in the Twentieth Century–Public Intellectuals

It appears that public critical-rational discourse in the twentieth century was not conducted by a mass of informed citizens, but rather by a “minority of persons who, more than the ordinary run of their fellow-men, are enquiring, and desirous of being in frequent

⁸⁸ Ibid., 186–187.

⁸⁹ Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 164; Thompson, “The Theory of the Public Sphere,” 187.

⁹⁰ Thompson, “The Theory of the Public Sphere,” 187.

communication with symbols which are more general than the immediate concrete situations of everyday life”⁹¹—intellectuals, and more specifically, public intellectuals.

The exact definition of a public intellectual is quite vague. In his book, *Public Intellectuals: A Study of Decline*, Richard Posner dedicates almost twenty pages to attempting to properly define the term,⁹² but generally it seems that a public intellectual “writes for the general public, or at least for a broader than merely academic or specialist audience,”⁹³ and is concerned with the same topics that occupied the bourgeois public sphere—political and cultural matters⁹⁴. According to Posner, public intellectuals “may or may not be affiliated with universities,”⁹⁵ they can be journalist or publishers, writers, artists, and unlike participants in the bourgeois public sphere—which operated in an intermediate realm between the authoritative state and private citizens—they may even be politicians or public officials themselves. Public intellectuals often write either about current controversial events, or reflect generally about the direction of society. According to Posner, they tend to take extreme, often condescending positions, and “are often careless with facts and rash in predictions.”⁹⁶

A different definition of an intellectual, which is quite suitable for this particular study, was attempted by Yehuda Shenhav in his 2002 article ‘The Betrayal of the Intellectuals.’⁹⁷ Shenhav challenges previous definitions by French philosopher Julian Benda (who coined the term ‘betrayal of the intellectuals’), according to which an intellectual is one who speaks to the public transcendently, and by Lewis Cozer, who claimed that an intellectual is someone who

⁹¹ Shils, “The Intellectuals and the Powers: Some Perspectives for Comparative Analysis,” 5. The article also appears in Rieff, *On Intellectuals: Theoretical Studies, Case Studies*.

⁹² Posner, *Public Intellectuals: A Study of Decline: With a New Preface and Epilogue*, 17–35.

⁹³ Ibid., 25.

⁹⁴ See for instance, “The Concerns of intellectuals” in Kadushin, *The American Intellectual Elite*, 237–251. for an account of the issues that concerned American intellectuals in the early 1970s. Namely, the Vietnam war, issues of race, etc.

⁹⁵ Posner, *Public Intellectuals: A Study of Decline: With a New Preface and Epilogue*, 35.

⁹⁶ Ibid.

⁹⁷ Shenhav, “B’gidat HaIntellectualim [The Betrayal of the Intellectuals].”

creates culture. Shenhav, on his part, wishes to define an intellectual as a position rather than a deed. According to him, an intellectual is someone who possesses a status in one field—be it academy, literature, poetry, law, etc.—but takes a stand on a different field—politics or ethics. In other words, an intellectual uses their symbolic capital acquired in one field in order to cross the lines to a different one. Their opinion is not valued due to their authority on political issues, but due to the fact that they learned to transfer their status to the political field, this while maintaining a well-defined line between their field of expertise and the field in which they take a moral stand.

While intellectuals, public or not, are hardly an exclusive twentieth century phenomenon⁹⁸ (Talcott Parsons, for instance, discusses the role of the intellectuals in ancient Israel and China⁹⁹) certain conditions that prevailed in the twentieth century, especially since the 1960s, contributed to the rise in demand for “the expressive output of public intellectuals.”¹⁰⁰ These include the rise in the number of journals and newspapers that publish public intellectual writings, the emergence of an increasing number of radio and television stations that produce documentaries and talk shows, and more recently, the Internet. According to Posner, the question of whether the growing market for public intellectuals is a result of greater competition between different media bodies—an option that goes hand in hand with Habermas’ claims regarding the commercialization of the media—or greater demand from the public itself, is not entirely clear. Nevertheless, he claims, the media would not have filled volumes of newspapers and magazines with the writings of intellectuals unless the public had an interest in reading those. Moreover, Posner argues, one cannot ignore the fact that the American population (with whom he is

⁹⁸ The term “intellectual” itself, however, has been in use since 1898. See Kadushin, *The American Intellectual Elite*, 4.

⁹⁹ Parsons, “‘The Intellectual’: A Social Role Category.”

¹⁰⁰ Posner, *Public Intellectuals: A Study of Decline: With a New Preface and Epilogue*, 42–43.

primarily concerned) is becoming more and more educated, which can explain their thirst for intellectual writings.

The critical discourse portrayed by twentieth century public intellectuals may indeed have been, as Habermas claimed, “administered”¹⁰¹ to the general public. It is essentially a non-dialogical discourse, and does not allow the public to share their views in the context of a critical social discussion, but only to consume information. On the other hand, the mass media, of which Habermas was so critical, does grant the general public access not only to commercialized accounts of current events, but also to a large number of informed critical voices which are often anything but echoes of the voice of the authorities or other bodies with commercial interests. While public intellectuals are currently receiving a fair bit of scholarly and public attention, a significant amount of writing is also concerned with the notion that the public intellectuals of the twenty-first century are no longer up to the standards set in the previous century.¹⁰² Some thinkers, such as Russel Jacobi, even claim that the quality of public intellectuals has been on the decline since the 1950s (notably, this is the same period which Posner recognizes as the rise in demand for public intellectual works.)¹⁰³ While other thinkers, such as Amitai Etzioni, demonstrate that public intellectuals are by no means disappearing, and their influence over the governing elite is increasing,¹⁰⁴ there is no doubt that the non-dialogical nature of the twentieth century’s public discourse is changing, and that the technological changes brought by the Internet are once again creating a new type of public discourse.

¹⁰¹ Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 164.

¹⁰² Drezner, “Public Intellectuals 2.1,” 49.

¹⁰³ Etzioni and Bowditch, *Public Intellectuals: An Endangered Species?*, 17.

¹⁰⁴ Etzioni and Bowditch, “Introduction,” *Public intellectuals: an endangered species?*, 1-21.

The Internet—An Ideal Public Sphere?

It is tempting to view the Internet as inherently democratic.¹⁰⁵ Many have claimed that the internet restores the republican model of democracy, labeling it as an ideal public sphere—a medium with no central supervision that allows anyone both access to a “seemingly endless amount of information from a diverse range of sources,”¹⁰⁶ as well as the ability to post their views on current events, regardless of their social or economic status, and “formulate some kind of common will.”¹⁰⁷ The Net restores the dialogical characteristic of the public sphere, as it allows ordinary people to participate in rational-critical discussions as listeners as well as speakers. At the same time, it disregards the spatial component of the Habermasian public sphere, as geographical location becomes irrelevant to the ability to join critical discussions. With these characteristics in mind, the Internet can be perceived as not only the ideal public sphere, but also “the only form of mass media that has the potential to be genuinely democratic.”¹⁰⁸ Reality, however, is apparently more complex and far less ideal.

In his article, “The Net Effect: The Public’s Fear and the Public Sphere,” Gilbert Rodman identified three barriers preventing the Internet from becoming a true democracy¹⁰⁹: “the hierarchies of power inherent in network architecture,” the fact that significant portions of the world’s population are lacking the financial and other means to allow access to the Net, and the “gatekeepers of education and literacy.”¹¹⁰ The first barrier, which Rodman considers to be the most difficult to overcome, is related to the fact that most platforms available for Internet users to publish their writings—i.e. blogs (web-logs), forums, etc.—are moderated by system

¹⁰⁵ Margetts, “The Internet and Democracy,” 422–3.

¹⁰⁶ Rodman, “The Net Effect: The Public’s Fear and the Public Sphere,” 28; Margetts, “The Internet and Democracy,” 422–3.

¹⁰⁷ Margetts, “The Internet and Democracy,” 422–3.

¹⁰⁸ Rodman, “The Net Effect: The Public’s Fear and the Public Sphere,” 28.

¹⁰⁹ For more on the prospects of the Internet enhancing democracy see Dahlberg, “Exploring the Prospects of Online Deliberative Forums Extending the Public Sphere.”

¹¹⁰ Rodman, “The Net Effect: The Public’s Fear and the Public Sphere,” 29.

administrators who have the authority to shut down discussion, or prevent people from spreading their views. Not only is a blog writer capable of erasing a comment which he or she does not find suitable, but blog operators themselves are subject to a system administrator who is capable of shutting down a blog completely if they wish to do so. If the Internet was a true democracy, Rodman claims, participants in discussion groups could vote down a moderator or system administrator, they would be able to change the rules according to which the blog operates, and would have mechanisms that would allow them to implement such changes.¹¹¹

The second barrier that Rodman portrays is the lack of meaningful Internet access in major parts of the world.¹¹² While the author argues that the Net does provide its users “something closer to an ideal public sphere than other media do,” he is also doubtful that the majority of Internet users fall under the category of “ordinary people”—a claim that has also been directed at Habermas’ bourgeois public sphere.¹¹³ Rodman argues that substantial parts of the world, notably Africa and the third world, are highly under-represented among Internet users. Moreover, there are tiny nations that are so wealthy and thus so heavily wired, that their Internet representation is blown out of proportion. A good example of this can be seen in a map issued in 1998, signifying “the relative ‘wiredness’ of different nations.” In this map, Monaco—the world’s second-smallest nation—appeared almost as big as the entire continent of Africa! More current statistics on world Internet use (September 2009) reveal that while 74.2% of North-American population is using the Internet, only 6.8% of African population does.¹¹⁴ Rodman also notes that keeping a home computer which has Internet capabilities is more expensive than it is usually portrayed, especially since computers become dated so quickly that they have to be replaced

¹¹¹ Ibid., 30–31.

¹¹² Ibid., 32–36.

¹¹³ See El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 26.

¹¹⁴ Miniwatts Marketing Group, “World Internet Users and Population Stats.”

every three to five years.¹¹⁵ This also contributes to the under-representation of underprivileged populations from cyber discourse.

The last obstacle which Rodman identifies as preventing the Internet from becoming fully democratic is the “surprisingly un-discussed” issue of education.¹¹⁶ The fact that using the Internet requires not only the ability to read and write, but also basic computer skills, means that the population represented in cyberspace is limited to a “small and exclusive club.” Moreover, Rodman emphasizes that in many academic writings about the Net, large portions of the population are being excluded, whereas the experience of the Web is treated as universal. According to him, only a minority of scholars dealing with the web are self-reflexive enough to admit that the web experiences are rooted in relatively-high levels of literacy as well as financial endowment. As was mentioned earlier, similar claims have been made regarding Habermas’ account of the bourgeois public sphere—Craig Calhoun, for instance, noted that members of the public sphere were for the most part “educated, propertied men, and they conducted a discourse not only exclusive of others, but also prejudicial to the interests of those excluded.”¹¹⁷

Another obstacle preventing the Internet from becoming the ideal public sphere has to do with the quality of web based discussions, and whether they conform to the critical principle of publicity. Cass Sunstein (2008), for instance, mentions that Habermas outlines in his later works the “ideal speech situation,” in which the participants in a discussion all attempt to arrive at the truth, without behaving strategically.¹¹⁸ Sunstein’s study demonstrated that Internet discourse, and specifically the blogosphere, is characterized by group-polarization, meaning that discussions within the blogosphere are often conducted by like-minded people and that people

¹¹⁵ Rodman, “The Net Effect: The Public’s Fear and the Public Sphere,” 33–36.

¹¹⁶ Ibid., 36–38.

¹¹⁷ Calhoun, *Habermas and the Public Sphere*, 3. See also Fraser, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy.”

¹¹⁸ Sunstein, “Neither Hayek nor Habermas,” 91.

from opposite views hardly interact with each other at all!¹¹⁹ According to the author, a Habermasian view of the blogosphere is problematic, “if people are reading blogs that conform to their own pre-existing beliefs.”¹²⁰ The rise of blogs, he claims, does not encourage rational-critical discourse, but simply allows people to “live in echo chambers of their own design.” Other critics are claiming that blogs do not focus on rational critical debates, and mainly feature personal reflections.¹²¹ Jacobi argues that blogs “may be more like private journals with megaphones than reasoned contributions to public life,” and that the enormous number of different blogs may create a situation in which more and more people are sharing their thoughts without anyone giving them any attention¹²² On the other hand, other critics, such as Daniel Drezner who deals with the influence of the blogosphere on public intellectuals, indicate that while “there are limits to blogs as a tool to aid public intellectuals,” and public life in general, one cannot ignore the benefits ingrained in them in terms of access to a wide public audience and the two-way interaction between intellectuals and the public.¹²³

Several research questions come to mind in light of the concepts discussed in this chapter. First and foremost—who belongs in the enclaves that produce the websites in question? Who are their perceived “others?” How are the boundaries of the enclaves determined, and by whom? Are the boundaries related to the nature of the discourse in this new medium? Are Q&A websites creating a new type of religious-legal discourse? Is the medium indeed more democratic or egalitarian? What is the medium’s influence on scholarly authorities? Does the public nature of

¹¹⁹ Ibid., 92–94. See also Keren, “Emancipation and Melancholy,” *Blogosphere: The new political arena*, for an example of a discussion in a neo-Conservative blog.

While Sunstein and Keren deal specifically with the blogosphere, I am inclined to think (based on personal experience) that the situation in forums and discussion groups is no different.

¹²⁰ Sunstein, “Neither Hayek nor Habermas,” 94.

¹²¹ Drezner, “Public Intellectuals 2.1,” 51–54.

¹²² Ibid., 52.

¹²³ Ibid., 53.

the medium allow religious figures to assume the role of public intellectuals? These questions will be discussed in the following chapters.

Chapter III:

The Q&A Genre in Jewish and Islamic Law

Before addressing web-based religious Questions and Answers, it is imperative to look into the development of Jewish and Islamic law, and specifically the distinctive Q&A genres in both religions. As both Judaism and Islam are religions based heavily on practice rather than pure faith or theological allegiance,¹²⁴ both traditions developed their own legal systems, seeking to direct their adherents in their everyday observances. These legal systems are known as *halakha* (from the root H.L.KH.—meaning ‘to walk’) in Judaism and *shari‘a* (literally ‘the way’ or ‘the path’) in Islam. While in both religions legal scholars rely in their thought process on their canonical books, the Torah and the Qur’ān, both of them also depend on oral traditions and on the scholars’ abilities to interpret the texts and traditions. This chapter will review the main mechanisms used in both religions in their legal processes, and especially the development and characteristics of each faith’s tradition of scholarly questions and answers. The second part of the chapter will deal with how online Q&A fit within this genre.

Development of Jewish Law

An essential principle in the development of Jewish Law is the assumption that together with the Torah—the Written Law—Moses also received the Oral Law, containing illuminations of the Written Law and additional *halakhot* not mentioned there explicitly.¹²⁵ Rabbinic tradition, however, distinguishes between laws that were supposedly given directly from God and handed down from generation to generation, and other parts of the Oral Law that were developed and

¹²⁴ Rippin, *Muslims*, 88; Liebman and Don-yehiya, *Civil Religion in Israel*, 193–194. This claim is made specifically with regards to Sunni Islam and Rabbinic Judaism with which I deal with in this paper.

¹²⁵ Elon, “Authority, Rabbinical.”

created through the efforts of halakhic scholars. Thus, even though Jewish Law in its entirety is regarded in rabbinic tradition to be of Divine nature, its human element has never been ignored. Instead, the focus is on the halakhic scholars' exclusive—and divinely ordained—authority to reinterpret and apply the laws in every generation, according to its own specific needs. These two principles are not perceived as contradictory, but merely as “giving practical expression to a further unfolding of the revelation at Sinai.”¹²⁶

According to Menahem Elon, halakhic scholars implement their authority to interpret the Law by pursuing several legal sources.¹²⁷ The first source used is the *Midrash*, or interpretation. This method is applied to the written Torah, in an attempt to expound and define the laws contained there if they are not clear enough, and to find scriptural support for laws that were not explicitly mentioned in the text but have been passed on by the Oral Tradition.¹²⁸ This method can be also applied to the Mishna—a collection of rabbinic legal writings, traditionally dated around the third century CE that served as the basis to the Talmud¹²⁹—and to later halakhic works. When investigation and interpretation of existing texts do not provide a legal answer to contemporary circumstances, halakhic authorities may use a second source—legislation.¹³⁰ Rabbis, or halakhic scholars, possess the authority to add enactments (*taqanot*) and decrees (*g'zerot*) in order to create stability in society and to ensure that prohibitions originating in the Torah (either Written or Oral) are kept. Examples of such legislations are the obligation to light Chanukah candles, which was enacted in the days of the Hasmoneans,¹³¹ and the decree

¹²⁶ Ibid., 703.

¹²⁷ Elon, *Ha-Mishpat Ha-ʿIvri: Toldotav, Meqorotav, ʿEqronotav*, 212–213; Elon, “Authority, Rabbinical,” 704–705.

¹²⁸ ʿAminoah, *Torah, the Oral Tradition*, 40–43.

¹²⁹ See *ibid.*, 80–90.

¹³⁰ Elon, *Ha-Mishpat Ha-ʿIvri: Toldotav, Meqorotav, ʿEqronotav*, 391.

¹³¹ The benediction used for lighting Chanukah candles is formulated with the traditional “Blessed are thou... who have sanctified us with His commandments and commanded us to light Chanukah candles,” thus implying that the enactment is Divinely ordained regardless of the fact that it was not found in a revealed text. See Bavli, Shabbat 23b.

prohibiting bigamy enacted by Rabbi Gershom circa 1000 CE.¹³² Other sources for Jewish Law include custom and usage, legal precedents, and legal logic.¹³³

An important principle in the halakhic process is “*hilkheta ke-vatra'ei*,” or “the Law is set according to the later scholar.”¹³⁴ Generally, Jewish Law gives precedent to earlier generations—the Amoraic Rabbis,¹³⁵ for instance, were not allowed to dispute the Tannaim.¹³⁶ The Gaonic Rabbis, the first generation to interpret the Talmud after its codification, could not contradict the sayings of the Amoraim, and later generations displayed special reverence to the Gaonim.¹³⁷ Nevertheless, this respect for previous generations did not prevent the Gaonim from establishing a seemingly contradicting principle, which was essential for granting the latest generation of rabbis the authority to decide on contemporary issues. According to them, up until the fourth century CE, earlier generations had precedent in the case of a dispute, but after that period the Law should be decided according to the later authority.¹³⁸ It is important to note that this rule does not apply if the later rabbi was not aware of the previous generation’s ruling. The later rabbi’s opinion gains precedent only if they cite the preceding opinion, discuss it, and demonstrate why it is incorrect or does not apply at this specific time.

As rabbis possess the authority to contradict earlier generations, halakhic literature contains quite a number of examples “of a resort to legal theory not for the purpose of determining the law but to provide justification for existing practice,” which contradicts an

¹³² 'Aminoah, *Torah, the Oral Tradition*, 79–80.

¹³³ Elon, *Ha-Mishpat Ha-ʿIvri: Toldotav, Meqorotav, ʿEqronotav*, 213.

¹³⁴ Ibid., 236–238b. It is worth noting that according to some scholars, this principle only applies to Ashkenazi (or European) halakha. See Ta-Shma, “The Law Is in Accord with the Later Authority—‘hilkhata Kebabrai’: Historical Observations on a Legal Rule”; Raffeld, “‘Ashkenaz’ in the East: ‘Hilhata K’Bathrai’ in the Era of Rabbi Joseph Karo”; Yuval, “Antiqui et Moderni: Rishonim ve-Aharonim.”

¹³⁵ The Rabbis of Babylonia and the Land of Israel whose legal discussions were eventually codified in the Talmud (3rd–6th centuries CE). See 'Aminoah, *Torah, the Oral Tradition*, 97.

¹³⁶ Rabbinic sages whose views were codified in the Mishna

¹³⁷ Regarding the special authority given to the Talmudic rabbis as well as the first post-Talmudic generation, see Jacobs, “The Talmud, Source of the Halakha,” *A tree of life: diversity, flexibility, and creativity in Jewish law*, 23–30.

¹³⁸ Elon, *Ha-Mishpat Ha-ʿIvri: Toldotav, Meqorotav, ʿEqronotav*, 237–238b.

earlier law that was already outlined in the Talmud.¹³⁹ In such cases, legal casuistry attempts to show that despite the fact that the situation appears contradictory to the law, the practice is either in accordance to a minority opinion already mentioned in the Talmud or other previous halakhic writings, or that the original law is based on circumstances that no longer apply.

An important aspect of Jewish Law, one that clearly demonstrates its adaptation to changing historical circumstances, is the responsa genre, or *she'elot u-t'shuvot* (questions and answers)—halakhic questions presented to rabbis, either by other rabbis or laypeople.¹⁴⁰ Jewish responsa have been written since the Gaonic period, when Jewish communities located around the Mediterranean basin would send their questions to the Babylonian academies and have the answers couriered back to them.¹⁴¹ Responsa have been extensively studied as important social-historic documents illustrating the issues that Jews had to deal with in their everyday life in different eras, including their legal and political status in different regions, their relations with the nations surrounding them, and more. Much like other types of Jewish legal literature, such as the codifications of Jewish Law, the purpose of the Q&A genre is to give a practical solution to legal questions. However, while a scholar writing a code of law relies chiefly on a theoretical examination of legal sources, a rabbi answering a question has to take into consideration what Elon refers to as a “living legal reality,” a set of social and economic factors that influence the halakhic discourse.

According to Elon, a striking feature of the responsa literature is that for 1300 years, approximately seventy percent of the genre was dedicated to the civil, administrative, public and criminal aspects of Jewish Law, and only twenty to thirty percent dealt with matters to do with

¹³⁹ Jacobs, *A Tree of Life: Diversity, Flexibility, and Creativity in Jewish Law*, 122. See *bavli, brachot* 45:1.

¹⁴⁰ Tal, Slae, and Ta-Shma, “Responsa,” 228–239; Elon, *Ha-Mishpat Ha-ʿIvri: Toldotav, Meqorotav, ʿEqronotav*, 1223.

¹⁴¹ Elon, *Ha-Mishpat Ha-ʿIvri: Toldotav, Meqorotav, ʿEqronotav*, 1223; Haas, “Reform Responsa,” 40–41.

the *Yoreh De`ah* and *Orah Hayim*¹⁴² aspects of halakha, i.e.—prayer, benedictions, holidays, dietary laws, ritual purity, etc.¹⁴³ This phenomenon reflects the fact that up until the emancipation of European Jews in the late eighteenth century, Jewish communities possessed judicial autonomy, and therefore most of the problems that the Jewish legal system had to deal with related to the social, commercial and economic life of the community, as well as its relations to the non-Jewish community surrounding it and to the local government. From the eighteenth century onwards, the picture became radically different and the vast majority of the questions answered in Eastern and Central European Jewish communities were related to the “ritual” side of Jewish Law rather than the judicial side of it.¹⁴⁴ The Jewish Enlightenment movement, as well as the advent of the Reform Movement and secularizing trends, raised other concerns with regards to the laws of the Sabbath, liturgy, matters of marriage and divorce, and the treatment of Jews who did not acknowledge the obligatory status of traditional Jewish Law, all of which were reflected in contemporary responsa.

The nineteenth-century split in the Jewish community, separating Orthodox Judaism from other branches less committed to traditional Jewish Law,¹⁴⁵ caused—according to Elon—another unique phenomenon to achieve prominence in post-emancipation responsa.¹⁴⁶ Many of the responding scholars, even prominent ones, often refrained from clear and decisive rulings, as if they displayed a “lack of confidence in their own authority” and felt unworthy to challenge the predominant discourse, especially the authoritative sixteenth century codification of Jewish

¹⁴² Ever since Rabbi Jacob ben Asher’s codification of Jewish Law (The *Tur*, or “Four Columns”), it is customary to divide Jewish Law into four major categories. *Orah Hayim* deals with matters related to everyday liturgical practice; *Yoreh De`ah* is concerned with ritual prohibitions; *Even Ha’Ezer* deals with family law; and *Hoshen Mishpat* deals with financial and juristic aspects of Jewish Law

¹⁴³ Elon, *Ha-Mishpat Ha-’Ivri: Toldotav, Meqorotav, ’Eqronotav*, 1246–1249.

¹⁴⁴ The trend did not spread, however, to the Jewish communities residing in the Ottoman Empire, where Jewish judicial autonomy remained as it was before.

¹⁴⁵ See Kaplan, “Reform Judaism.”

¹⁴⁶ Elon, *Ha-Mishpat Ha-’Ivri: Toldotav, Meqorotav, ’Eqronotav*, 1247–1249.

Law—the *Shulḥan Arukh*.¹⁴⁷ This situation—known as *Yir'at Hora'ah*, or “fear of instruction”—became a noteworthy feature of modern Orthodox Jewish Law. Even scholars who did provide innovative answers often added reservations saying that their answers are purely theoretical, or that they may only be applied if more distinguished scholars endorsed their opinion. This trend is reflected in the writings of Rabbi Jehiel Jacob Weinberg (1884-1966), who admitted his “disappointment that he was unable to rule leniently in cases where he thought he had compelling evidence.”¹⁴⁸

Development of Islamic Law

While the general Arabic term for Islamic Law is *Sharīʿa*, the intellectual pursuit of understanding, interpreting, and applying the law is known as *fiqh*, and its practitioners as *fuqahāʾ*, or *faqīh* in the singular.¹⁴⁹ The Islamic legal tradition is based on the assumption that the law should develop through rationalist thought that is illuminated by the information revealed directly by God in the Qurʾān, as well as by the deeds and sayings of the Prophet of Islam.¹⁵⁰ With this assumption in mind, Muslim legalists formed a legal theory (*uṣūl al-fiqh*. Literally “roots of the law”) which acknowledges the legal authority of the Qurʾān as well as three other main sources—*sunnah*, or Prophetic tradition; consensus (*ijmāʿ*); and analogical reason (*qiyās*).¹⁵¹ The process of using these sources in order to reach a ruling on a particular legal question is known as *ijtihād*—a concept that will be discussed more extensively later on.

¹⁴⁷ Shapiro, *Between the Yeshiva World and Modern Orthodoxy: The Life and Works of Rabbi Jehiel Jacob Weinberg*, 188–189; Elon, *Ha-Mishpat Ha-ʿIvri: Toldotav, Meqorotav, ʿEqronotav*, 1247–1249.

¹⁴⁸ Shapiro, *Between the Yeshiva World and Modern Orthodoxy: The Life and Works of Rabbi Jehiel Jacob Weinberg*, 190–192.

¹⁴⁹ Calder, “Law: Legal Thought and Jurisprudence,” 381.

¹⁵⁰ Hallaq, *An Introduction to Islamic Law*, 15–19.

¹⁵¹ *Ibid.*, 16–19; Calder, “Law: Legal Thought and Jurisprudence,” 383–384.

While the Qur'ān is considered to be the most authoritative source for legal rulings, it is not primarily a legal work.¹⁵² Most of it is dedicated to issues such as theology, exhortations to worship only one God and reject idolatry, and recounting of Biblical stories and historical accounts. It does, however, contain approximately 500 “legal verses,” outlining some dietary prohibitions (on pork and alcohol), laws of marriage and divorce, as well as other ethical and criminal laws. The second most authoritative source of Islamic law is the *sunnah*, or traditions regarding the life of Muhammad. As Muhammad is regarded to be “God’s chosen messenger,” who acted in accordance with God’s will, his biography is considered to be exemplary. Specific reports regarding “what the Prophet had done or said, or even tacitly approved,” are known in Islamic tradition as *ḥadīth* (singular, or *aḥādīth* in plural) and are presented in a specific manner starting with an account of the people who transmitted the saying (A heard from B who heard from C, who heard from Muhammad, etc.). Islamic legal theorists developed a method to determine how reliable these reports are, mainly according to the trustworthiness of the people who transmitted the information, and the length of the ‘chain of transmission’ (*isnād*). According to Wael Hallaq, the application of these criteria resulted in a mere 5000 *ḥadīths* that are considered reliable and authoritative (*ṣaḥīḥ*).¹⁵³ Other reports are categorized are generally classified as either ‘good’ (*ḥasan*), ‘weak’ (*ḍa‘īf*), or even ‘fabricated’ (*mawḍū‘*).

As the Qur'ān and the *sunnah* rarely contain specific laws, but only general rulings and indications “that lead to the causes of these rulings,”¹⁵⁴ the legal scholar must revert to the other two sources of the law in order to find the correct judgment of an unprecedented case (*fas'*). The third source of legal ruling, *ijmā'*, or consensus, is based on the assumption that “it is

¹⁵² Hallaq, *An Introduction to Islamic Law*, 16–19; Calder, “Law: Legal Thought and Jurisprudence,” 383–384.

¹⁵³ An example of a collection of authoritative *ḥadīths* is *Al-Ṣaḥīḥ* by Al-Bukhārī. See Bukhārī, *The Translation of the Meanings of Ṣaḥih AL-Bukhari*.

¹⁵⁴ Hallaq, “Was the Gate of Ijtihad Closed?,” 4.

inconceivable for the entire Muslim community to conspire on a falsehood.”¹⁵⁵ Technically, however, the concept is defined as the agreement of all *mujtahids*—those practicing *ijtihad*—during a specific time period on a particular legal matter.¹⁵⁶ Generally, consensus was determined in retrospect, meaning when “jurists looked back at earlier generations and observed that there was no disagreement amongst them on a particular point of law.” As jurists rarely agreed unanimously on a legal point, the sign of an exceptional *mujtahid* was one who not only knew of cases subject to consensus, but also knew of the reasons behind juristic disagreement with regards to the other situations.

The fourth source, *qiyās*, or reasoning, is a general term that usually refers to analogy, but also to other types of legal analysis such as syllogistic or relational arguments.¹⁵⁷ The fact that it is presented as a source of law may appear confusing, as it is “a source only insofar as it provides a set of methods *through* which the jurist arrives at a legal norm.”¹⁵⁸ *Qiyās* is applied when there is a common attribute to both a new case presented to a jurist, and another case found either in the Qur’ān or the *sunnah*, or already sanctioned by consensus. A common example of legal analogy is the case of date-wine. If the jurist has to decide whether the drinking of date-wine is permissible, he searches the Qur’ān and finds that the drinking of grape-wine was explicitly prohibited. As the common denominator between the two cases is the fact that both beverages are intoxicating, and thus the jurist concludes that similarly to grape-wine, date-wine should be prohibited on the grounds that it is alcoholic.

Some Western scholars, as well as many Muslim jurists, feel that the activity of *ijtihad*—defined as “the maximum effort expended by the jurist to master and apply the principles of *uṣūl*

¹⁵⁵ Hallaq, *An Introduction to Islamic Law*, 17.

¹⁵⁶ *Ibid.*, 172.

¹⁵⁷ *Ibid.*, 176.

¹⁵⁸ *Ibid.*, 22–23.

al-fiqh” in order to reveal God’s law—ceased by the end of the ninth century CE.¹⁵⁹ According to Joseph Schacht (1902-1969), by that point in history scholars from all Sunni schools of thought¹⁶⁰ felt that all essential legal questions were already settled, and that no scholar has the necessary qualification for independent reasoning. All further legal activity “would have to be confined to the explanation, application, and, at the most, interpretation” of the existing doctrine.¹⁶¹ The “closing of the gate of *ijtihād*,” he claims, gave way to the rise of *taqlīd* (imitation) as a legal method, meaning “the unquestioning acceptance of the doctrines of established schools and authorities.”¹⁶²

An important body of Islamic juristic scholarship, which is comparable to the rabbinic *she’elot u-t’shuvot*, is comprised of nonbinding advisory opinions that were issued in response to a question posed by an inquirer (*mustaftī*); these opinions are known as *fatāwā* or *fatāwā*.¹⁶³ While *she’elot ut’shuvot* are a heavily researched genre, often seen as of utmost historical value, *fatāwā* and those issuing them, known as *muftīs*, have historically received little scholarly attention. This can be explained by the fact that rabbinic Q&A first appeared at a time of exile, with no centralized or official Jewish authority, while *fatāwās* developed at the time of the Islamic Caliphate. Unlike the Islamic judges, or *qādis*, who were “appointed, salaried officials who dispensed justice in public tribunals,” the position of the *muftī* was far less institutionalized and relied mostly on their knowledge and the fact that the inquirers who presented them with their questions found them to be authoritative. Thus, while *fatāwās* may have been perceived of

¹⁵⁹ Hallaq, “Was the Gate of Ijtihad Closed?,” 3; Calder, “Law: Legal Thought and Jurisprudence,” 383.

¹⁶⁰ By the mid eighth century CE four distinctive Sunni jurist schools of thought emerged – the Ḥanafī, Mālikī, Shāfi’ī and Ḥanbalī. The four schools recognize each other. See Calder, “Law: Legal Thought and Jurisprudence,” 382; Hallaq, *An Introduction to Islamic Law*, 31–38.

¹⁶¹ Hallaq, “Was the Gate of Ijtihad Closed?,” 3.

¹⁶² It is worth noting that Shī’a Islam never claimed that the gates of *ijtihād* were closed. Moreover, Shī’a tradition places a great deal of emphasis on the *mujtahids* right to use their “independent capacity of the intellect to make moral and ethical judgments.” Calder, “Law: Legal Thought and Jurisprudence,” 384.

¹⁶³ Masud, Messick, and Powers, “Muftīs, Fatwas, and Islamic Legal Interpretation,” 3–4.

lesser value—and therefore less interesting from the point of view of scholars of Islam—than the more institutionalized bodies of Islamic Law, the lack of a centralized halakhic establishment made rabbinic responsa as important as any other body of halakhic literature. *Fatāwā*, however, similarly to rabbinic Q&A, signify the practical application of *sharīʿā* in response to specific real life situations. They were given in response to inquiries by Muslims from all social statuses, including the laity, judges, and political figures including caliphs and sultans.

The practice of presenting authoritative scholars with practical religious legal questions dates back—according to Islamic tradition—to the days of the Prophet.¹⁶⁴ Muhammad, guided by his revelations, presented his community of believers with rules and practices in matters of ritual and purity as well as social and economic relations. As may be expected, these rules and regulations were frequently met with resistance or questioning, as they quite often contradicted the existing pre-Islamic practices that were common at the Arabian Peninsula. Evidence of these reactions can be found in a Qurʾānic literary structure that reads: “When they ask you... Say...” This structure has been traditionally understood as the process of Muhammad being asked about the validity of a certain practice; he then waits for a Divine reaction and eventually the revelation he receives becomes a part of the Qurʾān. According to Masud, Messick and Powers, this process defines the basic features of classic issuance of *fatāwā*. The Qurʾān sets the process as a three-way consultation between God, Muhammad and the *ummah*, with Muhammad “serving as the medium through which the community members know God’s laws and ordinances.”

The death of Muhammad, who the Qurʾān designates as the “Seal of the Prophets,” essentially denied the *ummah* the means of direct communication with God in the event when they required further guidance to Qurʾānic instructions.^{165 166} In the first few years after

¹⁶⁴ Ibid., 5–8.

¹⁶⁵ Ibid., 6–8.

Muhammad's death, the community turned their legal questions to the Prophet's Companions—the men and women who closely interacted with Muhammad and were believed to be best suited for the task of determining the most appropriate Islamic behaviour in a specific situation. As the Companions' generation died out, the “*isnād* paradigm,” that placed a high value on the human element in transmitting the Prophetic traditions to the following generations, assured that Muslims who did not live at the times of Muhammad and his Companions could feel a personal connection to the Qur'ān and the *ḥadīth*. Over the centuries, the *‘ulamā’*, those well versed in the body of Islamic legal literature, identified themselves as “those in authority among you” (4:63), and “acquired religious authority analogous to that exercised by the Prophet.” This authority allowed them to issue *fatāwā* that were accepted by the community.

A small body of Islamic theoretical literature titled *adab al-muftī* is dedicated to the details of the *muftī*'s position and the features of the works they produce. This genre contains a noteworthy discussion portraying the dual qualities of the *muftī*'s responsibility.¹⁶⁷ On one hand, Islamic Law considers the production of interpreters of *sharī‘a* to be a strict societal obligation.¹⁶⁸ On the other hand, it is acknowledged that taking part in such activity exposes the *muftī* to the inevitable possibility of an error, which may entail severe consequences. *Adab al-muftī* glorifies the *muftī* and their work and promises them a great reward, but at the same time quotes Prophetic traditions promising that those reckless with the issuing of *fatāwā* will surely go to hell. The genre praises important *muftīs*, including the founders of the Sunni schools of law,

¹⁶⁶ Jewish tradition similarly claims that prophecy ceased to exist and that currently humans are not able anymore to communicate directly with God. While there is some dispute as to when exactly prophecy ceased, most Jewish authorities date it to before the Second Temple period. See Urbach, “Matay Paska HaNevu’ah?”.

¹⁶⁷ Masud, Messick, and Powers, “Muftīs, Fatwas, and Islamic Legal Interpretation,” 15–16.

¹⁶⁸ Islamic Law distinguished between two types of obligation - *Farḍ kifāya* is an obligation that must be filled by society at large, or by certain members of the community at any given time. *Farḍ ‘ayn* is an obligation that has to be filled by every Muslim individually

for refusing to answer questions they were not sure about, or simply admitting that they do not know the answer to a question.

Adab al-muftī discusses different types of *muftīs* in relation to their competence in *ijtihād*.¹⁶⁹ The highest status for a *muftī* is an independent (*mustaqill*) or an absolute (*muṭlaq*) one. Only the existence of such a *muftī* fulfills the communal obligation to produce interpreters of Islamic Law, and is capable of independent rulings based on his vast knowledge of the sources of the Law. A *muftī* that achieved this level of competence is strictly forbidden from practicing *taqlīd* or relying on the rulings of others.¹⁷⁰ As noted before, Sunni Muslims generally claim that the practice of *ijtihād* has ceased after the 9th century, and therefore this status is unattainable. Other types of *muftīs* are classified as non-independent (*muntasib*) and practice *taqlīd*, or interpret the Law within the framework of a specific school of thought. Some scholars argued that since no independent *muftīs* are to be found anymore, “what is called a fatwā in our days is not in fact so,” rather they are simply quotations of independent *muftīs* from previous generations for the benefit of the inquirer.

Another section in *Adab al-muftī* states that a *muftī* must be an Adult Muslim who is just and practices good behaviour, and affirms that—at least theoretically—free men and slaves, men and women, and even the blind or the mute, can all serve in this position.¹⁷¹ This distinguishes the *muftī* from an Islamic judge, who cannot be a woman or a slave. Another feature differentiating the two positions is their realm of authority. While the judge usually specializes in criminal aspects of Islamic Law, the *muftī* is concerned primarily with issues of ritual law

¹⁶⁹ Masud, Messick, and Powers, “Muftīs, Fatwas, and Islamic Legal Interpretation,” 16–18.

¹⁷⁰ A similar situation exists in Judaism. While an official ordination (*s’mikhah*) that qualifies a person as a judicial authority has not been in existence since early medieval times, contemporary rabbis do receive some form of ordination from their teachers. Today, two main types of ordinations exist in traditional circles: *yoreh yoreh*, which renders a person qualified to render decision on matters of ritual law, and *yadin yadin*, which renders a person qualified to instruct and judge on all areas of Jewish Law. See Levitats, Rothkoff, and Nadell, “Semikhah.”

¹⁷¹ Masud, Messick, and Powers, “Muftīs, Fatwas, and Islamic Legal Interpretation,” 18–19.

(*‘ibādāt*).¹⁷² This distinction was formulated by Maliki scholar Shihāb al-Qarāfī, who stated that the authority of the *qaḍi* is limited to “this world” and does not apply to the hereafter.

When trying to assess whether or not web-based responsa/*fatāwā* are indeed an integral part of their retrospective faith’s Q&A genre, one has to find out whether or not the genre possesses what J.Z. Smith refers to as a taxic indicator—a “*that without which*”¹⁷³ a text cannot be classified as a *t’shuvah* or a *fatwā*. Generally, the Q&A genre in both faiths has taken many different forms, varying in length, language and linguistic styles, and in the degree in which they rely on past authoritative works. *Adab al-muftī*, for instance distinguishes between *fatāwā* addressed to non-specialists, that are to be concise and informal, and *fatāwā* intended for learned individuals that require an elaborate technical explanations.¹⁷⁴ Both *fatāwā* and *t’shuvot* may consist of extremely short answers, sometimes including only one word, but both traditions seem to favor the inclusion of reasoning to the scholarly answers, even if they are short and concise.¹⁷⁵ While neither *Adab al-muftī* or the halakhic codes require that a scholar would cite sources in their response, a scholarly answer that is lacking of sources seems to disconnect the responding scholar from previous generations of authoritative opinions, and essentially places them outside the “*isnād* paradigm” (or halakhic chain of transmission). Moreover, the inclusion of authoritative sources can make a responsum appear more palatable to a traditional audience, even when the answer’s content clearly breaks away from tradition.¹⁷⁶

¹⁷² This is similar to post-emancipation rabbinic Q&A that – as mentioned – deals primarily with ritual aspects of Jewish Law.

¹⁷³ Smith, “Fences and Neighbors: Some Contours of Early Judaism,” 2–5.

¹⁷⁴ Masud, Messick, and Powers, “Muftīs, Fatwas, and Islamic Legal Interpretation,” 24–25.

¹⁷⁵ HaCohen, “‘Atra Qadisha’: Halakhic Rulings and Virtual Rabbinate,” 637–638.

¹⁷⁶ See, for instance, Haas, “Reform Responsa,” 38–39. In this article Haas reviews types of Reform responsa, including early works that were written in the discursive style of traditional *t’shuvot*, even though their content was quite radical; this in an attempt to appeal to an Orthodox audience.

Chapter IV:

Web-Based Q&A¹⁷⁷

Web-based Questions and Answers are distinguished from traditional published responsa/*fatāwā* by several criteria. First of all, the fact that one can send a scholar an anonymous question causes many issues that were previously considered taboo in traditional societies to rise to the surface and become an integral part of the religious legal discourse. The best examples are, of course, issues of sexual identity that are quite commonly raised in the Q&A websites. Second, the traditional responsa literature is usually comprised of questions posed by rabbis to higher-ranking rabbis, rather than by lay people. When individuals wanted to consult with a rabbi, they usually did so in person rather than in writing. This brings us to the issue of accessibility. The internet allows surfers from all over the world to access scholars of their choice with a click of a button. Inquirers can easily send their questions to as many scholars as they like, and—in the case of Judaism—thereby evade the religious requirement to adhere to a single legal school of thought or to a specific scholar.¹⁷⁸ Scholarly authority may be impaired by this ability, as one can “shop around” until one finds the legal answer one is seeking. Another issue related to scholarly authority is raised by the fact that many of these websites—especially Jewish ones—allow inquirers to post their own comments to the scholarly answers, much like in news services websites, creating a more egalitarian, more open religious discourse. Perhaps (not surprisingly,

¹⁷⁷ Parts of this chapter were previously published in my article “Responsa 2.0: Are Q&A Websites Creating a New Type of Halakhic Discourse?”.

¹⁷⁸ This requirement is often based on the Pirkei Avot Mishnah advising an individual to accept the authority of a rabbi and avoid doubt (Avot 1:17). It is worth noting, however, that questions were at times presented to more than one scholarly authority, and in some cases scholars requested that the question will be presented to other scholars, especially in cases of a precedential ruling. See Elon, *Ha-Mishpat Ha-’Ivri: Toldotav, Meqorotav, ‘Eqronotav*, 1259. In Islam, however, a *Fatwā* is a *non-binding* scholarly opinion, and an inquirer is by no means obligated to follow the opinion of a specific scholar. See Masud, Messick, and Powers, “Muftīs, Fatwas, and Islamic Legal Interpretation,” 3–4.

considering the nature of the medium) some of these comments do not really conform to the level of respectfulness or language register that one is expected to follow when addressing a religious authority. Moreover, the geographical distance that can sometimes exist between the inquirer and the responding scholar implies that the scholar has no way of knowing if his answer is actually being followed, which may also weaken the scholar's authority.

In her 2007 article, "Who's got the Power? Religious authority and the Internet," Heidi Campbell identified that the common claim, designating the internet as a space for challenging traditional religious authority, is insufficient. According to her, such claims do not distinguish between the *specific* types of authority that are affected by the new modes of communication, and that researchers are to identify the different layers of religious authority: "Is it the power position of traditional religious leaders? Is it the established systems by which policy decisions are made and information is passed on to community members? Is it the corporate ideology of the community? Or is it the role and interpretation of official religious rhetoric and teaching?"¹⁷⁹ The following chapter will investigate the issue of scholarly authority in Q&A websites on several levels. Do practitioners of Islam and Judaism consider such websites to be an authoritative source of information? What are the ways in which scholarly authority is challenged, or even contested? How does the structure of the websites themselves influence scholarly authority? The chapter will end with an examination of how the websites fit within the existing authoritative legal discourses in both faith traditions.

The first issue to be discussed is whether or not the inquirers treat answers given online the same way as they would treat an answer given face to face or in the more traditional form of a published *fatwā* or responsum? Naama Elimelech and Yael Gotliv from the Department of

¹⁷⁹ Campbell, "Who's Got the Power? Religious Authority and the Internet."

Psychology at Bar-Ilan University conducted a statistical study examining the effects of consulting with a rabbi face-to-face, as opposed to consulting with a rabbi through a website.¹⁸⁰ While they did not find a significant difference between the feelings expressed by the two groups, Elimelech and Gotliv feel that it is too early to suggest that the effects of on-line rabbinic counseling are similar to those of face-to-face religious counseling, as this is still a relatively new medium. The authors emphasize that their study did not distinguish between legalistic questions and more personal, intimate questions. They suggest that while there may not be a significant difference between the way on-line and face-to-face counseling sessions are perceived when dealing with questions related to technical questions of religious law, people would still find face-to-face counseling to be more helpful when dealing with personal, theological, or philosophical questions, for which the inquirer would expect a more sensitive, personal response. Elimelech and Gotliv support this argument by referring to another study, conducted by Shih-Hsun Lin, which examined the difference between personal and cyber-counseling.¹⁸¹ According to Lin, who did not look specifically at religious counseling, respondents perceived their face-to-face counselors to be more empathic than the on-line counselors.

While Elimelech and Gotliv's study does not seek to provide a definitive answer to the question of the web's religious authority, it does indicate that even at this early stage, some people—especially those who see the internet as a significant component of their identity—take this new medium seriously, and would treat an on-line answer from a rabbi in the same way they would treat a face-to-face response. However, an examination of the web-based questions, and specifically the inquirers' comments on the scholarly answers, may provide evidence to the contrary.

¹⁸⁰ Elimelech and Gotliv, "The Effect of Focus of Control and the Expression of the 'Real Me' on Authority Compliance in the Internet versus Face-to-Face."

¹⁸¹ Lin, "Online versus Face-to-Face Counseling: An Examination of Session Evaluation and Empathy."

One noteworthy feature of the Jewish Q&A websites reviewed—that cannot be found in their Muslim parallels—is that they allow their visitors to post comments to the scholarly answers, and thereby make the medium more egalitarian, and—I would argue—less authoritative. It is tempting to view the internet in general and religious websites in particular, as an ideal Habermasian public sphere, encouraging an open and rational debate free from the constraints of social status or the natural distance between a scholar and the laity.¹⁸² In a 2001 web-based answer Rabbi Yuval Cherlow even goes as far as claiming that the fact that inquirers can comment on a rabbinic answer “turns the answers into an actual *beit midrash* [Jewish house of study] in which nothing is accepted without inspection and without examination.”¹⁸³¹⁸⁴ A rational-critical public sphere, however, is characterized by what Habermas referred to as an “ideal speech situation” in which the participants in a discussion all attempt to arrive at the truth, without behaving strategically.¹⁸⁵ As noted before, scholars studying the internet—and the blogosphere in particular—have pointed out that this idealized view of the web has very little basis in reality. Cass Sunstein, for instance, demonstrated that internet discourse is often characterized by group polarization—a tendency to read blogs only if they conform to the readers’ own views and beliefs. Readers of online rabbinic answers, I would argue, are no different. Moreover, when a rabbinic answer does not conform to the readers’ beliefs, they will often not remain silent.

As visitors to the websites can pose their questions and post their comments using only a nickname, or even do so completely anonymously, some inquirers see this as an opportunity to

¹⁸² See El-Nawawy and Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace*, 24; Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 36.

¹⁸³ Cherlow, *Rashut HaRabim*, 17–18. The answer is quoted from the *Moreshet* website. See <http://www.moreshet.co.il/web/shut/shut2.asp?id=2485>

¹⁸⁴ While the Muslim Q&A websites do not allow such discussions to happen, they do, of course, exist in other types of websites such as chat rooms or forums. See Becker, “Following the Salafi Manhaj in Computer Mediated Environments: Linking Everyday Life to the Qur’an and the Sunna.”

¹⁸⁵ Sunstein, “Neither Hayek nor Habermas,” 91.

approach a rabbi without the constraints of the Jewish laws that require respect for a rabbi,¹⁸⁶ or even the norms of common courtesy. A striking example of this phenomenon can be seen in a question sent to rabbi Haim Navon titled “A Very Rude Question—How Come the Rabbi does not have a Beard?”¹⁸⁷ The question starts with the inquirer apologizing in advance for his rude question, and then asks how it is possible that some of the rabbis answering the surfers’ questions on the *Kipa* site are clean-shaven. The inquirer continues—

[and] I ask—does it end here or does the rabbi eat Gentiles’ milk powder¹⁸⁸?

[wear] *Tefillin d’Rabeinu Tam*¹⁸⁹? [Follow] a single *Humrah* [stringent opinion]? I am once again sorry for the insolence, but it is disconcerting when you see a rabbi who looks like a student in Bar-Ilan [University] or *lehavdil*¹⁹⁰ a Reform rabbi, Heaven forbid...

After proposing his own opinion on the matter (without citing any sources to support it), the responding scholar added that he could not resist a few words of scolding—“you are not exempted

¹⁸⁶ Specifically, See Karo, *Shulhan Arukh* Y.D. 242-244.

¹⁸⁷ Navon, Haim, “She’elah Hatsufah Meo’d – Lama LaRav Ein Zaqan?,” *Kipa*. 28 Tevet, 5768.

<http://www.kipa.co.il/ask/show/139692>

¹⁸⁸ The Talmud forbids the consumption of *Halav Nokhri* – any milk product which was produced from milk milked by a non-Jew without a Jew watching the milking process - presumably due to the fear of farmers mixing the milk of kosher and non-kosher animals (*Avoda Zara*, 2:3). Prominent contemporary rabbis allowed the consumption of milk in industrial societies, as all dairy farms are supervised by the government and there is no fear that the milk of a non-kosher animal will be sold as plain milk (See Feinstein, “Igrot Moshe, Seven Volumes”: Y.D. 1:47.). Other scholars permitted the use of milk powder produced by non-Jews, claiming that it was not included in the original prohibition (see Frank, *Har Tsevi*, 760., Y.D 103.) These rulings, however, were not universally accepted, and some strict Orthodox authorities only allow the consumption of *Halav Yisrae’l* – milk that was produced in the presence of a Jew.

¹⁸⁹ A halakhic dispute exists regarding the order of the biblical passages contained in the *Tefillin* (phylacteries), and two accepted versions are used today – one according to the custom set by Rashi (Rabbi Shlomo Yitshaki) and one according to the custom set by his grandson *Rabeinu Tam* (Rabbi Jacob ben Meir). The *Shulhan Arukh* states that even though Rashi’s version is universally accepted as correct, a God-fearing man should wear both types of *Tefillin*, either at the same time or one after another. See *Shulhan Arukh*, O.H. 34:2.

¹⁹⁰ “Differentiating” – A term used in the Orthodox jargon to signify that the speaker considers an actual comparison between the two terms to be religiously inconceivable.

by apologizing in advance for asking a rude question. You must make sure that your words themselves are not rude.”

The inquirer’s question and the rabbi’s answer received no less than twenty comments. While a large portion of the comments were from readers appalled by the inquirer’s (and some of the other commenters’) discourtesy and disregard for the *halakhot* concerning honoring a rabbi, others were even more disrespectful than the original questioner –

(Avi) - According to some authorities there is a Mosaic prohibition against using an electric shaver [...] and I didn’t even mention [opinions] according to the Kabbalist perception or an explicit Gemarah stating that a beard is the face’s splendor. Please be accurate, honorable rabbi!¹⁹¹

I am a *Ba’al Teshuvah*¹⁹² and never consulted a clean-shaven rabbi (Jonathan)—I always approach rabbis who look like rabbis and know how to speak like a rabbi, firmly and decisively, and all *Ba’alei Teshuvah* are like that. After all, the Reform and the Conservative¹⁹³ and the ‘Knitted’¹⁹⁴, do not attract the secular. If someone wants to become observant he wants the real thing and not something lukewarm. I consider a clean-shaven rabbi, who seeks to come closer [to others] instead of bringing [others] closer to him, to be a fraud who is not worthy of approaching.

¹⁹¹ For further reading see Horowitz, “The Early Eighteenth Century Confronts the Beard: Kabbalah and Jewish Self-Fashioning,” 95–115.

¹⁹² A person who embraced Orthodoxy by himself, and did not grow up in an observant household.

¹⁹³ It is worth noting that the term Conservative Judaism relates to the largely-American denomination that – despite what its name implies – advocates a liberal approach to Jewish Law. See Golinkin and Panitz, “Conservative Judaism.”

¹⁹⁴ A [somewhat derogatory] term describing the Israeli National-Religious population, which tends to favor wearing a knitted *Kipa*. Rabbi Navon, obviously, belongs to this community, wears a knitted *Kipa*, and is clean-shaven.

Forgive me (Mor)—There is also a Kabbalistic thing about that, no? Obviously if I know that, then even the “simplest” rabbi knows it. I’d be happy if you replied.

The quotations brought here demonstrate clearly the unique nature of the web-based halakhic discourse. It goes without saying that the language which some of the inquirers choose to use when approaching a rabbi would not have been considered appropriate in any other medium, be it a traditional form of responsa or a face-to-face consultation. Moreover, even though Elimelech and Gotliv’s study suggested that some people would treat a rabbi’s online answer in the same way they would treat a more traditional form of consultation, the above example reveals that many surfers who feel that a rabbinic answer does not conform to their own worldview do not hesitate to voice their opinion, politely or not.

Another example of the way visitors to the websites can voice their opinions regarding the authority of the rabbi’s answer can be seen in a question sent to the *Kipa* website regarding the permissibility of praying in the *Shira Hadasha* congregation in Jerusalem.¹⁹⁵ *Shira Hadasha* [“A New Song”] is a Modern-Orthodox congregation, which unlike most Orthodox synagogues, allows women to lead certain parts of the service, this while still adhering to Orthodox law and conceding that even in its most liberal interpretation it cannot be completely egalitarian.¹⁹⁶ The responding scholar, Rabbi Ronen Lovitz, provided a very short answer without indicating any halakhic sources of it—“in my opinion, it is permissible.” While the answer is by itself

¹⁹⁵ Lovitz, Ronen, “Shira Hadasha”, *Kipa*. 8 Av, 5767. <http://www.kipa.co.il/ask/show/125660>

¹⁹⁶ For a more elaborate discussion of the Halakhic ideas behind this type of congregations, see Sperber, “Kvod Habriyot v’Kvod HaTsibur.” Such congregations, known as Partnership Minyans, will be discussed at length in the chapter “Attitudes towards Women’s Participation in Public Prayer among Jewish and Muslim Websites.”

controversial, as the congregation's status is under dispute in Israeli Orthodoxy, the most striking aspect about it is the readers' responses to the answer. The *Kipa* website allows its visitors to "tag" the scholarly answers there, in the same manner as in the *YouTube* video service. Visitors to the website can choose from a list of hundreds of categories, or add categories themselves, and thus allow other visitors who are interested in answers that fit a certain category to find them more easily. Naturally, this feature allows the visitors to manipulate the site's search engine, just as happened in this case.

Lovitz's answer, positive as it was, was given the following tags: "Infidels," "Heretics," "Women," "Conservatives," "*Shira Hadasha*," "Women Singing," "Women's Prayer," "Reform." Thus, anyone who clicks on the category "Infidels" will find the answer regarding this congregation. As it seems, some readers who encountered the answer found it too liberal for their taste, and sensed that Lovitz was not adhering to the boundaries of the religious enclave so they felt it was their duty to put the answer in context. This demonstrates how the surfers' participation in these websites influences the legal discourse, which was traditionally limited to scholars and was rarely influenced by lay people. Even though the responding scholars may not approve of these trends, the fact of the matter is that by continuing to answer such questions, and by allowing the visitors to post their comments, this discourse is receiving rabbinic legitimization.

While, as noted, the Muslim websites reviewed do not allow surfers to post their comments or 'tag' the scholarly answers, it is not to say that the medium does not present challenges to Muslim scholarly authority. An example of such a challenge can be seen in the events of the "*Islam-Online* Crisis," described in Mona Abdel-Fadil's article, "The Islam-Online

Crisis: A Battle of Wasatiyya vs. Salafi Ideologies?,” based on fieldwork she conducted with the *Islam-Online* social team in Cairo.¹⁹⁷ In this case, the challenge to scholarly authority did not come from the surfers, but rather from the website’s administration.

Founded in 1997, *Islam-Online* (IOL) quickly became one of the most frequently accessed websites in the Islamic online world.¹⁹⁸ The website featured not only scholarly Q&A but also news items, a counseling section, and other items of interests. Ideologically, the website was associated with the *Wasatīyyah*, or ‘Centrist’ stream of Islam, that advocates a traditional outlook on Islamic law while adapting to contemporary society, and situates itself between Modernists on the left and *salafīs*, or fundamentalists on the right.¹⁹⁹ *Wasatīyyah* is mainly associated with Sheikh Yūsuf al-Qaraḏāwī, a prominent Egyptian scholar who lives in Qatar and became well known due to his television show *al-ḥayāh wa-al-sharīʿa* (life and Islamic Law) aired on the *Al-Jazeera* satellite channel. Al-Qaraḏāwī is known for his moderate views on some issue, while maintaining radical, controversial views on others, such as the Israeli-Palestinian conflict. He has endorsed suicide bombings conducted by Palestinians, and as a result was banned from entering the US and the UK. According to Abdel-Fadil, IOL enjoyed close ties with Al-Qaraḏāwī, who served as the head of the website’s Qatari board of administrators and helped raised funds, mainly from Saudi and Qatari sources. The Sheikh often spoke out about the value of using the internet as a form of *daʿwa*—or spreading the religion among non-Muslims or Muslims who no longer practice their religion.²⁰⁰ The site committed itself to an accurate, balanced approach, adopting “the middle ground in Islam”, and avoiding extremism and provocation. *Islam OnLine*’s management emphasized that the site was intended for everyone,

¹⁹⁷ Abdel-Fadil, “The Islam-Online Crisis: A Battle of Wasatiyya vs. Salafi Ideologies?”.

¹⁹⁸ Ibid.

¹⁹⁹ The *wasatīyyah* stream will be discussed extensively in the next chapter, “Significant Others.”

²⁰⁰ This can be seen in a speech given by Qaraḏāwī that was filmed for the IOL website. See <http://www.islamonline.net/English/Qaradawi/index.shtml> (accessible today only through archive.org)

Muslim or non-Muslim. According to Qaraḍāwī, the internet is no different than other mediums such as radio and television, that were used to spread Islam²⁰¹, and it “is the duty of all Muslims to use [the Internet] to call to their great religion”, just like other religions use it. As members of the website’s team described it, the site focused on Islam as it is lived, rather than only following the letter of the law, and did not refrain from dealing with controversial topics such as issues of sexuality.

According to Abdel-Fadil, the “IOL Crisis” began around February 2010, when rumors regarding changes in the Qatari board started circulating around the Cairo Social Team, and the staff expressed their worries concerning the possibility of editorial dictates that may change the nature of the website.²⁰² The essence of the dispute seemed at that point to be grounded in the battle between two competing Islamic ideologies, *wasatīyyah* and *salafīyyah*. By March fifteenth the crisis had escalated; the Qatari board announced that they will be closing down the website’s Cairo offices and blocked its 350 employees from accessing the IOL servers. At this point, the Cairo staff claimed that the Qatari board accused them of being too liberal and of taking political stands that they did not agree with: “They disapproved of us writing about Valentine’s Day, and sexual relations [...] they disliked IOL publishing photographs of unveiled women and our news-story called ‘Palestine’s Holocaust’ [...] If they wanted a purely *salafī* website, why couldn’t they just start another website?” At this point many sections of the websites were removed by the board, including the extensive *fatāwā* section. On March 22nd Qaraḍāwī announced that he would suspend board members responsible for these changes and reverse their decision, but on March 24th it was revealed that the board had removed Qaraḍāwī from his position. While it remains unclear if the reasons for the crisis were related more to issues of

²⁰¹ See, for instance, Messick, “Media Muftīs: Radio Fatwas in Yemen.”

²⁰² Abdel-Fadil, “The Islam-Online Crisis: A Battle of Wasatiyya vs. Salafi Ideologies?”.

Islamic Law or to politics, the results are unambiguous. The website changed its form completely—it is now available only in Arabic, and the *fatāwā* section has become significantly smaller.²⁰³ Not long afterwards, the original *Islam-Online* writers, including their religious scholars, started a new website called *OnIslam.net* that looks remarkably similar to the old website, and contains similar content.

The crisis is a good example of how a website's administration limits its democratic nature, by basically shutting it down when they are displeased with the published content²⁰⁴, but in this case it also demonstrates a challenge to religious authority. While the site's content was written by prominent Muftīs, their scholarly authority was challenged not by other scholars who did not see them as well-versed enough, or even by the laity—who provides their authority to begin with—but by the website's funders who thought that their writing was not compatible with the party-line. Similarly to the way surfers in the Jewish websites have hinted to the responding rabbis that they are stepping outside the boundaries of their enclave, the board of administrators tried to keep the Muftīs and other writers inside the boundaries of theirs.

Q&A Websites and Traditional Authoritative Discourse—A Case Study

The treatment of online websites featuring a rabbinic and *sharʿī* Q&A section as part of the ongoing *responsa/fatāwā* genres presents a methodological problem. As noted and will be demonstrated in the following pages, many online Q&As are characterized by features distinguishing them from more traditional forms of the genre, especially in terms of the brevity of the answers and the scholars' limited reliance on traditional authoritative sources. In this section, I will review questions and answers dealing with one topic from each faith—the

²⁰³ See <http://islamonline.net/ar/>

²⁰⁴ See Rodman, "The Net Effect: The Public's Fear and the Public Sphere."

permissibility of inviting non-Jews to a Passover Seder; and the permissibility of befriending non-Muslims—in light of traditional sources on the matter and previous scholarly answers.

Inviting Non-Jews to a Passover Seder

While classical Jewish legal sources do not specifically discuss the participation of Gentiles in a Passover Seder, they do relate to the issue of inviting non-Jews to a Jewish house on a festival (as opposed to a Sabbath). Maimonides' *Mishneh Torah* code of Jewish law explains that one is only allowed to cook on a festival food that will be consumed by Jews observing the festival, this based on the idea of *okhel nefesh*, expressed in the book of Exodus.²⁰⁵ Thus, he continues, one is not allowed to cook “for Gentiles or dogs²⁰⁶” on a festival and it is therefore prohibited to invite a non-Jew during a festival, so that one would not be tempted to cook an extra dish for the non-Jewish guest.²⁰⁷ If a non-Jew arrives uninvited during the festival, he is to eat only from the foods already prepared.

This prohibition was reinforced in the *Shulḥan Arukh*, Joseph Karo's definitive sixteenth-century codification of Jewish Law.²⁰⁸ Karo not only repeats Maimonides' assertion that one is not allowed to cook for a non-Jew²⁰⁹ or invite a non-Jew during a festival, but also adds that there is no prohibition against feeding one's Gentile servant, a non-Jewish messenger or a Gentile who came without notice,²¹⁰ as ‘there is no fear of [cooking] extra’ dishes in such cases.

²⁰⁵ When discussing the laws of the first and seventh days of Passover, it is stated that “no manner of work shall be done in them, save that which every man must eat, that only may be done of you” (Exodus 12:16). M. Maimonides, *Mishneh Torah*, Hilkhot Yom Tov, 1:8.

²⁰⁶ Maimonides explains the biblical phrase “that only may be done of you” as “of you and not of Gentiles, of you and not of dogs (1:13), this based on Bavli, *Beitsa*, 21:2.

²⁰⁷ *Mishneh Torah*, 1:13.

²⁰⁸ Karo, “*Shulhan Arukh*,” sec. O.H. 512.

²⁰⁹ The *Magen Avraham* (Rabbi Avraham Gombiner) adds in his commentary on the *Shulḥan Arukh* that this is the case also when dealing with Karaites, but states that other authorities dispute this ruling (*Magen Avraham*, 512:1).

²¹⁰ The *Turei Zahav* (Rabbi David Halevi Segal) adds that according to the *Tur* (Rabbi Jacob Ben Asher) one should also ask the Gentile if the amount of food already cooked will suffice. The *Turei Zahav* explain that this is based on

In his commentary on the *Shulḥan Arukh*,²¹¹ Rabbi Moses Isserles (also known as the *Rema*) added that for the sake of feeding a non-Jewish servant, one is allowed to add more food to a pot in which one cooks one's own food, but not in other cases. Isserles also adds that if one bakes in a non-Jew's oven, and has to give the oven's owner one loaf, they should not decide which loaf is to be given prior to baking, as then it would be considered cooking for a Gentile; instead he should wait until all the loaves are ready before making the designation.

When looking at the various answers given to the question of inviting non-Jews for the Passover Seder on the different Jewish Q&A websites, it is surprising how rarely this legal issue is mentioned, regardless of the scholar's stance on the matter. Rabbi Eli Kaplan, for instance, was asked this question and answered that there is no problem with Gentiles joining the Seder table, as long as they do not touch an open bottle of wine.²¹² Similarly, an inquirer who asked whether his mother-in-law's Philippine caregiver can join them for the Seder was answered by Shmuel P. Gelberd²¹³ that it is "not only permissible, but a *mitsvah*."²¹⁴ When asked about special considerations in such a case, Gelberd answered that one should make sure that the Gentile does not touch a bottle of wine. It is worth noting that neither of these answers contained any reference to legal sources.

the Talmudic story of Marimar and Mar Zutra (*Beitsa*, 21:2) who were paid a visit by a non-Jew during a festival and asked him if the food would be sufficient for him, and wonders why Maimonides did not find this condition necessary. The *Tur*'s (Rabbi Jacob ben Asher) explanation of this issue is that it is the Jew who is not allowed to cook an extra dish, and this has nothing to do with whether the Gentile finds the food sufficient. Thus, according to Segal, it is unnecessary to ask this question before serving the food already cooked.

²¹¹ The *Rema*'s commentary is considered an adaptation of Karo's work on the Ashkenazi custom.

²¹² Kaplan, Eli, "Goy B'Shulḥan Seder", *Y-Net*, 15.4.2008. Retrieved June 2009.

<http://www.ynet.co.il/articles/0,7340,L-3532105,00.html>

The prohibition regarding "*Stam Yeynam*" - non-Jews handling wine - is universally practiced amongst the Orthodoxy. See Karo "Shulḥan Arukh," sec. Y.D. 123 section 47. See also Soloveitchik, *Yenam*.

²¹³ While Gelberd answers Halakhic questions on the *Moreshet* website, it is specified in the site that he has no rabbinic ordination, and is referred to as "Mr."

²¹⁴ Gelberd, Shmuel P., "Eruah Goy b'Leil HaSeder Pessah," *Moreshet*. 12/3/2004. Retrieved June 2009. <http://www.moreshet.co.il/web/shut/shut2.asp?id=36922>.

Two other answers that not only failed to provide scholarly references but also did not even base themselves on a halakhic principle were offered by Rabbis Zalman Melamed and Shmuel Eliyahu, both associated with the *National-Haredi* right-wing stream of Religious-Zionism. Similarly to the previously reviewed question, Rabbi Eliyahu was asked about the permissibility of a Philippine caregiver attending a Seder.²¹⁵ He replied that it is permissible, but “is it desirable? If she will not be insulted, she had better not—she does not belong there.” If the worker is likely to get insulted, he added, “it is impermissible to insult anyone, even a Gentile.” Rabbi Melamed was approached by an inquirer who wished to know if it is permissible to have a Christian guest for the Seder.²¹⁶ The rabbi answered that he “sees no point” in doing so, as it “impairs the Seder.” He also noted that one possible exception to this ruling is a guest who is in the midst of a conversion process.

Modern-Orthodox Rabbi Yuval Cherlow was asked about a family in which the wife is a convert to Judaism, and they wanted to know if it is permissible to invite her parents (who are not Jewish) to the Seder.²¹⁷ Cherlow replied that there is no legal prohibition against inviting Gentiles to a Seder, and that some prominent rabbis used to do so while others avoided it. However, he ends, due to “our uncompromising struggle against intermarriage, the issue here is more complicated.” He ended his answer by summarizing that while generally it is permissible to invite non-Jews, “in this case it is, of course, inappropriate”. One reader responded to Cherlow’s answer and wondered if the rabbi understood the question correctly, as “the woman already converted, and this is not a case of intermarriage, God forbid.” That being the case, what reason can there be for not allowing the woman’s parents to join the family on a holiday? Cherlow

²¹⁵ Eliyahu, Shmuel, “‘Ovedet Zarah b’Leil HaSeder,” *Kipa*. 14 Nissan, 5764. <http://www.kipa.co.il/ask/show/40496>. Retrieved June 2009.

²¹⁶ Melamed, Zalman, “Seder Pessah ‘Im Notsrim,” *Yeshiva*. 7 Nissan 5764. <http://www.yeshiva.org.il/ask/?id=6157>. Retrieved June 2009.

²¹⁷ Cherlow, Yuval, “Hazmanat Goyim l’Leil HaSeder,” *Kipa*, 4 Iyar, 5767. <http://www.kipa.co.il/ask/show/116856>

replied by saying that he “noticed all the details,” and that he “does not fear intermarriage with the woman’s parents.” Avoiding contact with non-Jews, he continues, is a general categorical prohibition in order to avoid intermarriage, and one does not look at every individual case. Similarly to the previous answers reviewed, Cherlow did not provide any references to scholarly sources in his reply.

Another unusual answer was given by Rabbi Uri Sharki, a French-born Religious-Zionist scholar.²¹⁸ Sharki was approached by an inquirer who wanted to know if there is a difference between the case of a Philippine caregiver living with an elderly Jew and the case of a “practically assimilated Jew” [*sic.*] living with a non-Jewish partner, as both cases are relevant to his family. Unlike the previous rabbis examined, Sharki did mention the prohibition against cooking for a Gentile on a festival and indicated Moses Isserles’ reservation regarding cooking for one’s servant, stating that this is also the case with regards to the Philippine caregiver. If a Jew *has* to host a Gentile during a festival, he stresses, it should be made sure that all the food is prepared in advance and heated on a hot-plate, like on a Sabbath. At this point, the rabbi’s answer arrives at a twist—he states that these guidelines fit a “regular” festival, but that the Passover Seder has a unique nature which requires special considerations.

According to Sharki, since the Paschal Lamb—of which it is said “no uncircumcised person shall eat thereof” (Exodus 12:48)—was to be eaten during the biblical Seder, even in contemporary times when there is no temple and a lamb is not sacrificed, “the spirit of the holiday dictates separation from the Gentiles, unlike Sukkot [Festival of Tabernacles], which

²¹⁸ Sharki, Uri, “*Iruah Goy b’Seder Pesah*,” *rabbi Sharki’s Lessons and Writings*, 20 Nissan 5768. Retrieved June 2009. <http://ravsharki.org/content/view/1811/741/>

emphasizes the connection to the positive aspects of the Nations of the World.”²¹⁹ Thus, if one finds oneself in a situation where one must invite a non-Jew to a Seder, he should not encourage the Gentile to come and only invite them if he has no choice, and “of course, [one] should not come from the point of view of fraternity amongst the nations, which has no place on this holy setting that is unique to the Israelite people.” Sharki adds that in his opinion one should be strict and not let the non-Jew taste the *Afikoman*, as it is a symbol of the Paschal Lamb,²²⁰ and thereby “emphasizes the difference between Israel and the nations.”

Similarly to Rabbi Eli Kaplan, who emphasized that the non-Jewish guest should not touch an open bottle of wine, Rabbi Sharki was also concerned with this issue. Even though the inquirer stressed that he would pour the wine and not the non-Jewish guests, Sharki asserted that this is not enough, as pouring the wine into the Gentile’s glass on top of left-over wine²²¹ would render the entire bottle prohibited. Moreover, he stated, one must demand of the non-Jewish guest to wash his own glass as it becomes *muqtsah*—an item which is not to be touched during a Sabbath or a festival. This ruling, for which Sharki did not provide any sources or rationale, is surprising, as pasteurized (or “cooked”) wine, which kosher wine often is, is generally considered permissible even when touched by a non-Jew.²²² This is also the opinion expressed in an answer by Rabbi Abraham Yossef, who ruled that a Gentile may participate in the Seder, but

²¹⁹ This idea is based on Zechariah 14:16: “And it shall come to pass, that every one that is left of all the nations that came against Jerusalem shall go up from year to year to worship the King, the LORD of hosts, and to keep the feast of tabernacles.”

²²⁰ The *Afikoman* is the last piece of unleavened bread eaten during the Passover Seder. According to the Mishna, one is not to eat an *Afikoman* after the Paschal Lamb (Pesahim 10:8).

²²¹ The cup is filled four times during the Seder.

²²² See Karo “Shulhan Arukh,” sec. Y.D. 123:3.

that the host must make sure that the wine served at the table is pasteurized, as well as in a similar answer by Rabbi David Lau.²²³

Rabbi Lau, currently the Chief Ashkenazi Rabbi of Israel, provided a different take on a similar question.²²⁴ In this case he wrote that he does not see a problem in inviting a non-Jew to the Seder, and while it is permissible to let the non-Jew eat unleavened bread, it is forbidden to let him eat the Matza over which one recites a benediction in order to fulfill the commandment of eating unleavened bread (*Matsat Mitsvah*). Unlike the previous answers reviewed, the rabbi cites several sources in his reply and refers the readers to two commentaries on the *Shulḥan Arukh*—the *Ṭurei Zahav* (167:18) and *Kaf HaḤayim* (167:140)—that cite a third source, Rabbi Menahem Recanati's *Ta'amei HaMitsvot*. In this book, it is explicitly mentioned that one should not let a non-Jew eat a *Matsat Mitsvah*.

At this point, Rabbi Lau refers the reader to another section from Rabbi David Halevi Segal's *Ṭurei Zahav* (512:6), which may appear peculiar at a first reading. This section, in which the author comments on the prohibition of inviting a non-Jew during the festival, discusses a halakhic “loop-hole” (*ha'arama*) mentioned in the *Shulḥan Arukh* (512:2) dealing with a situation in which a non-Jewish army asks a Jewish household to prepare food for the soldiers during a festival. According to this concept, based on a Talmudic story (*Beitsa* 21:1), one can declare that some of the food prepared for the soldiers is designated to feed a child, but not specify which of the loaves are intended for the soldiers and which ones go to the child. Thus, any of the loaves could theoretically be the ones prepared for the child, and therefore it is permissible to prepare them. The *Ṭurei Zahav* rejects this loop-hole and stresses that it is not

²²³ Yossef, Avraham, “Leil Seder,” *Moreshet*, 8/3/2003. <http://www.moreshet.co.il/web/shut/shut2.asp?id=100153>; Lau, David, “Klalim l'Eruah Goy b'Ḥag Pessah,” *Moreshet*, 14/3/2004. Retrieved June 2009. <http://www.moreshet.co.il/web/shut/shut2.asp?id=37019>.

²²⁴ Lau, David, “Hazmanat Goy l'Erev Leil HaSeder,” *Moreshet*, 27/3/2004. Retrieved June 2009. <http://www.moreshet.co.il/web/shut/shut2.asp?id=298>.

permitted to cook for a non-Jew on a festival, even if one finds oneself under pressure to do so. In order to stress this point, the author returns to the Talmudic discussion on which the prohibition is founded, according to which one is allowed to invite a non-Jew on the Sabbath but not on a festival. According to the *Turei Zahav*, as it is generally inappropriate to eat with a non-Jew, the Talmud only allows the invitation of a Gentile on a Sabbath in cases when the Jew is under pressure to do so. Thus, he concludes, one can only trust the loop-hole mentioned in the *Shulhan 'Arukh* in extreme cases, in which the joy of the festival is at stake.

Rabbi Lau's reference to this paragraph, denying the validity of social interaction with non-Jews, is puzzling in light of the positive nature of his answer. While it is possible that the scholar added this reference in order to demonstrate that he is aware of the *Turei Zahav*'s stance on the matter and chose to rule otherwise, Rabbi Lau's reply to a reader's comment on his ruling may reveal otherwise. Five years after the original answer was published, a surfer commented on it and asked whether one should forbid inviting a non-Jew during Passover due to the prohibition on cooking extra dishes. The rabbi's reply was "we do not add decrees (*g'zeirot*) in a place where peaceful relations (*darkhei shalom*) [are maintained]." The term *darkhei shalom* is commonly used in halakhic literature, often in the context of interfaith relations, as a reason for decrees set by the rabbis in order to avoid conflict, fights or quarrels.²²⁵ Thus, it appears that even though Rabbi Lau may agree with the *Turei Zahav*'s assumption that eating with non-Jews is to be avoided in the first place, he considers current circumstances to be such that refusing social contacts with non-Jews may damage interfaith relations, and therefore the decree prohibiting the invitation of non-Jews on a festival does not currently apply.

²²⁵ M. Bar-Ilan and S. Y. Zevin, *Entsiklopedyah Talmudit: le-'inyene halakhah, ba-'arikhat Me'ir Berlin [u]-Shelomoh Yosef Zevin* (Hotsa'at Entsiklopedyah Talmudit be-siyu a Mosad ha-Rav, 1947), vols. 7, *Drakhei Shalom*. Thus, alms giving to poverty-stricken non-Jews is allowed, in order to maintain peaceful relations. See Karo "Shulhan Arukh," sec. 251:1.

Another example of an answer in which the rabbi considers current circumstances to override the prohibition against inviting Gentiles on a festival can be seen in a response by Rabbi Yuval Cherlow to an inquirer who wondered if he is allowed to host a non-Jew who is in the process of converting to Judaism, and whether section 512 of the *Shulḥan ʿArukh* dictates special considerations in preparing the meal.²²⁶ Cherlow responded that first of all, great rabbis (*g'dolei yisra'el*) throughout the ages used to invite non-Jews to their Seder table, and secondly, that it is a great *mitsvah* to host a person who is in the midst of a conversion process, and that the halakha that the inquirer quoted does not contradict the halakhic obligation to embrace the convert. Similarly to the other responses by Cherlow reviewed here, no sources were cited to support his opinion.

Befriending Non-Muslims

While Islamic Law does not relate specifically to inviting non-Muslims for a holiday dinner, the subject of befriending non-Muslims—and specifically Jews and Christian—dates back to the Qurʾān and is debated quite extensively within *sharʿī* circles. The topic often centers on two Qurʾānic verses. The first verse, from *surah āl-i-ʿimrān*, reads: “O ye who believe! Take not into your intimacy those outside your ranks: they will not fail to corrupt you. They only desire your ruin” (3:118. Translation by A. Yusuf Ali). Here the controversy concerns the meaning of the word *biṭāna*, which Yusuf Ali translates as “intimacy,” but can also be understood as “entourage” or “inner circle.”

The second verse, from *surah al-māʿida*, reads: “O ye who believe! Take not the Jews and the Christians for your friends and protectors (*awliyaʾ*): they are but friends and protector to

²²⁶ Cherlow, Yuval, “*Oreah Goy b’Leil HaSeder*,” *Moreshet*. 21/03/2007.
<http://www.moreshet.co.il/web/shut/shut2.asp?id=86399>. Retrieved June 2009.

each other. And he amongst you that turns to them (for friendship) is of them. Verily God guideth not a people unjust” (5:54). Various scholars have interpreted the verse in different manners, this due to the many different meanings of the word *awliya*’ (sing. *walī*), which may be translated as “protectors,” “owners,” “patrons,” “friends,” “companions,” “intimate companions,” “helpers,” “saints” or “students.” In his commentary on the Qur’ān, Yusuf Ali states that the meaning of the verse is to not look for Jews or Christians for help or comfort, as they “are more likely to combine against you than to help you.”²²⁷ This situation, he claims, “happened more than once” throughout the life of the Prophet, and repeatedly throughout history.

A short discussion of the meaning of the word *walī* and the practical implications of the Qur’ānic decree to avoid taking unbelievers as *awliya*’ was included in a *fatāwā* collection published by the authoritative Saudi Permanent Committee for Islamic Research and Fatāwa (*al-Lajnah al-Dā’imah lil-Buḥūth al-‘Ilmīyah wa-al-Iftā’*), associated with *salafī* Islam.²²⁸ In their answer, the committee affirmed that “Allah almighty forbade us from loving, supporting, and taking as brothers those who disbelieve, for instance, the Jews, even if they are not at war with Muslims.” Both verses discussed above were cited as the reason for this prohibition, and the committee added that many other Qur’ānic verses support this notion. They did, however, add that there is no prohibition against trading or exchanging gifts and favours with unbelievers who are not at war with Muslims, this based on verse 60:8: “God forbids you not, with regards to those who fight you not for your faith nor drive you out of your homes, from dealing justly and

²²⁷ Ali, *The Glorious Qurān*, 259 footnote 764.

²²⁸ Lajnah al-Dā’imah lil-Buḥūth al-‘Ilmīyah wa-al-Iftā’ and Fiqh Council, *Fatāwā Islāmīyah = Fatawa Islamiyah*, vol. 7, pp. 125–7. My Translation.

Salafī consider the committee to be the supreme, undisputable authority on Islamic law, and some went as far as comparing it to the Vatican. See Meijer, “Politicising Al-Jarḥ Wa-L-Ta’dīl: Rabī’ B. Hādī Al-Madkhalī and the Transnational Battle for Religious Authority,” 378–379.

kindly with them: for God loves those who are just.” No sources other than the Qur’ān were cited in the committee’s answer.

A lengthy web-based *fatwā* that draws on the different meanings of the word *walī* was issued by Sheikh Muzammil Siddiqi on the *Islam Online* website.²²⁹ Siddiqi replied to a question by a man who was challenged by a Christian friend of his, who read verse 5:54 and wanted to know why the Qur’ān forbids befriending non-Muslims. The Sheikh begins his reply by stating that there is actually no such prohibition, but that the Qur’ān commands Muslims to treat everyone justly and fairly, even the enemies of Islam. He supports his argument by quoting a verse from the same *sura* (5:9). With regards to verse 54, Siddiqi claims that the word *walī* does not mean ‘friend’ but “someone who is very close and intimate,” or a “guardian, protector, protector, lord and master.” Thus, he claims, the verse does not categorically forbid Muslims from befriending Christians and Jews, but rather commands them to take care of their own people.

In addition to Siddiqi’s linguistic analysis of the verse, he adds that according to a tradition cited in *tafsīr* (Qur’ān commentary) Imam Ibn Kathīr, the verse was revealed after the battle of Uhud, in which Muslims suffered a major setback. According to this tradition, after the battle many Muslims wanted to live with Jews or Christians, hoping that this would protect their lives, so “Allah revealed this reminding the believers that they should not seek the protection from others, but should protect each other.” However, while Siddiqi does refer to one of the many *aḥādīth* cited in this well-regarded *tafsīr*, he neglects to mention that the same commentator opens his interpretation of this verse by unambiguously stating that “the Almighty

²²⁹ Siddiqi, Muzammil. “Does Islam Forbid Befriending Non-Muslims?”, *Islam OnLine*, 15.11.2006. Retrieved June 2008. http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503543362 . Accessed through *archive.org*.

has forbidden his believing servants from taking Jews and Christians as friends [*awliya*'], those are the enemies of Islam and its people, may God fight them.”²³⁰

A similar answer was given by Pakistani Sheikh Moiz Amjad in the liberally-oriented *understanding-islam.com* website.²³¹ According to Amjad, the Qur’ān instructed Muslims to deal justly with relatives as well as neighbours, related or not (4:36), this without mentioning any importance regarding the neighbours’ religious affiliation. Amjad admits that some scholars hold that Muslims are not to maintain friendly relations with people of other faiths, this based on several Qur’ānic verses (5:54 included), but claims that a close examination of these verses reveal that all of them relate to instances in which non-Muslims “had come into direct or hidden confrontation with Islam and the Muslims.” In such situations, he claims, Muslims are not to give non-Muslims their *biṭāna*—which he translates as “secrets”—but “obviously, the directive given in these circumstances cannot be generalized.” Under normal circumstances, he continues, there is nothing wrong with maintaining normal relations with people of other faiths, and it is permissible to dine with them as long as the food served is not *ḥarām* (forbidden).

Amjad did not cite any extra-Qur’ānic sources for his answer, thus ignoring the body of *aḥādīth* that relates to the subject as well as the many scholars and commentators that examined the meaning of the aforementioned verses. Moreover, not only did Amjad not rely on scholarly consensus (*ijmāʿ*) within a specific school of thought, he explicitly stated that his opinion differs from that of many other scholars. This trend is not coincidental; the website’s mandate declares that it seeks to “reform intellectual stagnation. This is an attempt to go back to the original sources of Islam -- the Qur’ān and the *sunnah*, in a time when blind acquiescence is in vogue.”

²³⁰ *Tafsīr ibn kathīr*, sura 51. My translation.

²³¹ Amjad, Moiz. “Relations with non-Muslims”, *Understanding-Islam*. 9.5.1998. <http://www.understanding-islam.com/related/text.asp?type=question&qid=641>. Retrieved June 2007. The website is no longer active but can be accessed through *archive.org*.

Effectively, Amjad's purpose in creating this website is to re-open the gates of *ijtihād*, and situate himself—without explicitly using the terminology—as an “independent” *mufīd*, who issues rulings free from the chains of *taqlīd* or imitating previous generations.

A different approach is taken by the *Islam Q&A* website—a Saudi based website run by *wahhabī* Sheikh Muḥamad Ṣāliḥ al Munajjid. The website's description²³² claims—unlike some *salafī* scholars²³³—to rely on authoritative *sunni* sources associated with the four schools of thought, perhaps as a method of making the website more relevant or attractive to followers of the other schools. However, keeping in line with *wahhabī* ideology, the same page lists several contemporary and twentieth century scholars as sources of authority, all of them associated with *wahhabī* or *salafī* views. As will be seen, the *fatāwā* featured on this site tend to either directly cite the Qur'ān and the *ḥadīth*, or rely on contemporary scholars well regarded by the *wahhabīyyah*. Other sources, such as the *tafsīr* are seldom used.

One answer published on the website, although not attributed specifically to Munajjid or any other scholar,²³⁴ was entitled “Can a Muslim be sincere friend to a *kaafir*.”²³⁵ This derogatory term, meaning “heretic” or “infidel,” was apparently added by the website's editorial board as it was not the term used in the question itself, which was simply phrased “is it permissible for a Muslim to be a sincere friend to a person who is not a Muslim?” The long *fatwā* begins with an unambiguous statement—“It is not permissible to make friends with a mushrik [polytheist–O.S.] or to take him as a close friend, because Islam calls on us to forsake

²³² “*hawil al-mawqa'*” [About the Website], *Islam Q&A*. <http://islamqa.info/ar/ref/islamqapages/2>

²³³ *Salafism* is a fundamentalist approach to Islamic Law that favours going back to the Qur'ān and the Sunnah but – unlike the modernist approach – does so in order to imitate to the practices of the Prophet and his companions as closely as possible and reject and foreign influence that may have “contaminated” Islamic thought throughout the generations. Some *salafīs* completely reject the *taqlīd*, or imitation, of any legal school of thought, while the *wahhabīyyah* tend to rely on Ḥanabī scholars. See Haykel, “Salafi Groups,” 26..

²³⁴ The website's editorial claims that all answers published on the site are personally approved by Munajjid, although many of them are simply signed “Islam Q&A” and not attributed to anyone specific.

²³⁵ Islam Q&A, “Can a Muslim be sincere friend to a kaafir,” *Islam Q&A*. Fatwa No. 21530. <http://islamqa.info/en/cat/145/ref/islamqa/21530>

the kaafirs and to disavow them” due to them worshipping deities other than Allah. The statement is striking by itself, as the responding scholar either assumes that the inquirer refers specifically to befriending polytheists, or that his view is that a non-Muslim is a polytheist by definition. The answer continues with the scholar quoting a Qur’ānic verse (60:13) which reads “take not as friends the people who incurred the wrath of Allah.” The scholar, however, adds his interpretation of the verse in brackets, and claims that those “who incurred the wrath of Allah” are actually “the Jews”—a pretty strong claim, as the Qur’ānic chapter does not mention that it is directed against a specific group and Yusuf Ali’s commentary, for instance, claims that the chapter is directed towards the pagans in Mecca.²³⁶ While *tafsīr* Ibn Kathīr does tie the prohibition mentioned in the chapter to verse 5:54, which specifically mentions Jews and Christians, the responding scholar did not cite any reference to any source that would support his claim that the verse refers to the Jews.²³⁷ Moreover, he ignored another verse from the same chapter (60:8) that specifically states that there is no prohibition against befriending non-Muslims who act justly towards Muslims. The *fatwā* continues with quotes from two *aḥādīth*—one commanding Muslims to keep company only with their own, and another one forbidding them from mixing with *mushrikūn*. The response ends with the responding scholar claiming that it is permissible to act justly with non-Muslims in order to draw them to Islam, and quotes a *ḥadīth* (narrated by Al-Bukhārī, 1290) to support his claim.

Similar views are seen in another *Fatwā* given on the *Islam Q&A* website, by Sheikh Munajjid himself.²³⁸ In this case, the inquirer acknowledges that it is forbidden to take *kuffār* as *awliya*’ but wonders to what degree the prohibition extends: “Can we talk to them about

²³⁶ Ali, *The Glorious Qurān*, 1531 footnote 5409.

²³⁷ This interpretation, however, appears elsewhere on the website, where it is attributed to Muḥammad al-Shinqīṭī. See next cited *Fatwa*.

²³⁸ Munajjid, Muḥammad Ṣāliḥ, “What is meant by taking the kuffār as friends. Ruling on mixing with the kuffār.” *Islam Q&A*, *Fatwa* No. 59879. <http://islamqa.info/en/cat/145/ref/islamqa/59879>

basketball and stuff? Can we hang out with them as long as they keep their beliefs to themselves?” The reason for the question, he states, is that he has a friend who prefers befriending non-Muslims as the Muslims around him “drink and take drugs [...] and they have girlfriends,” and he is afraid that their behaviour might influence them, while he is certain that the non-Muslims’ heretical views will not have any impact over him. Munajjid answers that it is categorically forbidden for Muslims to befriend *kuffār*, and cites verse 5:54²³⁹ as evidence. He also quotes *Salafī* Sheikh Muḥammad al-Shinqīṭī who states that a true believer will not take unbelievers who incur the wrath of Allah as friends and repeats the interpretation of verse 60:13 according to which the Jews are the ones who incurred the wrath of Allah. The quotation from al-Shinqīṭī’s *fatwā* continues, in which he explains that according to verse 3:28,²⁴⁰ the only exception to the rule is a situation in which a Muslim befriends a non-Muslim out of fear or *taqiyya*—a situation in which a Muslim feels like they need to conceal their identity; such a situation may be comparable to the Jewish concept of *darkhei shalom* discussed above. The *fatwā* continues with a quote from prominent *salafī* Sheikh ‘Abd Al-‘Azīz ibn Bāz that asserts that dining with non-Muslims is not prohibited if there is a *shar‘ī* justification for doing so, such as drawing them towards converting to Islam.

Discussion

The examination of the websites presented here reveals a major difference between the Muslim and Jewish ones, that situate the Muslim Q&A websites as much closer to traditional written *fatāwā* than the Jewish ones are closer to classic responsa.

²³⁹ 5:51 in the version used in the website

²⁴⁰ “Let not the believers take for friends or helpers unbelievers rather than believers [...] except by way of precaution...” (3:28)

The review of the answers given on the Jewish websites reveals their most problematic feature (when trying to classify them as part of the ongoing halakhic discourse)—namely, their failure to cite earlier authoritative sources. The fact that many of the scholars did not feel obligated to relate to the legal issue of cooking for a non-Jew on a festival may appear surprising, but this is not necessarily a phenomenon unique to the web discourse. In fact, the only traditional rabbinic responsum I have found dealing with the permissibility of hosting a non-Jew on a Passover was by Rabbi Moshe Feinstein, one of the most prominent halakhic authorities of the twentieth century, which also did not relate to this issue.²⁴¹ In his responsum, Rabbi Feinstein related to the prohibitions on non-Jews handling wine as well as to a prohibition against teaching Torah to non-Jews and the validity of non-Orthodox conversions. Thus, the more striking feature of those websites is not the scholars who related to other halakhic issues, but rather the notion that rabbis such as Zalman Melamed and Shmuel Eliyahu who did not even try to mask the fact that their answers were based solely on their personal opinion. A possible explanation for this phenomenon, I would argue, is that the classification of the online Q&A genre is not only difficult from an outsider's perspective, but is not yet clear to the inquirers themselves and to the responding scholars.

It appears that in the case of the Jewish websites the genre is situated at a mid-point between traditional responsa—with some scholars basing their answers firmly within the written halakhic discourse—and face-to-face consultations, which by their very nature can be much less formal. While a rabbi would normally not have been able to publish a conventional responsum containing only the phrase, “in my opinion, yes,” this response is more than acceptable in a face-to-face situation. One might have expected, however, that the nature of a given answer would be dependent on the question, but the above case-study revealed otherwise. The answers given to

²⁴¹ Feinstein, “Igrot Moshe, Seven Volumes” YD 132.

what were essentially very similar (if not identical) questions varied tremendously not only in content, but also in style. As mentioned before, this middle-ground between conversational and written styles - or between “talk” and “text”—is characteristic not only of religious Q&A websites, but also of internet-based discourse in general.²⁴² In 2010, Rabbi Yuval Cherlow published a responsum titled “*Hil’khot Talk-Back-im*” [Laws of ‘Talk-Backs,’ or internet comments] in which he emphasized that halakhically speaking, internet comments should be treated the same way as an oral expression of opinions, and are subject to the same laws limiting what a person is allowed and not allowed to say.²⁴³ He also stressed that one must keep in mind that the medium is after all different from an oral conversation: “one should be aware that unlike speech, an internet comment lasts forever, and comes up in search engines, so its implications [can be] more severe.”

The style of the answers given by the Muslim scholars, their length, their reliance on authoritative sources and the fact that they do not allow surfers to comment on the scholarly answers, place them in a very different place from their Jewish counterparts, and assure that the discourse remains closer to traditional written *fatāwā*. While different scholars related to different classical sources, or applied a different interpretation to the same source, they all did so within the accepted conventions of their stream of Islam. Sheikh Muzammil Siddiqi, a *Wasaṭī*, or ‘Centrist’ scholar that adheres to the classic Sunni tradition of relying on the *sharʿī* body of works that developed over the centuries, based his answer on the *tafsīr* in addition to the Qurʾān and *ḥadīth*. It is worth noting, however, that he quoted his sources rather selectively, ignoring verses and commentaries that do not seem to fit his agenda. This, perhaps, is in line with the

²⁴² See Suler, “Text Talk: Psychological Dynamics of Online Synchronous Conversations in Text-Driven Chat Environments.”

²⁴³ Cherlow, Yuval, 2010. “*Hil’khot Talk-Backim*,” *Yeshivat Hesder Petaḥ Tiqvah*.
<http://www.ypt.co.il/show.asp?id=38509>

Wasaṭī approach that tends to favor lenient views that would ease the lives of Muslims living in non-Muslim countries in order to preserve their Islamic identity.²⁴⁴ Modernist Moiz Amjad, who is very clear about his view that *ijtihād* should be applied as much as possible in the contemporary *sharʿī* process, not only provided his own interpretation to Qurʾānic sources, but also admitted that he is in fact ignoring scholarly consensus regarding their interpretation. The *Islam Q&A* scholars effectively did the same thing, by radically reinterpreting Qurʾānic verses, but arrived at completely different conclusions than their Modernist parallel. This is, once again, in line with *salafī* ideology. The fact that all of the reviewed websites insisted on backing their answers with authoritative sources is significant, especially due to the fact that there is no specific *sharʿī* requirement mentioned in *adab al-muftī* to included sources in a *fatwā*, especially when issuing *fatāwā* to non-specialists.²⁴⁵

It is worth noting, once again, the fact that the Muslim websites do not open the scholarly answers for discussion. This, of course, is another aspect that keeps the websites in line with the style of written *fatāwā*. While it is impossible to tell if allowing surfers to “talk-back” on Q&A websites will have the same effect on scholarly authority it had on the Jewish sites, an example of what the style of these comments could have been can be seen in the answers given to *Yahoo! Answers* question regarding the IOL Crisis.²⁴⁶ *Yahoo! Answers* is a website that allows surfers to post questions on any given topic, and other surfers to share their knowledge about it. It does not employ experts and answers are rated by the surfers’ vote. In the case discussed, a surfer wondered what happened to the *fatwā* section of *Islam-Online* and stated that he tried contacting the website’s administration and got no reply. While the answer rated ‘best answer’ stated that

²⁴⁴ This concept is discussed at length in Uriyah Shavit’s article “The Wasaṭī and Salafī Approaches to the Religious Law of Muslim Minorities.” See also chapter three.

²⁴⁵ Masud, Messick, and Powers, “Muftīs, Fatwas, and Islamic Legal Interpretation,” 24–25.

²⁴⁶ “Whatever Happened to the fatwa part of islamonline.net...”, *Yahoo! Answers*.
<http://answers.yahoo.com/question/index?qid=20100510213733AAse8Xn>

they had no idea what happened to the site, a surfer by the name of Ismail suggested that the surfer try a different website if he's looking for *fatāwā*, and recommended Saudi website *alifta.com*. Ismail also quoted from a Guardian column written by an IOL employee during the time of the crisis, in which she stated that that she feels “honoured to work at IOL, where women sit alongside men,” and that Qaraḏāwī is the supervising authority behind the website.²⁴⁷ Ismail recommended that based on these quotes, one must “stay away from this site.” He added another quote from the column, implying that IOL is committed to pluralism and wrote “If this refers to what I think it might, it's very serious.”

²⁴⁷ Wadvalla, “Why We’re on Strike at IslamOnline.”

Chapter V:

“Significant Others”: Attitudes towards the Israeli-Palestinian Conflict among Religious-

Zionist and Wasaṭī websites²⁴⁸

While it is evident that the democratic nature of the internet has had its impact on the nature of the online Jewish and Islamic legal discourse, it is not clear whether this influence has extended to content as well as form. As was seen in the previous chapter, participants in online legal discussions were quick to embrace the inherent democratic value of free speech, but did other liberal-democratic values penetrate into this discourse as well? The present chapter will focus on Q&A websites belonging to the Jewish Religious-Zionist (or ‘National-Religious’) stream common in Israel and the Islamic *Wasaṭīyyah* movement common in Egypt. Both these streams present themselves as generally recognizing the authority of democracy and governmental law, while remaining deeply committed to Jewish or Muslim law. These two groups can be treated as contrapuntal movements, as they—from their very nature—embrace cultural values from seemingly contradicting ideologies. This claim is, however, obviously simplistic. While both groups present themselves as committed to both their religious ideologies and the general societies they live in, they also demonstrate a complex attitude towards those situated outside their enclave, and a range of views concerning liberal democratic values such as pluralism, universal human rights, equality of different groups—especially those who are seen as “others”, and the perception of human life as an ultimate value.

The chapter will examine how these two groups treat an ‘ultimate other’—the Palestinian population on the Jewish websites and Israel and Israelis on the Muslim ones. As will be seen,

²⁴⁸ Parts of this chapter were previously published in my article “Democracy and Liberal-Democratic Values in Religious-Zionist Discourse: The Case of Halakhic Q&A Websites.”

the two groups' commitment to democratic values often stops when it comes to these others. Moreover, I would claim that hawkish attitudes regarding the Israeli-Palestinian conflict - which enjoy a widespread support amongst the masses—serve as a way of legitimizing the scholars' relatively liberal views on other issues. In addition, the fact that more religiously conservative groups, such as *salafī* Islam or *ḥaredi* Judaism, do not emphasize a particular stance on the conflict, offers *Wasaṭī* and Religious-Zionist scholars an opportunity to delegitimize these groups. With this in mind, the chapter will challenge the popular dichotomy between “radical” and “moderate” religious groups, as the two groups in question demonstrate a commitment to a contrapuntal identity on one hand, while maintaining clear enclavist boundaries when it comes to certain issues.

Religious-Zionism

Religious-Zionism, also known as “National-Religious Zionism”, refers to a sector of Israeli Orthodox Jews who see themselves committed to the values of Zionism and generally accept the supremacy of Israeli secular law. While they are often associated with the political right, and especially with the West Bank settlements, as a group it is quite diverse, both politically and in its adherence to Jewish Law.²⁴⁹ This sector is often treated as a society in transition. It is depicted in Israeli media and popular culture as a movement that used to be associated with religious moderation and a positive attitude towards Israeli society in general, but has been going through a process of political and religious radicalization ever since the 1967 war. This perception, however, ignores the fact that the movement has been fragmented from its early days and has displayed a wide spectrum of views regarding enclavism and contrapuntal belonging.

²⁴⁹ Rolef, “National Religious Party (NRP).”

In their monumental book, *Civil Religion in Israel*, Charles Liebman and Eliezer Don-Yehiya claim that while the Orthodox-Jewish world is largely divided between Zionists and Anti-Zionists, one can distinguish between four main responses of traditional Jews to modernization and secularization, which are also appropriate in describing the religious responses to Zionism and Israeli civil society: neo-traditionalism, compartmentalization, adaptation, and expansionism.²⁵⁰ The first response advocates complete rejection and isolation from secular society and culture. This enclavist response, which Liebman refers to as “neo-traditionalism,”²⁵¹ requires the “the creation of alternate structures and unique symbols of social distinction” in order to isolate the community from any type of secular influence.²⁵² This approach characterizes the *haredi* (often referred to as “Ultra-Orthodox” or “Fervently-Orthodox”) anti-Zionist (or at least non-Zionist) camp. The next three responses, according to Liebman and Don-Yehiya, can be found among the Religious-Zionist camp.

The second response is “compartmentalization of religious life,” which promotes a radical transformation in the traditional assumptions regarding the religious relevance of certain aspects of life.²⁵³ Compartmentalists claim that while some walks of life must remain subject to the authority of religious law, other areas are religiously neutral so they are to be determined by modern and secular values and ways of conduct. As compartmentalists “gave up” on certain aspects that were previously considered Jewishly relevant, they tend to defend quite passionately aspects of life that remained under the auspices of halakha, such as the laws of the Sabbath. This response, associated with Rabbi Abraham Reines (1839-1915) and Professor Yeshayahu

²⁵⁰ Liebman and Don-yehiya, *Civil Religion in Israel*, 185–186.

²⁵¹ Liebman, “The Rise of Neo-Traditionalism among Modern-Orthodox Jews in Israel”; Cohen, *The Talit and the Flag: Religious Zionism and the Concept of a Torah State, 1947-1953*, 10–11.

²⁵² Liebman and Don-yehiya, *Civil Religion in Israel*, 185; Cohen, *The Talit and the Flag: Religious Zionism and the Concept of a Torah State, 1947-1953*, 10–11.

²⁵³ Liebman, “The Rise of Neo-Traditionalism among Modern-Orthodox Jews in Israel,” 233–237.

Leibowitz (1903-1994),²⁵⁴ may be intellectually intriguing, but it is also problematic for many observant Jews, as Jewish law—much like Islamic law—generally “seeks to encompass and direct one’s entire way of life.”²⁵⁵ Thus, most Orthodox Jews, and Religious-Zionists in particular, rejected this approach and turned to either of the next two responses.

The third response is “adaptation and reform.” This approach advocates the adjustment of traditional religious practices to modern life by “reinterpreting the values and transforming and transvaluing²⁵⁶ the practices to make them compatible with modern culture.”²⁵⁷ Adherents of the adaptationist approach usually promote gradual development within the tradition, and sometimes completely deny that they actually support legal alterations and reform. According to this response, compatible with Heilman’s definition of contrapuntal belonging and sometimes referred to as Modern-Orthodoxy,²⁵⁸ modern values—freedom, equality, science—are not contradictory to Jewish tradition, but are rather an integral part of it. Liebman claims, however, that there are limits to the degree in which the Orthodoxy can accept the adaptationist approach, and it is often accompanied by apologetics.

The Religious-Zionist adaptationist response is represented by the Religious Kibbutz movement and the *Torah v’Avodah* (Torah and Labor) movement in general.²⁵⁹ This movement “extended religious legitimacy to the symbols and values of Zionist-socialism,” despite the fact that many Zionist-socialist values were foreign, and even contradictory to traditional Judaism.

²⁵⁴ Liebman and Don-yehiya, *Civil Religion in Israel*, 191–194.

²⁵⁵ *Ibid.*, 193–194.

²⁵⁶ Transvaluation – a philosophical term taken from Nietzsche, defined by Mordecai Kaplan as “ascribing meaning to the traditional content of a religion or social heritage, which could not have been contemplated nor implied by the authors of that content.” See Kaplan, *The Meaning of God in Modern Jewish Religion*, 1–9.

²⁵⁷ Liebman and Don-yehiya, *Civil Religion in Israel*, 185.

²⁵⁸ See Heilman, *Sliding to the Right: The Contest for the Future of American Jewish Orthodoxy*, 3. I distinguish between “Modern-Orthodoxy” with a capital ‘M,’ a term which I use when referring to the adaptationist approach, as opposed to “modern Orthodoxy” which Liebman uses as a general term for the three Orthodox responses to modernity. See *ibid.*

²⁵⁹ Liebman and Don-yehiya, *Civil Religion in Israel*, 206–207.

According to Liebman and Don-Yehiya, both expansionists (which will be discussed extensively below) and adaptationists “favored cooperation with the secularists,” respected them, and at the same time criticized their lack of adherence to Jewish Law. The major theoretical difference between them, however, remained the adaptationists’ acceptance of secular Zionism as a viable ideology on its own right. They did not see the secularists’ positive qualities as proof of their subconscious attachment to Jewish practice, and went as far as adopting ceremonies and rituals from what Liebman and Don-Yehiya refer to as Zionist “civil religion,” especially those which associate traditional Jewish holidays with agriculture and nature.²⁶⁰ The innovations introduced by religious kibbutzim were not limited to symbols or rituals, but even extended to matters of Jewish Law, especially in cases where “traditional practices were perceived as contrary to national or social ethical principles,” such as milking cows on the Sabbath. The most striking aspect of all the innovations discussed, is that they were introduced by popular rather than rabbinic decision. It is worth noting, however, that the adaptationists never outwardly declared that the power to interpret the Torah lies in the hands of laymen instead of the hands of rabbis, as such a step would inevitably lead to a break with mainstream Orthodoxy.

According to Liebman and Don-Yehiya, while adaptationist practices did penetrate the general Religious-Zionist public, the *ideological* adaptationist response was limited to religious kibbutzim and populations close to it.²⁶¹ The authors claim that after the establishment of the state of Israel the adaptationists’ influence gradually declined, together with the decline of socialist-Zionism and the Kibbutz Movement in general. Nevertheless, Yair Sheleg identifies adaptationist or contrapuntal trends that emerged among Religious-Zionists during the 1990s,

²⁶⁰ Ibid., 208–210.

²⁶¹ Ibid., 211; Sheleg, *The New Religious Jews: Recent Developments Among Observant Jews in Israel*, 29.

alongside the expansionist trend which will be discussed below.²⁶² According to Sheleg, many young Religious-Zionists are adopting secular leisure activities including spending their evenings in bars, social dancing, traveling abroad and even premarital sexual relations. In addition, more and more Religious-Zionists are turning to careers in the media and the arts, fields that were traditionally considered problematic for observant Jews, mainly due to issues of modesty. Sheleg points out that these emerging trends “grew out of life itself rather than a theological discussion,”²⁶³ and no real effort was made to ideologically justify them. Young Religious-Zionists, he claims, feel comfortable enough in both religious and modern worlds to enjoy both of them without the need to justify their actions. At the same time, other recent adaptationist developments in the Religious-Zionist world are definitely grounded in an ideological basis. Such developments include the introduction of academic research and teaching methods in some Religious-Zionist *yeshivot* (Talmudic schools),²⁶⁴ the fact that more and more Religious-Zionist rabbis reach out and conduct dialogue with non-observant Israelis,²⁶⁵ and perhaps most of all—the emergence of feminist trends with the National-Religious sector.²⁶⁶

The fourth and final response is “one of expansion and domination,” which became very prominent after the 1967 war. This response is essentially an attempt to impose religious values on general society and to reinterpret modern cultural values in the spirit of traditional religious standards. The expansionist approach in Religious-Zionism is represented in the thought of Rabbi Abraham Isaac Kook (known as “Rav Kook” to his followers, 1865—1935) and—to a greater extent—his son Rabbi Zvi Yehuda Kook (“Rav Zvi Yehuda,” 1891-1982).²⁶⁷ Rav Kook,

²⁶² Sheleg, *The New Religious Jews: Recent Developments Among Observant Jews in Israel*, 54–93.

²⁶³ *Ibid.*, 90.

²⁶⁴ *Ibid.*, 67–69, 80–85.

²⁶⁵ *Ibid.*, 85–89.

²⁶⁶ *Ibid.*, 63–69. See also Sperber, “Congregational Dignity and Human Dignity: Women and Public Torah Reading.” This issue will be dealt with extensively in the next chapter

²⁶⁷ Liebman and Don-yehiya, *Civil Religion in Israel*, 194–200.

the first Ashkenazi Chief Rabbi of Palestine, saw secularization as a “superficial manifestation lacking inner content, meaning or a firm foundation in existence.” Unlike neo-traditionalists, however, he claimed that everything in the world contains hidden sparks of the Divine in it, and secularism was no different.²⁶⁸ Thus, observant Jews should not separate themselves from modernity, but should identify the positive aspects of it and reveal the connection between secular elements and their religious source. According to him, manifestations of holiness are present in sports,²⁶⁹ physical labor, culture, sciences, arts, and—most of all—in the nation: “Israel’s nationalist tendency is a field blessed by the Lord. Even though it did not yet produce true greatness, due to the great dreariness of exile, it is worthy—by practical and spiritual deeds—to cultivate all the greatness in the world.”²⁷⁰ Rav Kook claimed that a large portion of the Torah can only be fulfilled within an independent statist framework. Therefore, “the value and sanctity of a Jewish state” are true representatives of the spirit of Judaism.

Rav Kook’s son, Rav Zvi Yehuda, served as the head of *Merkaz HaRav*, the *yeshiva* established by his father.²⁷¹ According to him, the establishment and survival of the Jewish state was not only a religious command, but also a sign of redemption. Unlike Rav Kook the father, who believed that as the process of redemption unfolds, more and more Jews would become more observant and the “divine holiness in the Jewish nation would be revealed to all,”²⁷² the son believed that the existence of the state and its achievements in terms of security—the Israeli Defense Forces, specifically—and economy *are* the signs of redemption. In their teachings, Rav Zvi Yehuda and his followers emphasized the centrality of the Land of Israel and the uniqueness

²⁶⁸ Kook, *Orot*, 66–67.

²⁶⁹ Rav Kook praised Jewish youngsters who take part in sports, as physical activity does not strengthen the body, but “the fortitude of the sanctified flesh will illuminate the weakened soul.” See *Ibid.*, 80.

²⁷⁰ *Ibid.*, 65.

²⁷¹ Liebman and Don-yehiya, *Civil Religion in Israel*, 198–199.

²⁷² *Ibid.*, 198.

of the People of Israel in the Jewish religious identity.²⁷³ They constantly highlighted parts from Rav Kook's writings describing the special sanctity of the land of Israel as well as the metaphysical ontological difference between Jews and the rest of the nations of the world.²⁷⁴ According to them, as the Jewish people were specifically chosen by the Almighty, the conventional rules of international politics simply do not apply to them. Thus, they claimed, the Israeli government should not be troubled by questions of international law and treaties. Gentiles are, by their very nature, hostile to Jews, and the Jewish state is to act according to its interests alone.

Until the 1967 war, Rav Zvi Yehuda's stances on political matters were barely known in the general public.²⁷⁶ After the war, the Rabbi was embraced by political circles that opposed any Israeli withdrawals from the territories captured during the war, a trend that culminated in 1974 with the establishment of *Gush Emunim*—the movement responsible for the first Jewish settlements in the West Bank and Gaza. The first generation of settlers, led by figures such as Hanan Porat, Beni Katzover and Menachem Felix, were all former *Merkaz HaRav* students who saw Rav Zvi Yehuda as their master and spiritual leader. The new movement sparked a great deal of enthusiasm among Religious-Zionist circles, who were thrilled at the idea of a new Zionist initiative led by observant Jews rather than the secular-socialist camp.²⁷⁷ As the settlements were perceived as a fulfillment of a religious duty, they helped the young generation

²⁷³ Sheleg, *The New Religious Jews: Recent Developments Among Observant Jews in Israel*, 27–28; Grinfeld, *Hem Mefahadim*, 211; Liebman and Don-yehiya, *Civil Religion in Israel*, 199.

²⁷⁴ This perception was developed by 12th century Rabbi Yehuda Halevy, and was outlined in his book *Kuzari* (*Kitāb al-Khazari*). Rav Kook's writings, and specifically *Orot*, were heavily influenced by this perception.

²⁷⁵ It is important to note that Rav Zvi Yehuda was the one who edited and published most of his father's works. Thus, many are only familiar with Rav Kook's writings through the lens of his son's ideology. For an elaborate discussion of Rav Zvi Yehuda's reading, editing and censoring of Rav Kook's writings, See Avramovich, "Ha-Sh'lihut, Ha-Monopol, V'Ha-Tsenzurah: R.Z.Y.H. Kook V' Arikhat Kitvei R.A.I.H. Kook."

²⁷⁶ Liebman and Don-yehiya, *Civil Religion in Israel*, 200–204; Sheleg, *The New Religious Jews: Recent Developments Among Observant Jews in Israel*, 37–38.

²⁷⁷ For a more elaborate discussion of Gush Emunim's political power, see Don-Yehiya, "Review Article: Jewish Messianism, Religious Zionism and Israeli Politics: The Impact and Origins of Gush Emunim."

of Religious-Zionists to overcome their insecurities not only with regards to secular Israelis, but also in relation to the neo-traditionalists, who always portrayed themselves to be more observant and less compromising on matters of Jewish Law.

Even though the expansionist response is not enclavist *per-se*, as it seeks to extend the Religious-Zionist influence over the entire Israeli society rather than separate from it completely, it does promote certain enclavist elements. Starting in the early 1970's, *Merkaz HaRav* graduates have begun to establish separate formal education systems that served as an alternative to the public-religious school system that they considered to be too moderate.²⁷⁸ These schools emphasized a strict separation of the sexes, as well as an increasing intolerance towards the non-Jewish world and towards Western culture in particular. Similarly to the *haredi*, or neo-traditional school system, the schools influenced by *Merkaz HaRav* discourage their students from consuming secular media, teach as few secular studies as possible, and do not require their students to take the state matriculation exams (*bagrut*). This new model of religiosity, combining a hard-line nationalistic approach to politics with a strict *haredi*-style halakhic observance is often referred to as *Haredi Le'umi* (National *Haredi*) or by the acronym *Hardal*.²⁷⁹ While Liebman (1982) claims that expansionists still differ from neo-traditionalists in that they do not greatly isolate themselves from the general public, and are far more open to the consumption of secular media, in more recent years one can see an effort to establish a National-Religious alternative to the secular media, including dedicated newspapers and synagogue pamphlets.²⁸⁰ A

²⁷⁸ Sheleg, *The New Religious Jews: Recent Developments Among Observant Jews in Israel*, 34–36.

²⁷⁹ The term *Hardal* is often used in a derogatory fashion as the same word also means “mustard.” It is attributed to satirist B. Michael. See Michael, “Ha-Irgun Ha-Mitqare’ *Hardal*.”

²⁸⁰ Synagogue pamphlets are brief publications available freely in Religious-Zionist synagogues every Friday night. They include brief rabbinic commentaries on the weekly Torah portion, often embellished with political remarks, as well as lighter articles and many advertisements for products and services directed at the Religious-Zionist population (such as kosher all-inclusive resorts). The pamphlets are often read during the services, much to the local rabbis’ dismay. See Cohen, “Politics, Alienation, and the Consolidation of Group Identity: The Case of Synagogue Pamphlets.”

more recent example is, of course, the rise of National-Religious websites, including those offering Q&A sections.

Wasaṭīyya

Similarly to the Jewish streams discussed above, *Wasaṭīyya*, or ‘Centrism,’ is a response to both the Muslim encounter with modernity—especially in its Western form—and enclavist trends on the other hand. The term “*Wasaṭīyya*” comes from the Qur’ānic verse 2:143 which reads “Thus, we made you an *ummaḥ* justly balanced [*wasāṭan*].” In his commentary of this term Yusuf Ali asserts that the “essence of Islam is to avoid extravagances on either side” as it is a “sober, practical religion.”²⁸¹ Thus, the term is traditionally loaded with positive connotations, as it illustrates that Islam is a religion that “harmonizes rights and duties, individualism and communalism, materialism and spirituality, ideals and reality, and community and change.”²⁸² Since the 1960s, the term has been used by Muslim thinkers such as Muḥammad al-Ghazalī (d. 1996), Muḥammad ‘Imāra (b. 1931), and most prominently Sheikh Yūsuf al-Qaraḍawī (b. 1926), to claim that ‘correct’ Islamic practice always favors the “middle way,” and presents a compromise between Muslims who blindly imitate Western practices, and *taqlīdī* Muslims who blindly imitate the previous generations while completely avoiding *ijtihād*. According to Uriyah Shavit, *Wasaṭī* Muslims draw from the writings of Islamic modernists such as Muḥammad ‘Abduh (d. 1905) and Rashīd Riḍā (d. 1935), and advocate the revival of Islamic Law and societies by offering Islamic contextualization for modern practices. They “systematically search for the most suitable answer to juristic issues in all four legal schools and beyond them,” and permit jurists to use *ijtihād* at their discretion. While, as will be seen, Centrist scholars are often

²⁸¹ Ali, *The Glorious Qurān*, 57 Footnote 143.

²⁸² Shavit, “The Wasaṭī and Salafī Approaches to the Religious Law of Muslim Minorities,” 417–421.

labeled ‘progressive’ or ‘open-minded’, they are nonetheless committed to proselytizing Islam and instilling *sharīʿā* Law in Muslim countries and beyond them, a view that situates them in line with Islamist movements such as *salafī* Islam.²⁸³

In his article, “The Centrist Stream in Egypt and its Role in the Public Discourse Surrounding the Shaping of the Country’s Cultural Identity,” Sagi Polka identifies seven unique characteristics of the Centrist school of thought.²⁸⁴ The first is a logical fusion between returning to the ways of ancestral tradition (*salafīyyah*) and embracing innovation (*tajdīd*). According to Al-Qaraḍawī, those who believe that there is an inherent contradiction between the two concepts must also believe that “the religion is anachronistic and cannot be rejuvenated.” In fact, he claims, the very essence of *salafīyyah* is *tajdīd*. The second feature of Centrism is a comprehensive understanding of Islam, which is not limited to religion alone, but focuses on society, politics, legislation and culture as well. This is in line with the writings of Ḥasan al-Banna (1906-1949), founder of the Muslim Brotherhood. The third feature deals with the need for equilibrium between the fixed tenets of Islam (*thawabīt*) and “its modifiable rules of conduct” (*mutaghāyyirāt*). While some aspects of the religion are fixed and unchangeable, most of the principles of Islamic Law allow for a difference of opinion and *ijtihād*. *Wasaṭī* scholars often criticize Muslim scholars and institutions (such as Al-Azhar University) for not emphasizing the need for rejuvenation of the aspects of tradition that can—and must—change with time. Similarly, the fourth principle of *Wasaṭī* thought is the distinction between Divine ordinance and scholarly legislation, and can be compared to the Jewish distinction between Mosaic commandments (*d’orayta*) and rabbinic ones (*d’rabanan*). Unlike the Qur’ān and the

²⁸³ The term “Islamist” in this context refers to any movement that sees Islam as a political force, and *sharīʿā* law as the ideal political system. See Shepard, Burgart, and Salvatore, “Islamism”; *Princeton Readings in Islamist Thought*.

²⁸⁴ Polka, “The Centrist Stream in Egypt and Its Role in the Public Discourse Surrounding the Shaping of the Country’s Cultural Identity,” 41–44.

ḥadīth which are considered to be the word of God, their application allows scholars a fair degree of leeway for their own judgment. Centrist thinkers, Polka claims, do not see themselves as representatives of Islam, but “believe that their purpose is to propagate their ideas by means of constant dialogue with representatives of other ideological schools.”²⁸⁵ Civil scholarly dispute is not only considered legitimate, but also encouraged.

The fifth principle that differentiates Centrism from other schools of thought is their rationalist outlook that relies on “human reason and unequivocal attention to the historical lessons taught by nations past.”²⁸⁶ This, according to Polka, does not contradict *Wasaṭī* belief in the “unseen” and spiritual devoutness. The sixth principle is the notion that *sharīʿā* Law must be applied gradually in modern Muslim societies, and its application must take into account the reality in which Muslims live today. Finally, unlike other factions that call for the comprehensive application of *sharīʿā* Law, Centrists do not object to learning from the political experiences of other people. This can be compared to a similar Jewish principle that allows learning from the experiences and teachings of non-Jews on matters not related to Religion.²⁸⁷

These characteristics of *Wasaṭī* thought have led both its proponents and academic researchers to label the stream as a progressive, open-minded and dialogue oriented movement within Islamism.²⁸⁸ *Wasaṭī* scholars often emphasize moderation and the strength that comes with a plurality of Muslim identities.²⁸⁹ While these perceptions may cause Westerners to label Centrists as ‘moderate’ or ‘Westernized,’ the reasoning for this moderation is often very different. In his article “The *Wasaṭī* and *Salaṭī* Approaches to the Religious Law of Muslim

²⁸⁵ Ibid., 43.

²⁸⁶ Ibid., 44.

²⁸⁷ “*ḥokhma ba-goyim, ta’amin. Torah ba-goyim al-ta’amin*” – wisdom among the nation, you shall believe. Torah among the nations, you shall not believe. (Eicha Raba, 2:13).

²⁸⁸ Hoigilt, “Rhetoric and Ideology in Egypt’s Wasaiyya Movement,” 251–252.

²⁸⁹ *Princeton Readings in Islamist Thought*, chap. 9 p. 226-227.

Minorities,” Uriya Shavit deals extensively with the *Wasaṭī* approach to addressing *sharʿī* issues unique to Muslims living as minorities in the West.²⁹⁰ According to Shavit, while the rulings issued by Centrist scholars on such issues are indeed moderate, or lenient, they are as such in order to serve two purposes: first, to ease the lives of Muslim believers in the West in order to preserve their identity and prevent them from assimilating;²⁹¹ and second, to promote the spreading of Islam in the West.²⁹² The reasoning behind lenient rulings for Muslims living in the West has to do with the hardships that these Muslims face, which *Wasaṭī* scholars consider to be grave enough that without allowing for leniencies that will make their lives easier, they will choose to leave the religion. In terms of spreading Islam in the West, *Wasaṭī* scholars influenced by Islamists such as Sayyid Quṭb (1906-1966), consider the West to be in a state of religious ignorance (*jahilīyyah*)²⁹³ and that it is “the duty of every Muslim migrant to spread Islam among the infidels.”²⁹⁴ This duty, in the eyes of Centrist thinkers, legitimizes the possibility of Muslims living peacefully in non-Muslim countries and societies.²⁹⁵

A central component of Centrist political thought is the notion that—unlike what many other Islamists claim—there is nothing inherent in Islam that is fundamentally incompatible with democracy.²⁹⁶ As mentioned before, *Wasaṭī* thought makes a sharp distinction between the

²⁹⁰ Shavit, “The *Wasaṭī* and *Salafī* Approaches to the Religious Law of Muslim Minorities.” Legal issues related to Muslims living as minorities among non-Muslims are known as *fiqh al-ʿaqaḷīyāt*.

²⁹¹ One example of such leniencies is the permissibility of consuming meat that is not ritually slaughtered. See, for instance, Kutty, Ahmad. “Eating non *Halal* Meat in the UK”, *Islam OnLine* .15.5.2003.

http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503546926. Retrieved March 2007.

²⁹² Shavit, “The *Wasaṭī* and *Salafī* Approaches to the Religious Law of Muslim Minorities,” 421–422.

²⁹³ See *Princeton Readings in Islamist Thought*, chap. 5 p. 143-144.

²⁹⁴ Shavit, “The *Wasaṭī* and *Salafī* Approaches to the Religious Law of Muslim Minorities,” 422–423.

²⁹⁵ Traditionally, territories under Muslim rule are referred to as The House of Islam (*dār al-Islām*), and are distinguished from territories governed by infidels, which are known as *dār al-ḥarb*, or House of War. According to the Qurʾān, Muslims are commanded to fight the inhabitants of *dār al-ḥarb* until they accept Islam, or at least its sovereignty. See 9:29 “fight those who believe not in God nor the Last Day [...] nor acknowledge the Religion of Truth (even if they are) of the People of the Book [Jews and Christians. OS] until they pay the *jizya* [poll tax. OS] with willing submission, and feel themselves subdued.”

²⁹⁶ *Princeton Readings in Islamist Thought*, chap. 9 p. 226-227.

foundational texts of Islam, which they regard as Divinely ordained and authoritative, and their practical application. According to Qaraḍawī, the sacred texts do not provide explicit or detailed rules, and their application to specific situations requires human legislation, which is to be done by a legislative assembly. Unlike other Islamist thinkers, such as Sayyid Quṭb or Abū al-ʿAlā al-Mawdudī, who consider the role of the parliament in the Islamic state to be simply “a consultative assembly, whose counsel the head of the Islamic state might choose to accept or reject,” Qaraḍawī treats the parliament as a legitimate legislative assembly, that checks and balances the head of the state. Qaraḍawī’s stance is rare amongst Islamists, as the common perception is that their Islamic commitment makes the ruling elite “immune to the temptations of despotism.”

Despite the seemingly unambiguous Centrist support for democracy as a political system, and moderation as a tool to ease the lives of Muslims, an examination of *Wasaṭī* views regarding liberal-democratic values reveals a more complex picture.²⁹⁷ Qaraḍawī himself, for instance, admits that his endorsement of the democratic system is dependent on the assumption that the majority of voting citizens are Muslims, and they do not wish to pass legislations that contradict the word of God. Nevertheless, Qaraḍawī encourages Muslims living in the West to take an active part in the political process as a way of extending Muslim influence to local politics. Centrist attitudes towards gender equality in the political process are just as ambiguous. While Qaraḍawī and other *Wasaṭī* claim that there is nothing in Islam that prevents women from taking part in public affairs, they are also reluctant to permit the appointment of a woman as a head of a state, “on grounds that Islam reserves supreme political authority for men”.²⁹⁸ Another example of Centrist rejection of liberal-democratic values is their overwhelming support of Palestinian

²⁹⁷ Ibid. pp. 227-229.

²⁹⁸ Ibid. pp. 228-229. It is Worthing that a similar concept exists in Jewish Law as well. See Maimonides, *Mishneh Torah: Hilhot M’lakhim u’Milḥamot* 1:6.

suicide bombings against Israeli citizens. This issue will be discussed more thoroughly in the second part of this chapter.

Wasaṭī scholars, and Qaraḍawī in particular, are known for their affinity to modern technology—print, satellite television and, of course, the Internet—in order to spread their teachings to a larger audience.²⁹⁹ As noted in chapter two, the Centrist website *Islam OnLine* became the most visited website in the Islamic world, clearly reflecting the *Wasaṭī* holistic approach to Islam.³⁰⁰ The site featured news updates, mainly from the Arab and Muslim world; articles on various subjects, including *sharīʿa*, Muslim affairs, health & science, art & culture, and a special section dedicated to Euro-Muslims. Qaraḍawī supported the website enthusiastically, and advocated using the internet for the purpose of *daʿwa*—“invitation” to Islam. According to him, the internet is no different than other media such as radio and television, that were used to spread Islam, and it “is the duty of all Muslims to use [the Internet] to call to their great religion”, just like other religions use it.³⁰¹ While it seems that Centrists are happy to endorse the freedom of speech that comes along with the internet, the picture is more complex when it comes to other values.

The following pages will present case studies from both Religious-Zionist and *Wasaṭī* Q&A websites, in which their attitudes towards liberal-democratic values will be examined. The first topic that will be reviewed is the general treatment of Israelis (in the Muslim websites) and Palestinians (in the Jewish ones) in light of the Israeli-Palestinian conflict.

²⁹⁹ Ibid. p. 227.

³⁰⁰ Abdel-Fadil, “The Islam-Online Crisis: A Battle of Wasatiyya vs. Salafi Ideologies?”.

³⁰¹ Qaraḍawī’s speech to *Islam OnLine*’s surfers was available at <http://www.islamonline.net/English/Qaradawi/index.shtml>. A Real Audio recording of the speech is available at the same address. Retrieved April 2007 and accessible through archive.org

Attitudes Towards Israel and Israelis in *Wasaṭī* Q&A Websites

The first topic that will be reviewed is the attitudes present on *Wasaṭī* websites towards suicide bombings and the harming of non-combatant civilians. As will be seen, *Wasaṭī* views on the subject differ dramatically depending on the location of such aggressions. When performed outside of Israel/Palestine, scholars are quick to unequivocally condemn such action, but when it comes to suicide bombings performed against Israeli citizens, the picture changes drastically.

When asked about the Islamic stance towards violence and aggression, Sheikh Yūsuf Al-Qaraḍawī asserted that “aggression against innocent people is a grave sin and a heinous crime, irrespective of the victim's religion, country, or race.”³⁰² Unlike Judaism, he added, “Islam does not hold a double-standard policy in safeguarding human rights,” and in fact Islam protects even the lives of animals. Qaraḍawī cited a *ḥadīth* that claims that a woman was sent to hell because she abused her cat. Thus, “the punishment is bond [*sic!*] to be severe when human being happens to be the victim of aggression, torture and terrorism.” In addition to forbidding aggression and cruelty against innocent people, he explained, Islam holds every individual responsible for his own actions. Thus, he says, he finds it “disgusting” to see people—“who are Muslim by name”—launch aggressive attacks against innocent people in the name of Islam. Moreover, Qaraḍawī added that the belief that the “end justifies the means” is alien to Islam, and it is not permissible to attain good aims through evil deeds. The answer ended with an addition by Dr. Muzammil Ṣiddiqi, who asserted that while it is the duty of all Muslims to spread the teaching of Islam to non-Muslims, so they could “live happily and successfully in this world and to be saved in the Hereafter,” it is nonetheless important that *daʿwa* will be performed politely and without any

³⁰² Al- Qaraḍawī, Yūsuf and Ṣiddiqi, Muzammil, “Aggression Against Innocent People”, *Islam OnLine*. 1.7.2007. http://www.islamonline.net/servlet/Satellite?cid=1119503544414&pagename=IslamOnline-English-Ask_Scholar%2FFatwaE%2FFatwaEAskTheScholar. Retrieved May 2007.

aggression. That being said, he adds, Muslims are not to “shy away from the truth,” and should convey their message clearly and assertively.

While it seems that the attitude among most on-line *Wasaṭī* scholars towards terrorism and harming innocent civilians is unequivocally negative,³⁰³ questions regarding suicide bombings performed in Israel reveal a very different picture. One surfer, for instance, asked Sheikh Fayṣal Mawlāwī, the deputy chairman of the European Council for Fatwā and Research, if “bombing of pizza parlors and other civilian targets by Palestinian Muslims is considered a legitimate form of Jihad?”³⁰⁴ Mawlāwī stressed that there is no religious war between Muslims and Jews, but that the war is against those who occupy the Holy Land and try to “establish a homeland for themselves in a place that does not belong to them.” That is why, he continues, “we do not kill any Jew who resides in any part of the world other than Palestine.” According to him, since all Jews who reside in the Holy Land and hold Israeli citizenship are essentially taking part in the aggression against the Palestinians, and since Israel has “committed many massacres” among the Palestinian civil population, the Muslims must retaliate in the same manner.³⁰⁵ Hence, he asserts, as long as Israel continues “this mass killing and paganism”, then “we are allowed to kill every Israeli”. He summarizes his response by stating that once Israel stops killing civilians, they will stop doing the same, although “our Jihad against the military will never stop till they leave our land and give us back our holy site, Al-Masjid Al-Aqsa."

³⁰³ Similar views can be seen in the answer given by the *Fiqh* Council of North America, “Terrorism is Alien to Islam”, *Islam OnLine*. 26.4.2006. http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1122819226330. Retrieved March 2007.

³⁰⁴ Mawlāwī, Fayṣal, “Attacking Civilians in Martyr Operations”, *Islam OnLine*. 26.10.2003. http://www.islamonline.net/servlet/Satellite?cid=1119503544354&pagename=IslamOnline-English-Ask_Scholar%2FFatwaE%2FFatwaEAskTheScholar. Retrieved March 2007.

³⁰⁵ This according to the only source cited in this *fatwa*, Qur’ānic verse 16:126: “If ye punish, then punish with the like of that wherewith ye were afflicted,” Yusuf Ali’s translation of this verse reads “And if ye do catch them out, catch them out no worse than they catch you out;” which, of course, can be understood very differently.

Other questions on the subject deal with whether Islamic Law considers such operations to be acts of suicide or martyrdom.³⁰⁶ One inquirer, for instance, wondered whether such attacks are permissible, as those performing them have other alternatives forms of resistance they can follow.³⁰⁷ Sheikh Fu'ād Mukhaymar, a scholar for Al-Azhar University and the head of the Sunni Egyptian Institutions in Egypt, replied that the majority of contemporary Muslim scholars treat the operations carried out by Palestinians blowing themselves up as martyr operations, and not as suicide attacks, for several reasons. First of all, he claims, a person performing such an attack dies for the survival of his people and the holy sites. In addition, the Palestinians are deprived of other means of resistance, as well as military support from the whole world. Thus, this is the only way they can defend themselves. The Sheikh adds that Islamic history “is full of many fascinating examples in which Muslims demonstrated an outstanding courage and strong spirit in fighting their enemies; they would sacrifice their lives for the sake of achieving their aim.” In response to another question Sheikh Fayṣal Mawlāwī used similar arguments, and stressed that “a Muslim's intention when committing suicide is certainly different from his intention when performing a military operation and dying in the Cause of Almighty Allah.”³⁰⁸ He affirmed that he believes that “those missions are a sacred duty carried out in form of self-defence and resisting aggression and injustice,” and ended his response by declaring that he calls upon “every Palestinian not to hesitate in carrying out such operations as long as they are the only way of making jihad and are made with an intention of sacrificing one's life for the Sake of one's religion and nation.”

³⁰⁶ The attitude towards suicide operations has been the subject of many *shar'ī* debates. For an elaborate discussion of martyrdom and self-sacrifice in classical Islam see Kohlberg, “Shahid.”

³⁰⁷ Mukhaymar, Fu'ād, “Palestinian Martyr Operations”, *Islam OnLine*. 18.4.2004.
http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503544306. Retrieved March 2007.

³⁰⁸ Mawlāwī, Fayṣal, “Martyr Operations Carried Out by Palestinians”, *Islam OnLine*. 28.7.2007.
http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503543974. Retrieved March 2007.

One question tying business dealings with Jews to the Arab-Israeli conflict was sent to *Islam OnLine* by a Muslim man living in the United States, who works for a Jewish company.³⁰⁹ The man states that his boss is very kind and considerate, and lets him take breaks when he has to pray, and leave early on Ramaḍān, yet wishes to know if it is wrong to work for a Jew. Zienab Moṣṭafa, a London-based scholar, answered that Islam respects other religions and does not prohibit working for a “peaceful Jew,” as long as he does not attack Islam. The scholar also states that the Prophet Himself dealt financially with Jews, and that the Caliph ‘Ali worked on a farm belonging to a Jew. Moṣṭafa adds that while the money earned in such a job is by all means *ḥalāl*, the enquirer must make sure “that this company or employer does not support the illegal Zionist state in Palestine.” He adds that Muslims struggle “against Zionism as a political theory and not against Judaism as a religion.” Adding to Moṣṭafa’s answer, Sheikh Fayṣal Mawlāwī states that a Muslim is not allowed to work for a Jewish company within the Palestinian territories, as such companies surely assist the Zionist occupation. The same rule applies, he adds, to overseas companies who provide any kind of support to the “Zionists in Palestine.”

While most of the *fatāwā* reviewed generally emphasize the political nature of the conflict and that there is no religious conflict between Islam and Judaism or other religions,³¹⁰ some of them do tie the Israeli-Palestinian conflict with religion—some more bluntly than others. An inquirer identified as “Mansour” submitted a question to Qaraḍawī in which he asked if “the conflict between Arabs or Muslims in general and the Jews [is] political or it’s an issue that has

³⁰⁹ Group of Muftīs, “Working for a Jewish Company,” *Islam OnLine*. 16.5.2004
http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-English-Ask_Scholar/FatwaE/FatwaE&cid=1119503548480. Retrieved March 2007.

The same answer appears here: <https://www.onislam.net/english/ask-the-scholar/financial-issues/earning-livelihood/170228.html>

³¹⁰ Another example can be seen in a *fatwa* that urges an inquirer to behave civilly with his Jewish neighbours despite their pro-Zionist views. See Ṣiddiqi, Muzammil, “Dealing with Jewish Neighbours,” *OnIslam*. 17.11.2012
<https://www.onislam.net/english/ask-the-scholar/international-relations-and-jihad/relations-during-war/175441.html>
 Retrieved July 2013.

something to do with the religion,” and wondered what the future holds for the Conflict.³¹¹ Qaraḍawī starts his lengthy answer by asserting that the conflict is not due to the Jews’ religion, as they are considered among the People of the Book. Indeed, he continues, “we are allowed to eat their food and marry their women,”³¹² and that in fact “the Jews [*sic!*] lived under Muslims’ protection for many years.” This, however, changed once the Jews have “set their eyes on our land, on Palestine [...] on the Al-Aqsa Mosque.” However, he claims, this is not to say that the conflict is not a religious one: “The fact that our conflict is not based on creed does not mean that our row is not religious. We are a religious nation and so are the Jews. Our conflict over the land is cloaked with religion.” Muslims, he continues, have strong ties to the land as it is the homeland of the Prophets, the first *qiblah* (direction of prayer), and the place where Prophet Muḥammad’s Night Journey took place. This, Qaraḍawī adds, is also true with regards to the Jews who consider the Torah, the People of Israel and the Land of Israel to be inseparable. Since the Jews “fight us in the name of faith,” Muslims are not to leave Islam out of the picture as well.

Qaraḍawī adds that while there is no technical *shar‘ī* difference between Jews and Christians, and that during the times of the crusades Christians were a worse enemy than Jews, who fought on the side of Islam, the situation is very different in contemporary times.³¹³ The scholar goes as far as issuing a *fatwā*—despite the fact that he was not asked to—forbidding Muslims from marrying Jewish women:

³¹¹ Al-Qaraḍawī, Yūsuf, “Is the Muslims-Jews Conflict Creedal or Political?” *OnIslam*.14.1.2004 <http://www.onislam.net/english/ask-the-scholar/muslim-creed/muslim-belief/175123.html>. Retrieved June 2013.

³¹² This based on the Qur’ānic verse “...The food of the People of the Book is lawful unto you and your is lawful unto them. (Lawful unto you in marriage) are (not only) chaste women who are believers, but [also] chaste women among the People of the Book...” (5:6)

³¹³ Ibid.

If I am asked at the present time: is a Muslim allowed to marry a Jew? My answer would be, no. Scholars have unanimously agreed that we are not to marry from among the enemy even if they were People of the Book; for in that case, it would be like a Muslim marrying a Jewish woman spy working for Israel. According to our induction, all Jews are pro-Israel. Thus, generally speaking, a Muslim is not allowed to marry a Jew in any state around the world.

While Qaraḍawī admits that there are some exceptions to the rule, as most Jews support Israel they are to be treated collectively as pro-Israel and therefore then enemies of Islam. This because, he claims, Islamic scholars rule that the entire group abides by the majority and a minority opinion is not to be taken into consideration. Qaraḍawī ends his response by stating that the conflict will continue as long as Palestine is occupied, but that justice will ultimately prevail and Muslims will win the war. This, he says, will only happen once Muslims abandon their feebleness, defined as “loving this worldly life and hating death.” While Qaraḍawī brings this definition from a *ḥadīth* that he quotes, he does not state where this *ḥadīth* is taken from and does not provide any citation for it.

If Qaraḍawī’s answer seems to walk the fine line between anti-Israel and anti-Jewish sentiments, answers found on the editorially-independent Arabic section³¹⁴ of *OnIslam.net* do not hesitate to cross it. An inquirer posed a question to the website, and asked how one must deal with the Jewish aggressors in Palestine, in light of their savage attacks.³¹⁵ The responding

³¹⁴ See here: <http://www.onislam.net/english/about-us.html>. Retrieved June 2013.

³¹⁵ Abū Maliḥ, Rajib, “*kayfa nata‘āmalu ma‘ al-yahūd al-mu‘tidīn ‘alā arḍ falisṭīn?* [How shall we deal with the Jewish aggressors in the land of Palestine?]13.1.2009 <http://onislam.net/arabic/ask-the-scholar/8363/67360-2009-01-13%2010-50-14.html>. Retrieved June 2013. My Translation.

scholar, Dr. Rajib Abū Maliḥ, answered that in order to understand the enemy, one must first understand their nature. These are the people, he continues, that ridiculed the word of God, as well as the Prophets and Messengers, and broke treaties. The only language ‘they’ understand, Abū Maliḥ states, is the “language of *jihād* [holy war] and *rabāṭ* [a military fringe outpost in a war against infidels].” While the scholar does not specifically mention if by “they” he refers to all Jews or only those occupying Palestine, the rest of the answer is far less ambiguous. Abū Maliḥ quotes no less than fourteen Qur’ānic verses that refer to the nature of the Jews and the Children of Israel and serve as evidence to his claims. He ends his answer stating that this is only the tip of the iceberg when it comes to Qur’ānic quotes that prove the nature of the Jews.

The same trend can be seen in an answer to an inquirer who wondered if it is permissible to call Jews “sons of monkeys and pigs.”³¹⁶³¹⁷ The answer, signed only under the name “Group of Muftīs” emphasized that the language of the Qur’ān is not accidental, and while the Zionist Jews³¹⁸ of today may not look like apes or swine, they still possess their qualities and morals. The anonymous scholar quotes several Qur’ānic commentaries (*tafasīr*) in order to support his view. The first source that he chooses to quote is *In the Shade of the Qur’ān*, a commentary by Muslim Brotherhood leader Sayyid Quṭb (1906-1966), known for his harsh attitudes towards non-Muslims, and Jews in particular.³¹⁹ According to Quṭb, while it is generally permissible to curse the infidels (*kāffirīn*), it is better for a Muslim to avoid cursing altogether and watch their

³¹⁶ See for instance: A Group of Muftīs, “*hal yajwaza an naṭlaqa ‘alā al-yahūd annahum abnā’ al-qirdah wa-al-khanāzīr?* [Is it permissible to call the Jews ‘sons of apes and pigs’?]. 2.2.2003. <http://www.onislam.net/arabic/ask-the-scholar/8437/8246/52862-2004-08-01%2017-37-04.html>. Retrieved June 2013. My Translation.

³¹⁷ The question is based off several Qur’ānic verses, including 5:63, in which it is said that God transformed the Jews, who incurred the wrath of God, into apes and swine.

³¹⁸ It is not entirely clear whether the phrase insinuates that all Jews are Zionists, or refers to a sub-group among Jews.

³¹⁹ Quṭb had related to all non-Muslims, as well as every society in the contemporary Muslim world, as living in a state of *jahilīyyah* (pre-Islamic ignorance). He emphasized avoiding Western influences and claimed that non-Muslims living in Muslim countries are only entitled to the protection of the community (*dhimma*) if they bring benefit to Islamic society. See Sagiv, “Ha-Ideologia Shel Irgunei HaJihad b’Mitsrayim [Heb: The Ideology of the Egyptian Jihad Organizations]”; Shepard, “Sayyid Qutb’s Doctrine of Jahiliyya”; Meijer, “Politicising Al-Jarḥ Wa-L-Ta’dīl: Rabī’ B. Hādī Al-Madkhalī and the Transnational Battle for Religious Authority,” 386–387.

language. He provides two Qur'ānic verses and a *ḥadīth* that deal with guarding one's tongue. The *fatwā* continues with a quote from Egyptian cleric 'Abd al-Khāliq, who emphasizes that the reference to "Israeli Jews: as dogs or pigs" is still relevant, and mentions that God already referred to Jews as apes and swine in the Qur'ān. Jews are also compared, he adds, to "a donkey carrying a sacred text," as the Qur'ān states that Jews carry the Torah while not fulfilling it, and therefore are similar to a donkey carrying a book. The answer ends with two other quotes, from *tafasīr* by Al-Ṭabarī and Al-Qurṭubī that emphasize that the comparison of Jews to apes and swine is Divine and undisputable.

Attitudes Towards the Palestinian Population in Religious-Zionist Websites

The first topic that will be reviewed is the general treatment of Palestinians in a time of conflict. A surfer, who considers herself a supporter of the "radical right", submitted a question on the *Kipa* website in which she reported that since the beginning of the second *Intifāda*³²⁰ she encountered many people using the slogan "death to the Arabs" as well as reports of a Jewish Underground that killed an Arab baby, and found it difficult to accept a perception promoting the killing of an entire nation³²¹. "How are we different from them," she asks, "if we can take the life of an innocent person?" A *yeshiva* student identified only by his first name, Raphael, provided her with a lengthy answer, in which he portrayed his views about required moral standards during a state of war. According to Raphael, while the Torah is very clear in its prohibition on killing, regardless of religion, race or sex, a state of war is a different reality. In this situation, he claims, Jews are commanded to kill as many as possible, and in some cases even women and

³²⁰ The Palestinian uprising that began in October 2000.

³²¹ Havreim Maqshivim, "Musar u'Milḥama, 'Mavet la'Aravim'? Maḥteret Yehudit", *Kipa*. 25 Av, 5761.
<http://www.kipa.co.il/ask/show/537>

children, although these are very unique circumstances, and usually the killing of innocent people is forbidden even in a state of war.

After a general review of the subject, Raphael continues to a more specific answer, regarding what he refers to as the “Oslo war”. He states that since it is not the entire Palestinian people that “seek to destroy us” and most of them are seeking to live peacefully, then “once we overpower them, we are not to kill them all, heaven forbid.” The question is, he continues, how to overcome the “terrorist gang” controlling the Palestinians, pushing them to war. The answer, according to him, is that “security experts agree that only an acute military operation can fight terror,” and those claiming that the conflict can be solved by negotiations and “giving away parts of our country” are wrong and misleading the public. Raphael adds that he intentionally ignores the issue of a halakhic ban on giving away parts of the Land of Israel, assuming that no one disputes this claim. He summarizes his argument by stating that during a state of war the IDF must not “occupy itself with differentiating between terrorists and [innocent] women and children,” as this may reduce its effectiveness. He ends his response by emphasizing that even though there are situations permitting killing innocent people, this only applies to official state representatives (i.e. the army, etc.), and no individual should take the law into their own hands. If there is a Jewish underground, he adds, it does not have any halakhic basis to rely on. It is worth noting that although Raphael is not a rabbi or any kind of real halakhic authority, the *Kipa* website presents his response as a scholarly answer in the same format as those written by ordained rabbis. Thus, it appears to be authoritative and can just as effectively influence the web-based discourse as responses from ordained rabbis.

A practically identical question, probably submitted by the same inquirer, was answered several months later by Rabbi Shay Piron,³²² whose answer was short and unambiguous: “There is absolutely no room for a comprehensive saying like ‘Death to the Arabs’! There is absolutely no room for sayings based on injustice and a serious moral flaw!”³²³ He adds that anyone promoting such opinions in the name of the Torah is to be “banished [from religious society] and be prevented from speaking in the name of the Torah, as he desecrates the Name [of the Lord].” Piron emphasizes that while the Jewish people has a long lasting conflict with the Arab nation, “who declared war against us and seeks to prevent us from returning to Zion, our homeland,” “we have nothing against individual Arabs living in this Land,” who were created in the image of God. Piron ends his answer by urging the inquirer to protest against people using such slogans, so that such “invalid opinions will not prevail in our camp.”

A reoccurring topic on the National-Religious websites is the permissibility of businesses dealing with non-Jews in general and with renting or selling houses to non-Jews in the Land of Israel specifically. This is in light of a Maimonidean prohibition stating that while selling lands or houses to non-Jews in the Land of Israel is categorically forbidden, renting out houses to non-Jews is allowed as long as they do not seek to start their own neighborhood.³²⁴ This issue gained public interest in 2004 after Rabbi Shmu’el Eliyahu, then the chief Rabbi of Safed and son of the late Chief Rabbi Mordecai Eliyahu, said in a radio interview that Jewish law forbids renting an apartment to Arabs, a saying which caused him to be charged with promoting racism.³²⁵

³²² Currently, Israel's Minister of Education

³²³ Piron, Shay, “Mavet la’Aravim”, *Kipa*, 9 Shvat, 5762. <http://www.kipa.co.il/ask/show/413>

³²⁴ See *Mishneh Torah*, *Avodah Zarah*, 10:4.

³²⁵ See E. Ashkenazi, 2006. “Yevutal ha’Ishum Neged Raba shel Tsfat ‘al Hasata l’Giz’anut,” *Haaretz*. 18.6.2006. Later on, Eliyahu’s indictment was annulled after Eliyahu declared that he only referred to Arabs who support terrorist acts.

The issue returned to the center of media attention when Eliyahu was interviewed once again and called for a ban on renting out houses to Arab students in his hometown Safed. Later, 50 municipal rabbis signed a statement of a similar nature. See Nahshoni, “50 Rabanei ‘Arim: Lo l’Haskir Dirot l’Aravim.”

Eliyahu's statement provoked a stream of questions sent to the different Jewish-religious websites, and specifically *Moriya*—a religious website managed by Shmu'el Eliyahu himself.

One question, for example, was sent to Rabbi Moshe 'Amiel by an inquirer who “wanted to understand ‘what they said on the news’ regarding selling a house to an Arab³²⁶.” The inquirer adds that he does not understand why is this forbidden and why should the Arabs be treated as unworthy, as “they also have rights in this land.” 'Amiel's lengthy response is unambiguous. Firstly, he states that if the inquirer refers to Eliyahu's saying, then “this is the Torah's opinion, and this is the law.” The rabbi explains that the Land of Israel is “the land of the Lord”, which was given to the Jewish people “not as a free gift for all purposes, but for a clear spiritual purpose in the ways of the Lord”. He adds that it is not permissible to “transfer, sell, divide, disengage or leave the country” as “the country does not belong to us, but to the Lord.” After stating his halakhic opinion, 'Amiel moves on to political reasoning: “Why deny the clear reality? Our status in this land is a state of war against the Arabs. An obvious life-threatening war, and a hidden war [portrayed] in the cultural sense of acquaintances leading to intermarriage.” Surprisingly, the model 'Amiel wishes to incorporate as far as treating minorities is clearly inspired by Muslim *dhimma* regulations, which ensures limited rights for minorities while preserving a clear distinction between them and the Muslim population: “Every Arab country understood it better than the government's [legal] advisor and the rest of the ministers, journalists, etc. Every Arab country ensured the Jews' rights as a somewhat respected minority, in a suitable housing area.”³²⁷

³²⁶ 'Amiel, Moshe, “Ha-Im Limkor Bayit l'Aravi”, *Moriya*, Question No. 20339. <http://www.moriya.org.il/shut/indexid.asp?id=20339>

³²⁷ While 'Amiel is correct in his assumption that the *dhimma* regulations were intended to create a barrier between Muslims and non-Muslims, these regulations never included separate housing or neighborhoods.

Apparently, the Rabbi does not consider the Islamic concept calling for the isolation of minorities to be degrading—even if the Jews are the minority in question—but sees it as a way to maintain separate communities, free of intermarriage. ‘Amiel emphasizes that most Jews do not understand the importance of separation between the nations and their responsibility towards the status of the people of Israel and the Land of Israel. He protests the use of the term “Democracy [*sic!*]” in order to defend the mixing of the nations, and claims that those who do so do not understand the true meaning of the term (he does not, however, explain what the term means to him). He concludes his answer by responding to the inquirer’s claim that the Arabs “also have rights in this land”: “No, Brother. Rights in this land—are for us alone, and we are not to deny this clear historical truth. Rights in this land—are derived from the giving of the Creator. They have the rights of a minority—and their status is not to be blurred.”

Another question was sent through the *Moriya* website to Shmu’el Eliyahu himself by a real-estate agent who wondered whether he is allowed to provide Arabs with information about apartments for rent in Haifa.³²⁸ The inquirer states that he remembers the Rabbi’s saying regarding selling Arabs an apartment. Perhaps surprisingly, Eliyahu’s answer does not contain a single halakhic argument. Instead, he argues that it “is forbidden. Especially today when every apartment rented by an Arab from Gaza or the Galilee can be a place of hiding for murderers.” He adds that even though not every Arab is a suspect, and some are indeed “righteous of the world”, but “you are not a *Shin Bet*³²⁹ agent, and even they don’t know everything.” He concludes his answer by telling the inquirer that “the Holy One praised be He will find you a good living from another source.” Unfortunately, since *Moriya* does not list the dates in which

³²⁸ Eliyahu, Shmu’el, “Haskarat Dira l’Aravim”, *Moriya*, Question No. 2140.
<http://www.moriya.org.il/shut/indexid.asp?id=2140>.

³²⁹ *Shin Bet* – Israel’s General Security Service, in charge of internal security affairs.

the answers on the site were given, it is impossible to determine if the answer was posted before or after Eliyahu's indictment.

A more recent question on the subject of daily interaction with Palestinians, posted on the *Kipa* website, demonstrates how the questions themselves as well as the web surfers' comments to the scholarly answer can be indicators of prevalent mindsets among the National-Religious population. The question was sent after a new supermarket was opened close to one of the West Bank settlements (the *Gush* junction), and the inquirer was astonished to find out that "Arabs shop there as well!"³³⁰ The inquirer expresses his concerns that "not only do these Arabs make the supermarket dirty with their faces, they will also make a move on the Jewish girls there!" He wonders if one is allowed to shop at the supermarket or is to be boycotted, and ends his message with asking "how do we make these Gentiles keep away from our stores?"

Rabbi Baruch Efrati, who responded to the question, appeared to be appalled: "you can turn to the *Yad v'Shem* [holocaust] archive and find writings by Himmler and Goebbels' containing similar expressions to those you used to refer to the Arabs, about us." After a few more words of scolding the rabbi emphasizes that while the Talmudic rabbis enacted a few prohibitions on interaction with non-Jews in order to prevent intermarriage, such as the prohibition on enjoying wine handled by Gentiles, but "adding prohibitions out of your own heart, is forbidden. You are not God's deputy." The scholar continued his reply by asserting that

the conquering of the land is not exclusively conquering by physical strength
[...] A real conquering [of the land] refers to the application of Israeli culture
and law. Thus, when an Arab does his shopping in an Israeli supermarket, it
reinforces our entitlement to the land. He is buying from us and not the other

³³⁰ Efrati, Baruch, "Rami Levi Gush Etzyon," *Kipa*, 3 Av 5770. <http://www.kipa.co.il/ask/show/219414>

way around. We own the land. If one creates a separation—they also create recognition that there are two economic entities.

As a final remark, the rabbi requested the inquirer to repent, or show remorse, for his hatred and use of foul language.

This rabbinic answer received quite a lot of attention and quite a few surfers' comments were sent to the website. While a large portion of them praised the rabbi for his firm reply, a number of surfers who thought that the scholar's answer was peculiar—or at least incompatible with the prevalent discourse among the National-Religious sector—did not spare the rabbi their opinion. Some of them did so while ignoring Jewish laws demanding respect for a religious scholar, or even the norms of common courtesy. One commenter, for instance, asked “why can't we use such expressions to refer to Gentiles who fight the People of Israel? What is the problem here? I want to understand.” Another surfer wrote “I agree with the inquirer. One might think these Gentiles are from Holland.” One surfer wrote a lengthy reply, explaining that the rabbi's comparison of the inquirer to Nazi Germany is inappropriate, and that the attitude the inquirer displayed towards the Palestinian population cannot be classified as racist:

We would be fooling ourselves if we decide that the source of the problem is hatred towards fellow human beings—I have never encountered a Jew who hates a Gentile due to nationalist reasons, I never heard that of hatred among us towards black Africans or slant-eyed Thais [*sic!*!]*—but the explanation to this phenomenon is simple—the Arabs are hostile towards us, wish to see us fail[,] some are actual killers and amongst those that are not[,] most of them*

support their actions and they should not be blamed [...] we should not expect them to be righteous and oppose the killing of Jews, this is [their] national quality as decided by the Master of the Universe [...] Despite everything our enemies are still the Lord's creation but without extensive study to say about our enemies that 'pleasant are those created in the image [of God]' is just as superficial and childish, and of course the comparison to Himmler and Goebbels is completely inappropriate.

Another question demonstrating both the influence of responders on the web-based discourse, as well as the place of fear of sexual contacts with non-Jews in general and Palestinians in particular can be seen in another answer by Rabbi Efrati.³³¹ In this instance, a surfer approached the rabbi telling him that his ex-girlfriend is now dating a Palestinian Arab and thus "ignoring social conventions and her parents' will." The inquirer states that "it is well known that the girl has had marital relations with the Arab," who is drawing her to the practice of Islam. The rabbi's answer was short and decisive: "First of all, cry for this horrible situation, and remember that despite it there is always hope to correct it." He then suggests that the inquirer approach the *Yad l'Achim* organization which specializes in 'rescuing' women who are romantically involved with non-Jews.

The question attracted several responses from very upset responders. One of them, identified by the name Eyal, considered this case to be evidence for the failure of democracy –

Because of this difficult situation, in which the state finds it difficult to define itself as Jewish and because of it being 'democratic,' such cases are possible

³³¹ Efrati, Baruch, "Yehudiya 'Im 'Aravi," *Kipa*, 10 Sivan 5770. <http://www.kipa.co.il/ask/show/214372>

and no one raises their voice [about it]. Unfortunately, without a severe response innocent girls will keep falling into the hands of the Gentiles trying to seduce them in every way. Who would believe that such a strong assimilation is taking place within the state of Israel, and these cases are only one aspect of this epidemic. We must come together and act against this with full force.

This obviously emotional responder was not clear about what kind of “severe response” should take place, or whether it should be directed against the phenomenon of inter-religious dating, or towards the democratic system which he perceives to be the source of the problem.

Discussion

Reviewing these questions and answers reveals not only the prevalent views regarding the Israeli-Palestinian conflict, but also regarding liberal-democratic values and democracy itself. As it seems, many of the scholars and surfers—Jewish and Muslim alike—appear to reject the concepts of universal human rights, protection of minorities and equality between human beings, at least in instances involving substantial Others. This can be seen in the fact that scholars from both faiths see no reason to avoid harming civilians during wartime, in Jewish scholars emphasizing a controversial prohibition on selling lands to non-Jews in the Land of Israel; and Islamic scholars treating Jews as an arch-enemy, that requires adding a new prohibition against marrying Jewish women. Some of the concepts reviewed—especially the Jewish attitude towards intermarriage—may be perceived as an integral part of Jewish religious Law. On the other hand, the treatment of other issues, such as the permissibility of selling of property to non-Jews in the

Land of Israel, often ignores the fact that these topics are subject to halakhic dispute, and aims to incorrectly present Jewish Law as a monolith. Similarly, Yūsuf Al-Qarāḏāwī's stance towards suicide bombings in Palestine obviously ignores the fact that this matter is under debate, and even some of his own previous rulings on suicide bombings.

A particularly noteworthy theme among the Jewish websites is the treatment of democracy itself. Such is Rabbi Moshe 'Amiel's protest against those who, according to him, do not understand the true meaning of democracy and use the term in order to advocate equal rights to all the residents of Israel, Jewish or not. 'Amiel's suggestion to favor the Muslim *dhimma* model of separation between religious communities rather than the Western democratic model is quite peculiar, especially considering his harsh treatment of the Palestinian population. An even harsher view of democracy was seen in the comments by the surfer 'Eyal,' who seems to openly blame the democratic system for what he considers to be the worst ailment of Israeli society—the lack of segregation between Jews and non-Jews which may lead to romantic relationships and assimilation.

Strikingly, while some democratic values appear to be shunned by participants in the online National-Religious discourse, one value is whole-heartedly embraced—the freedom of speech. Rabbis and inquirers do not seem to have a problem using a democratic medium such as the web in order to promote non-democratic—or even anti-democratic—outlooks. In a recent column by Rabbi Shmu'el Eliyahu he went as far as proposing that websites should not be allowed to screen or censor the surfers' comments on news articles, claiming that these comments are the only way to find out what the public's opinion really is, rather than the picture

portrayed in the media.³³² This view is, of course, in line with the view advocated by some of the reviewed rabbis claiming that the majority's voice is under-represented in Israel.

Eliyahu's notion that internet-based discourse is an ideal opportunity to reveal the public's opinion, unbound by the influence of class or status, is compatible with some scholarly views regarding the nature of the internet.³³³ It is also, however, quite simplistic. The readers' ability to respond to rabbinic answers makes it tempting to view religious websites—and the internet in general—as an ideal Habermasian public sphere, encouraging an open and rational debate, free from the constraints of social status or the natural distance between a scholar and the laity. A democratic, rational-critical public sphere, however, is characterized by what Habermas referred to as an “ideal speech situation” in which the participants in a discussion all attempt to arrive at the truth, without behaving strategically.³³⁴ Nevertheless, scholars studying the internet have pointed out that this idealized view of the web has very little basis in reality, and that internet discourse is often characterized by group polarization—a tendency to read blogs and websites only if they conform to the readers' own views and beliefs. Readers of online rabbinic answers, as seen in the examples above, are no different.

When Rabbi Efrati's responsum concerning the Arab shoppers at a West Bank supermarket appeared too liberal or 'democratic' for some readers, they used their democratic right for free speech to let the rabbi know he is stepping outside the boundaries of legitimate discourse. Rabbi Efrati's answer concerning a romantic relationship between a young Jewish woman and her Arab boyfriend may have fit well within the discourse's boundaries, but a surfer

³³² Eliyahu, Shmu'el. “*Ehad sh 'yode'a: Yeshudrag Ma'amad HaTalkbackim*,” *NRG*. 20.12.2010. <http://www.nrg.co.il/online/1/ART2/191/202.html>

³³³ See Rodman, 'The Net Effect: The Public's Fear and the Public Sphere'.

³³⁴ C. R. Sunstein, 'Neither Hayek nor Habermas', *Public Choice* 134:1, 2008, p. 91.

nonetheless used the opportunity to preach against the dangers of democracy and called for severe actions against such relationships, and maybe even towards democracy itself.

A striking feature of the *Wasaṭī* website is the difference between the English and Arabic scholarly answers. While both of these editorially-independent sections of the *Wasaṭī* websites³³⁵ present hawkish views on the Israeli-Palestinian conflict, the English section contains more diverse views regarding the treatment of Jews living outside of Israel, ranging from Qaraḍawī's ban on marrying Jewish women to other scholars making a sharp distinction between Jews and Zionists or Israelis. The Arabic section, on the other hand, uses terms like "Israel," "Jews," and "Zionists" interchangeably, does not refrain from essentializing all Jews as a heretical group that distorts the will of God, and resorts to harsh rhetoric ('sons of apes and swine') that cannot be found on the English versions of the websites. This trend can be viewed in two manners. The moderate voices presented in English can be seen of a way of appearing moderate in the eyes of the West or even as performing *da'wa* (invitation to Islam), or proselytization among Westerns—a staple of *Wasaṭī* thought. In this case, Islam is presented as a moderate faith, compatible with Liberal-Democratic values such as the treatment of people of all faiths as equal, and emphasizing the tolerant nature of the religion. The harsher statements presented in Arabic are in this case meant for "internal use," and echo anti-Jewish mindsets common in the Arab world. Thus, different target audiences are receiving different messages that will help draw them towards accepting Islam or increasing their religious commitment. Another way of viewing this trend is as being compatible with the *Wasaṭī* leaning towards providing Muslims living in the West with lenient rulings that will ease their lives and keep their commitment to Islam. In this case, the

³³⁵ According to Abdel-Fadil, the Arabic section of the websites is explicitly directed towards Muslims living in Muslim majority contexts while the English section is directed towards Muslims living in minority contexts. For more on the differences between the English and Arabic sections of *Islam OnLine* and *OnIslam* see Abdel-Fadil, "Islam Online Guides Spouses Towards Marital Bliss: Arabic vs. English Counselling Perspectives on Marital Communication," 51.

views common in the Arabic answers can be seen as representing normative Islamic beliefs and practices, and the moderate views portrayed in the English ones are an exception to the rule, providing Muslims living in the West with a degree of leniency that allows them to interact with the Liberal-Democratic society surrounding them while maintaining Islamic identity.

Finally, the hawkish views with regards to the Israeli-Palestinian conflict can be regarded—in both the Jewish and Muslim cases—as a means of legitimizing liberal scholarly views on other issues, and of delegitimizing other streams of Islam and Judaism, often seen as stricter and therefore more ‘authentic.’³³⁶ In other words, the public may find the scholars’ liberal or lenient views on other issue more ‘digestible’ *because* of their hawkish views on Israel/Palestine, which are widely supported. This can be seen, on the Jewish website, in the fact that all of the responding scholars seemed to have assumed that the view prohibiting giving away parts of the Land of Israel in exchange for a peace agreement is undisputed, and ignored the fact that Rabbi Ovadia Yosef, a prominent Ultra-Orthodox scholar, ruled otherwise. Similarly, in the *fatwā* concerning whether it is permissible to call Jews ‘sons of apes and swine,’ the first scholar quoted was Islamist Sayyid Quṭb, who seemed to have ruled that while this is permissible, it is best not to do so. The fact that this quote was chosen is striking, as Quṭb’s commentary includes many severe anti-Jewish references that could have easily been found to support the general tone of the *fatwā*. Perhaps the quote was chosen in order to demonstrate that while scholars regarded as fundamentalists are sometimes too soft when it comes to the proper attitude towards Jews, *Wasaṭī* views are not only strict, they also rely on authoritative scholarship.

³³⁶ As noted before, *Wasaṭīyyah* adherents have often accused *salaṭī* scholars for being too lenient on matters to do with Israel. For an example of a quietist *Salaṭī* view on the conflict, see Meijer, “Politicising Al-Jarḥ Wa-L-Ta’dīl: Rabī‘ B. Hādī Al-Madkhalī and the Transnational Battle for Religious Authority,” 392.

Chapter VI:
Attitudes Towards Women's Participation in Public Prayer among Jewish and Muslim
Websites

Post-Colonial studies emphasize that Western-Imperial discourse often marginalizes women and homosexuals, who were considered an “other” in the eyes of the white, patriarchal, heterosexual hegemony.³³⁷ While Jews and Muslims were similarly considered “others” in Western societies, they themselves have traditionally classified women as “others”, whose role was often limited to the domestic or private sphere. As Feminist attitudes slowly made their way into Western mainstream thought, both Jewish and Muslim Feminists found that the religious legal discourse has been even slower to adapt. In the Jewish world, while the non-Orthodox movements have been increasing women's active participation in public rituals for decades now, many Orthodox scholars still views gender issues as a watershed between the Orthodoxy and the rest of the Jewish world. Muslim scholars, on their part, have only recently started to seriously address the topic of women's active participation in public rituals. This chapter will review web-based questions and answers regarding women's active participation in public ritual, and examine whether a liberal attitude on those issues automatically sets a person—be it the inquirer or the responding scholar—outside the orthodox, or mainstream, enclave.

Women's Role in Jewish Communal Prayer—A Brief Historical Review

The debate regarding women's active participation in public prayer, as well as the permissibility of them leading it, has to with several issues: women's status in halakha, the perception of ritual

³³⁷ Cavallaro, *Critical and Cultural Theory [electronic Resource]*, 122–3; Ashcroft, Griffiths, and Tiffin, *Post-Colonial Studies [electronic Resource]*, 170.

in Jewish Law, and the subject of ‘modesty’ [*ts’ni’ut*]. Generally speaking, the lives of observant Jews, male or female, are structured by halakha, and more specifically by *mitsvot* [*mitzvah*, singular]—the 613 commandments that relate to every minor details of a person’s both private and public lives, and are believed to be divinely ordained.³³⁸ It is worth noting that that traditional Jewish Law does not make a distinction between ‘ritualistic’ and other commandments, and all are perceived as divine ordinances that an observant Jew must follow.³³⁹ While the vast majority of the *mitsvot* apply equally to both women and men, there are several exceptions to this rule. Some commandments, such as circumcision and menstrual purity, are obviously gender exclusive as they specifically relate to male or female biological attributes. There are, however, commandments that apply only to one gender and not the other, which are not to do with physical differences between the sexes. The Pentateuch itself contains several *mitsvot* that apply only to men, such as the obligation to attend the three pilgrimage festivals, and by and large maintains a strict separation between male and female roles.³⁴⁰ It does not, however, set a systematic formulation that explains which commandments are obligatory to both genders and which are not.

Such a formulation does exist, however in the Mishnah. In tractate *Qiddushin*, 1:7 it is stated that “all time-bound positive commandments, men are obligated [by them] and women are exempt” (my translation). All negative *mitsvot*—such as the prohibitions of consuming non-

³³⁸ Biale, *Women and Jewish Law*, 10–11.

³³⁹ This approach, perhaps taken to an extreme, is evident in the works of Rabbi Joseph B. Soloveitchik discussing the role of ceremonies in Jewish Law. For example, in his eulogy for his uncle, Rabbi Yitzchok Zev Soloveitchik (‘The Brisker Rav’), he writes that “Halakha despises ceremonies. It is only concerned with two things: *midrash* [commentary] and deeds [performing the commandments].” According to him, the prevalent trend in American Judaism, especially amid non-Orthodox circles, in which Jewish ritual is enhanced by an addition of aesthetic-ceremonial symbols, is a distortion of Jewish Law. Such religious ceremonies, he claims, are nothing more than secular, or even idolatrous, tendencies in a religious disguise, and must be avoided at all cost. See Soloveitchik, *Divre hagut ye-ha’arakhah*, chap. “Ma Dodekh Mi–Dod” p. 93.

³⁴⁰ According to Rachel Biale, the differences between the social classification of men and women can be summarized in a commandment appearing in the book of Deuteronomy, forbidding men to wear women’s clothes and vice versa (22:5). Biale, *Women and Jewish Law*, 11.

kosher meat—apply equally to men and women; similarly, positive commandments that are not to be performed at a specific time—such as the obligation to give charity—are also to be followed regardless of gender. In its commentary on this Mishnah, the Gemara³⁴¹ questions the validity of this generalization and rules that the only time bound positive commandments from which women are exempt are dwelling in the *sukkah* during the festival of Tabernacles, the binding and taking of the *lulav* during the same festival, hearing the sound of the *shofar* during Rosh HaShannah, tying fringes (*tsitsit*) on four-cornered garments, and the wearing of *t'fillin* (phylacteries). Other time bound positive commandments—such as the eating of unleavened bread during Passover and the commandment to remember the Sabbath—are obligatory for both women and men. Moreover, women are exempt from other commandments, like the redemption of the first born son, even though they are not time bound.

Evidently, the obligation to pray three times a day is not listed among the observances from which women are exempt. Moreover, the Mishna explicitly states that “women, slaves and minors are exempt from reciting the *sh'ma*³⁴² and from *t'fillin*, and are obligated in prayer³⁴³ and in *mezuzah* and in grace after meals.” Nevertheless, the issue of women’s obligation in prayer remains controversial and heavily debated in different Jewish circles. The issue has great implications due to a halakhic concept, according to which only those obligated by a certain commandment can exempt others by performing it³⁴⁴. Thus, if a woman is not obligated with regard to prayer, she cannot exempt others by leading them in prayer, and effectively cannot serve as a leader of public prayer. According to Micha’el Rosenberg and Ethan Tucker, the

³⁴¹ Bavli, *Qiddushin*: 33b-34a

³⁴² A passage from the book of Deuteronomy, “Hear O Israel, the Lord our God, the Lord is One” (6:4) that is to be recited along with several biblical paragraphs and certain benedictions twice daily.

³⁴³ When discussing prayer, the Mishna refers specifically to the *amidah*, the prayer containing nineteen benedictions that is recited in each of the three daily services.

³⁴⁴ Mishna, *Rosh HaShannah* 3:8 “This is the principle: anyone who is not obligated in a matter cannot discharge the many of their obligation.”

assumption that men and women are equally obligated to pray was not explicitly challenged by major halakhic authorities until the seventeenth century, when Rabbi Abraham Gombiner wrote in his commentary on the *Shulḥan ʿArukh* that while Maimonides wrote that prayer is a Mosaic positive commandment, the obligation to pray a fixed service three times daily is rabbinic.³⁴⁵ Thus, Gombiner claims, most women never really adopted the practice of praying three times a day, but simply pray spontaneously every morning, and “it is possible that the sages did not extend their obligation any further.”³⁴⁶ At any rate, even if women were once thought to be obligated to take part in formal prayer, current day Orthodox law does not assume that they are, and most Orthodox women do not regularly pray three times a day, and even those that do so, seldom do this at a synagogue in the presence of a *minyan*.³⁴⁷

Another issue relating to women’s participation in public worship is the public reading of the Torah. Traditional Jewish Law states that the Torah is to be read publically every Monday, Thursday and Saturday, thus rendering it a time bound positive commandment.³⁴⁸ Accordingly, many traditional authorities have ruled that women are not obligated to listen to the weekly Torah reading, and by extension excluded them from reading Torah on behalf of the congregation.³⁴⁹ The topic of *ʿaliya la-torah*—‘going up’ to the Torah in order to read it or recite the accompanying benedictions—by women was actually mentioned specifically in the Talmud,

³⁴⁵ Magen Avraham, *Orah Hayyim*, 106:2. Quoted in a paper by Rabbis Michael Rosenberg and Ethan Tucker, “Egalitarianism, Tefillah and Halakhah.” The paper was originally published on *Mechon Hadar*’s website, but has been taken off the web.

³⁴⁶ It is not clear whether Maimonides’ distinction between Mosaic and rabbinic prayer means that he himself considered women to be exempt from formal prayer, or was it Gombiner’s interpretation.

³⁴⁷ A quorum of ten adult Jews (men, traditionally) required for a complete prayer service that includes certain central prayers and a public Torah reading. See Mishna, *Megillah*, 4:3.

For a discussion about the reasons for excluding women in a *minyan*, and the possibility of including them, see Biale, *Women and Jewish Law*, 21–22; Weiss, *Women at Prayer: A Halakhic Analysis of Women’s Prayer Groups*, 44–55.

³⁴⁸ Biale, *Women and Jewish Law*, 24–25.

³⁴⁹ It is worth noting that there is a specific Biblical commandment to hear a Torah reading (*mitsvat haqhel*), which specifically states that “men, women, children, and the stranger in your community” are to gather and listen to the Torah being read by the king during the *sukkot* holiday after a sabbatical year. This commandment is not practiced in contemporary times. See Deuteronomy 31:9-13.

where it is stated that “everyone may go up to read the Torah in the quorum of seven,³⁵⁰ even a minor or a woman, but the sages said that a woman may not read due to the dignity of the congregation.”³⁵¹

Two main issues are raised by this statement. First, it is clear that unlike many of the later authorities, the Talmud did regard women as obligated to listen to the Torah reading; otherwise they would not have been able to [theoretically] fulfil the congregation’s obligation by reading for them.³⁵² The other issue that arises is that somehow, women’s active participation in public ritual dishonours the congregation. The statement, however, does not specify what exactly is meant by the term “the dignity of the congregation” (*k’vod ha-tsibur*). It is tempting to understand the phrase as related to issues of sexual distraction, as traditional Jewish Law generally sees the mixing of the sexes as a problem. Nonetheless, whenever halakhic texts refer to issues of sexual distraction, they usually use different terminology, such as modesty (*ts’ni’ut*), ‘impure thoughts,’ or sexual transgression (*‘ervah*).³⁵³ A different, more probable explanation is that the “dignity of the congregation” relates to a situation in which there are no knowledgeable men in the congregation, and a woman is the only congregant who is able to read.³⁵⁴ In this situation, her reading violates the congregation’s dignity.

As noted, the modern non-Orthodox movements pioneered the modification of women’s status regarding their participation in public Jewish ritual. As early as 1837, classical Reform scholar Rabbi Abraham Geiger (1810-1874) wrote an article proposing that men and women are to be regarded as equal with regards to their religious duties, and only differences which stem

³⁵⁰ The number of *‘aliyot* on a Sabbath morning service.

³⁵¹ Bavli, *Megillah* 23a. My translation.

³⁵² Biale, *Women and Jewish Law*, 26–27.

³⁵³ For example, the Talmud renders a woman’s voice as *‘ervah*, meaning that it bears erotic connotations. Thus, many authorities prohibit men from listening to a woman singing in certain situations. See Bavli, *qiddushin* 70a.

³⁵⁴ Sperber, “Congregational Dignity and Human Dignity: Women and Public Torah Reading,” 4.

from biological differences between the sexes are to be maintained.³⁵⁵ In preparation for the third Reform rabbinical conference, held in 1846 in Breslau, a special commission compiled a report that recommended obligating women in time-bound positive commandments, and making them countable for a *minyan* in order to encourage women's participation in religious life. While the paper was not presented at the assembly due to lack of time, it was reported that the position was very well received.

Another breakthrough was marked in 1922, when Rabbi Mordecai M. Kaplan (1881-1983), founder of the Reconstructionist movement,³⁵⁶ called his daughter Judith (1909-1996) to read an *‘aliyah* from the Torah in honour of her Bat Mitzvah.³⁵⁷ It is worth noting that Kaplan did not justify this move in halakhic arguments, but rather did so as a statement in support of equality between the sexes. In 1955, the Conservative Movement's Committee on Jewish Law and Standards (CJLS) approved two responsa regarding *‘aliyot* for women. One of them, by Rabbi Aaron Blumenthal, used the *barayta*³⁵⁸ discussed above and other halakhic sources to demonstrate that theoretically, women are eligible to receive an *‘aliyah*, and permitted women to be called up to the Torah, in order to “extend equality of status to the Jewish woman under Jewish Law.”³⁵⁹ The second responsum, by Rabbi Sanders Tofield, was more reluctant, and permitted women to be called to the Torah only on special occasions, and only in addition to the regular seven honorees.³⁶⁰ Tofield stressed that he considers it “ill advised to change the *general* pattern of the Torah reading procedure,” and that women should “find blessing in the fact that men take the *lead* in [synagogue] rituals.”³⁶¹ In 1973, after a series of discussion, the CJLS

³⁵⁵ Meyer, *Response to Modernity: A History of the Reform Movement in Judaism*, 140.

³⁵⁶ Kaplan was still regarded as a Conservative Rabbi at the time.

³⁵⁷ Cohen, Scult, and Jospe, “Kaplan, Mordecai Menahem.”

³⁵⁸ A Talmudic passage from the Tannaitic period, which was not included in the Mishna

³⁵⁹ Blumenthal, “An Aliyah for Women.”

³⁶⁰ Tofield, “Woman's Place in the Synagogue: With Special Reference to the Aliyah.”

³⁶¹ *Ibid.*, 190.

approved a responsum allowing women to be included in a *minyan*.³⁶² The committee, however, did not unanimously agree on the halakhic arguments that would justify this decision. While some rabbis have used traditional precedents in order to argue that women are indeed obligated to pray and are therefore eligible to lead services and be counted in a *minyan*, others treated the decision as a *taqqanah*—a rabbinical enactment that may override previous laws and decisions.³⁶³

While the Orthodox world has been slower to change on these issues, several innovations are worth mentioning; the first being women’s prayer groups, that meet separately from men and conduct services on their own. While such groups have been around for centuries, during the second half of the twentieth century they introduced the innovation of including a Torah reading in their services.³⁶⁴ Often referred to as Women’s *Minyans*, Rabbi Avi Weiss—a Modern Orthodox Rabbi, known for his liberal approach to women’s issues—stresses that from a halakhic point of view, a *minyan* for the purpose of public prayer requires ten men. Thus, he claims, these prayer groups do not constitute a *minyan*, and their services are in fact regarded as private, rather than public prayer.³⁶⁵ As such, these services cannot contain certain elements known as *d’varim sh’biq’dushah* (public sanctification of God’s Name)³⁶⁶, or a ceremonial Torah reading. In order for these groups to read Torah nonetheless, certain alterations are made to the ritual, in order for

³⁶² Fine, “Women and the Minyan.”

³⁶³ A famous example of a *taqqanah* is the one enacted by Rabbi Gershom around the year 1000CE, that introduces several new prohibitions, including a prohibition on marrying more than one woman. See Elon, *Ha-Mishpat Ha-Ivri: Toldotav, Meqorotav, Eqrnotav*, 632–634. For more on the rabbinical authority to override Halakhic precedents, see *Ibid.*, 413–446.

³⁶⁴ Weiss, *Women at Prayer: A Halakhic Analysis of Women’s Prayer Groups*, 56.

³⁶⁵ A different – and fascinating – opinion is brought by Rabbi Yo’el Bin-Nun, who claims that ten women may be considered a *minyan* for the purpose of public prayer, and it is up to female scholars to decide what can be done within the context of a women’s prayer group. Rabbi Bin-Nun also holds that in today’s reality, women may be obligated by time-bound positive commandments. For an elaborate discussion of Rabbi Bin-Nun’s halakhic methods, see Gvaryahu, “‘New under the Sun’: Halakha and Orthodoxy according to Rabbi Yo’el Bin-Nun.”

³⁶⁶ These include the call for prayer (*bar’khu*), *q’dushah* (“Holy, Holy, Holy”), and the leader’s repetition of the *sh’moneh esreh* (prayer of eighteen benedictions).

it not to “count” as a halakhic public Torah reading which requires a *minyan*.³⁶⁷ While technically, these groups do not transgress any Jewish law, they have attracted scathing criticism from more traditional Orthodox circles, who often accuse them of introducing undesirable innovations, or imitating non-Jewish (or non-Orthodox) practices.³⁶⁸

A more recent innovation among Modern-Orthodox circles is the introduction of “Partnership *Minyans*.” These are prayer groups that maintain the traditional separate seating for men and women, and while men lead the parts of the service that include *d’varim sh’biq’dushah*, women lead the parts of the service that do not.³⁶⁹ Both men and women read from the Torah and receive *‘aliyot* as well as other synagogue honours. While women are not counted as part of the *minyan* in Partnership *Minyans*, it has become customary in such groups to wait for the arrival of ten men *and* ten women before starting the service. These *minyanim* mostly rely on works published by Rabbi Dr. Daniel Sperber, a prominent Orthodox rabbi and professor of Jewish law at the Bar-Ilan University. Sperber claims that the issue of *k’vod ha-tsibur*, preventing women from being called up to the Torah, can be resolved if a specific congregation decides that their dignity is not compromised by a woman’s reading of the Torah.³⁷⁰ As expected, both the Partnership Minyanim movement and Sperber’s works on the topic received a fair amount of criticism, claiming that these innovation cross the line between Orthodox and non-Orthodox Judaism. Prof. Aryeh Frimer, for instance, accused Sperber of a hasty conclusion that puts the dignity of women before the attempt to understand the will of God.³⁷¹ Congregations who allow women to receive *‘aliyot*, he claims, are “hastily undoing more than two millennia

³⁶⁷ Such alterations include, for instance, an omission of the *bar’khu* that precedes the reading, and an alteration of the benediction following the reading. See Weiss, *Women at Prayer: A Halakhic Analysis of Women’s Prayer Groups*, 77–83.

³⁶⁸ See *ibid.*, chap. 8, “Additional Issues.”

³⁶⁹ See Bar-Asher Siegal and Bar Asher Siegal, “Guide for the Halakhic Minyan.”

³⁷⁰ See Sperber, “Congregational Dignity and Human Dignity: Women and Public Torah Reading”; Sperber, “Kvod Habriyot v’Kvod HaTsibur”; Sperber, *The Path of Halacha, Women Reading the Torah: A Case of Pesika Policy*.

³⁷¹ Frimer, “Lo Zu haDerekh: A Review of Rabbi Prof. Daniel Sperber’s Darka Shel Halakha.”

of *halakhic* precedent.” A recent (2014) responsum by Rabbi Hershel Schachter, a *rosh yeshiva* at the Isaac Elchanan Theological Seminary at the Yeshiva University, NYC, harshly criticized Orthodox authorities who endorse Partnership Minyanim, claiming that while allowing *‘aliyot* for women may be technically permitted, they have become a symbol of “breaking the fences and destroying religion,” and are therefore prohibited.³⁷²

As congregations that count women as equal members of a *minyan* and allow them to participate in every form of public prayer are clearly outside the realm of Orthodoxy, this case study will focus on the issues that are trying to push the boundaries of the Orthodox enclave from within: women’s prayer groups and Partnership *Minyans*. Another issue that will be reviewed would be women delivering sermons in an Orthodox synagogue. While this issue does not really involve any specific halakhic objections, it is nevertheless not customary in many Orthodox communities.

Women’s Role in Islamic Communal Prayer—A Brief Historical Review

Similarly to Jewish law, Islamic law regards prayer as a legal obligation rather than a personal spiritual act.³⁷³ Ritual prayer, or *ṣalāh*, is one of the Five Pillars of Islam, and as such it is considered a *fard ‘ayn*³⁷⁴—an individual duty that is to be performed by each Muslim of sound mind, male or female.³⁷⁵ As in Judaism, while it is possible to pray individually, and the lack of a congregation to pray with does not annul the obligation to pray, communal prayer (*ṣalāh al-jamā‘a*) is considered to be preferred, and numerous prophetic traditions (*aḥādīth*) stress its

³⁷² Schachter’s responsum is available at: http://www.rcarabbis.org/pdf/Rabbi_Schachter_new_letter.pdf

³⁷³ Spontaneous personal supplications do exist in Islam and are known as *du‘ā’*. In this context, however, I will discuss *ṣalāh* – ritual prayer. See Böwering, “Prayer.”

³⁷⁴ See Juynboll, “Fard.”

³⁷⁵ Monnot, “Ṣalāt.”

importance.³⁷⁶ While women are generally permitted to participate in communal prayer, they are not obligated to do so and, according to the *Encyclopedia of Islam*, are even discouraged from doing so. In order for a prayer service to be regarded as communal, two adults must be present, with one of them serving as the prayer leader (*imām*) for the other. The congregation generally stands behind the *imām* and follows his liturgical gestures. Women, if present, always stand behind the men.

The role of the *imām* is highly regarded in Muslim thought.³⁷⁷ An *imām* is required not only for the fulfilment of the traditional obligation to pray communally, but also for performing the central Friday noon prayer, which is accompanied by an obligatory sermon. Islamic tradition holds that the *imām* must be educated and well versed in Islamic Law, and have a good reputation in the community. It is generally assumed that the *imām* must also be male, and in fact, the *Encyclopedia of Islam* states this assumption without any reservations.³⁷⁸ Nevertheless, classical Islamic sources are more nuanced on this issue, and some authoritative scholars have permitted women to lead obligatory ritual prayers in certain situations.

Perhaps expectedly, the Qur’ān does not mention any permission or prohibition for women to lead prayers, and in fact, mentions very little regarding the obligation to pray.³⁷⁹ The commandment to pray appears in *sūrah al-baqarah* and only mentions that the believers are to be “steadfast in prayer” (2:43, 110). The *ḥadīth* literature does offer several accounts that testify that women have led prayers in some circumstances, but none of these traditions were classified as completely reliable by the classical scholars of *ḥadīth*, and none of them appear in the

³⁷⁶ The Mālikī school of thought stresses the importance of communal prayer more than the other three. See Ibid.

³⁷⁷ Silvers and Elewa, “‘I Am One of the People’: A Survey and Analysis of Legal Arguments on Woman-Led Prayer in Islam,” 141.

³⁷⁸ Monnot, “Ṣalāt.”

³⁷⁹ Silvers and Elewa, “‘I Am One of the People’: A Survey and Analysis of Legal Arguments on Woman-Led Prayer in Islam,” 154.

authoritative collections of Al-Bukhārī or Mūsīlīm. These traditions report, for instance, that the Prophet’s wife, ‘A’isha, led women in prayer while standing in the same row as them.³⁸⁰ Perhaps the most famous *ḥadīth* on the subject, which still causes controversy amongst Islamic scholars, is the *ḥadīth* of Umm Waraqah, which appears in the compilations of Abū Dawūd, Al-Dāraqūṭnī, Al-Bahaqī, Al-Ḥākim, and other classical sources.³⁸¹ According to this tradition, “The Prophet (PBUH) used to visit [Umm Waraqah] in her home; he appointed a *mu’adhdhīn* [a person who performs the call to prayer] for her, and ordered her to lead the members of her household [*āhla dārihā*—which can also mean people in her area or neighbourhood] in *ṣalāh*—obligatory ritual prayer” (Narrated by Abū Dawūd).

With these sources in mind, the four Islamic schools of thought are in dispute on the issue of whether a woman can serve as an *imām* for a quorum of women.³⁸² The Ḥanbalī and Shafī’ī schools of thought permit women to lead women-only prayer services without any reservations. According to both these schools, it makes no difference whether the prayer is conducted at home or in a mosque. The Ḥanafī school, while permitting women to lead other women in prayer, renders it to be *makrūh*—a dislikable act.³⁸³ All three schools insist, however, that the woman leading the prayer service must not stand in front of the congregation but stand in the middle of the front row. The Mālīkī school forbids women from leading prayers altogether. None of these schools of thought categorically permit women to lead men in obligatory ritual prayer. The

³⁸⁰ Ibid., 154–155.

³⁸¹ Ibid., 155; Shakir, “The Issue of Female Leadership in Prayer,” 168–172.

³⁸² Shakir, “The Issue of Female Leadership in Prayer,” 172–173.

³⁸³ Islamic Law generally divides all human deeds or acts into five categories. *Wajib*, or *Farḍ* (‘required’), are deeds that a Muslim must perform, such as praying or fasting during *ramadān*. *Mustahabb* or *mandūb* (recommended), are acts that are commendable, and while one receives reward for performing them, there is no punishment for neglecting these duties. *Mubāh*, or *ḥalāl* (permitted), are deeds for which a person is neither rewarded nor punished; *Makrūh* (discouraged) are acts that are not punishable, but one is rewarded for avoiding them. A famous example of such a deed is divorce. The last category is *ḥarām* (prohibited), which are acts which are strictly forbidden by the Qur’ān or the *sunnah*, and one is rewarded for avoiding them and punished for performing them. See Al-‘Allāf, *Mirror of Realization*, 2:48–56.

Shafiʿī scholar Imām Al-Nawawī (1233-1277) went as far as stating that if a woman leads men in prayer, while her prayer is valid, the men’s prayer is not and the men did not fulfil their obligation to pray by responding to the woman’s prayers. There are, however, dissenting opinions among the classical scholars. A minority opinion among the Ḥanbalī school, for instance, permits women to lead mixed congregations in *tarāwīḥ*—supererogatory prayers—as long as she is standing behind the men. Unpredictably, Shafiʿī scholars Imam Al-Muzanī (d. 876) and Imam Abū Thawr (d. 857) went as far as claiming that women have the right of unrestricted prayer leadership, even in mixed congregations. This opinion is also supported by several prominent scholars from obsolete schools of thought, including Dawūd Al-Zāhirī (d. 883),³⁸⁴ renowned Qur’ānic commentator Muḥammad ibn Jarīr Al-Ṭabarī (d. 923), and Ṣūfī Master Ibn-ʿArabī (d. 1240). Still, the majority of scholars agree that women are not to lead a mixed congregation in any circumstance, let alone the central Friday noon prayer.

According to Ahmed Elewa and Laury Silvers, there were several instances in history when women led men in obligatory prayer in unexpected circumstances.³⁸⁵ In China, for instance, women-only mosques which are led by women *imāmat* are quite common. While men are typically barred from entering these mosques, there are reports of men participating in prayers taking place there, with the permission of the local *imāmah*. At any rate, while in the Jewish world women have been actively participating in mixed-gender public prayer for more than a century, the first recorded instance of Muslim women and men congregating together for a female-led mixed-gender Friday prayer and sermon only took place in the twenty-first century.

On March 18th, 2005, Dr. Amina Wadud, an American Islamic Studies professor, shocked the Muslim world by leading a public mixed-gender Friday noon prayer in New York

³⁸⁴ See Turki, “Al-Zāhiriyya.”

³⁸⁵ Silvers and Elewa, “‘I Am One of the People’: A Survey and Analysis of Legal Arguments on Woman-Led Prayer in Islam,” 143.

City.³⁸⁶ According to Meena Sharify-Funk and Munira Kassam Haddad, this was the first time in history³⁸⁷ in which the Muslim nation (*ummah*) at-large “had ever faced the possibility that a woman might *want* to lead Friday congregational prayer (let alone take the initiative to do so).”³⁸⁸ Not only did a woman lead the prayer and gave the sermon (*khutbah*), but the worshippers were organized in rows in which men and women stood completely intermixed, avoiding the legal requirement for women to stand behind the men. Moreover, some of the female worshippers did not wear a head covering, including some of the key organizers and the *mu’adhdhina*—the woman who chanted the call for prayer. Between eighty and one hundred people participated in the service, organized by the Progressive Muslim Union of North America. The prayer took place at the Synod House of the Cathedral of St. John the Divine, after three mosques and an art gallery all refused to host the event due to bomb threats. The event attracted a fair bit of media attention, and television stations broadcasted videos showing Muslim demonstrators, both male and female, who protested behind the fence surrounding the church “declaring the illegitimacy of both the act and Wadud’s Muslimness.”³⁸⁹

Expectedly, the New York event led to a plethora of responses in the Muslim world and beyond. The majority of responses were overwhelmingly negative, and scholars from across the spectrum condemned Wadud for what they perceived to be a gross violation of *sharī‘a* law.³⁹⁰ It is worth noting that at the time of the “Wadud Prayer,” marginal North-American Muslim communities, mainly Ṣūfī ones, had already been practicing women-led mixed-gender prayers

³⁸⁶ Ibid., 141; Sharify-Funk and Haddad, “Where Do Women ‘Stand’ in Islam? Negotiating Contemporary Muslim Prayer Leadership in North America,” 42.

³⁸⁷ Female-led prayers were already taking place in marginal North American communities. See later.

³⁸⁸ Sharify-Funk and Haddad, “Where Do Women ‘Stand’ in Islam? Negotiating Contemporary Muslim Prayer Leadership in North America,” 42.

³⁸⁹ Ibid.

³⁹⁰ Silvers and Elewa, “‘I Am One of the People’: A Survey and Analysis of Legal Arguments on Woman-Led Prayer in Islam,” 142–144.

for some time.³⁹¹ However, as these communities were significantly outside the Islamic mainstream, and the vast majority of Muslims have never heard of them, traditionalist scholars have generally ignored these prayers. The publicity of the New York event, however, made it impossible to ignore.

Many of the scholars who responded to the event, and to the idea of unrestricted female prayer leadership, did so while acknowledging the rich and varied traditions on the subject.³⁹² The most thorough analysis of legalistic arguments was offered by Imām Zaid Shakīr in an essay titled “The Issue of Female Prayer Leadership.”³⁹³ While admitting that a purely technical reading of the scholarly literature on the subject can, at least in some cases, provide the basis for allowing female leadership, Shakīr’s personal stance on the matter is unambiguous. His essay begins by providing a definition of the highly contentious Arabic word *fitnah*:

Imām al-Jurjāni mentions that *fitna* is “that which clarifies the state of a person, be it good or evil.” It is also defined as “strife breaking out among various peoples.” In both these meanings, the controversy surrounding the “historic” female-led Friday (*Jum‘ah*) prayer is [*fitnah*] for many Muslims in this country [USA–OS] [...] This is so when we see some people’s very faith shaken. This is so when we see spiteful accusations hurled by some Muslims at others. This is so when we see non-Muslims possessed of ill-intent seeking to exploit this controversy to create confusion among the general public and

³⁹¹ Ibid., 144–145.

³⁹² Ibid., 145–147.

³⁹³ Shakir, “The Issue of Female Leadership in Prayer.”

the Muslims as to what Islam is and who are its authoritative voices.³⁹⁴

Acknowledging that Muslim communities are often guilty of “neglect, oppression and in some instances, degradation of [Muslim] women,” and that these issues need to be addressed, Shakīr summarizes his response by stating that it is clear that female-led prayers in general, and Friday congregational prayers specifically, are forbidden according to Sunni Islamic Law.³⁹⁵ He adds that “Islam has never advocated a strict liberationist philosophy,” and that “[Muslims’] fulfillment does not lie in our liberation, rather it lies in the conquest of our soul and its base desires.” In short, Shakīr treats the idea that liberation and freedom as central to human fulfillment as foreign to Islam, and essentially a Western import.

According to Silvers and Elewa, the social or cultural antagonism to female-led prayer is much stronger, and much more easily justified, than the legal objections.³⁹⁶ Many contemporary Muslims, they claim, fear that “the Islamic conception of justice, which should flow from divine principles, is becoming diluted and even diverted by secular concerns and criteria.” Silvers and Elewa label this fear “westoxification.” This line of thinking caused both scholars and laity to consider the Wadud controversy to be influenced, or even planned by Western—either liberal or neo-conservative—forces who are attempting to secularize Islam and uproot its core values. Thus, keeping traditional prayer leadership roles intact would serve as a very powerful deterrent “against secularly defined female authority seeping in under cover of pietistic attempts at inclusivity.”³⁹⁷

³⁹⁴ Ibid., 167.

³⁹⁵ Ibid., 180–181.

³⁹⁶ Silvers and Elewa, “‘I Am One of the People’: A Survey and Analysis of Legal Arguments on Woman-Led Prayer in Islam,” 147–148.

³⁹⁷ Ibid., 148.

Another motive for negative responses to female prayer leadership is modesty.³⁹⁸ Much as in the Jewish world, modesty is considered a tenet of Islamic ethics, and interaction between the sexes is closely monitored in order to protect society from sexual wrongdoing. Women, in many Islamic communities, are seen as responsible for protecting men from sexual transgressions and are expected to guard their modesty. With this in mind, scholars such as Soad Sāleḥ, Dean of the School of Islamic studies for Girls at Al-Azhar University, claimed that the main reason behind the traditional ban on female prayer leadership is the notion that the woman's body, even a modest one, evokes sexual thoughts and may lead to more substantial sexual transgressions such as adultery and fornication.

Attitude Towards Women's Public Prayer in Jewish Websites

Rabbi Yehudah Halevi Amichai, a member of a rabbinical group called "The Institute for Torah and the Land of Israel,"³⁹⁹ was asked on the *Kipa* website regarding the status of women's *minyans* that include a Torah reading.⁴⁰⁰ The inquirer wanted to know whether there is a halakhic problem in such a prayer group, and whether women who pray in such a *minyan* "are to be regarded as Reform." The rabbi answered that while he does not know the definition of a Reform Jew, he does know that such prayer groups were not customary in Jewish communities in the last few centuries, and it is forbidden to modify Jewish customs. While Amichai does not cite any sources for this claim, he essentially relies on the notion that a prevailing custom is effectively

³⁹⁸ Ibid., 148–149.

³⁹⁹ See: <http://www.toraland.org.il/about-the-institute-for-torah-and-the-land-of-israel>

⁴⁰⁰ Rabbanei Mekhon HaTorah v'ha'Arets, "Minyan Nashim", *Kipa*, 7 Heshvan, 5773.
<http://www.kipa.co.il/ask/show/278786-%D7%9E%D7%A0%D7%99%D7%99%D7%9F-%D7%A0%D7%A9%D7%99%D7%9D> Retrieved January 2014.

treated as a law.⁴⁰¹ Nevertheless, the Rabbi does not even provide evidence to his claim that women's *minyanim* are a new phenomenon.⁴⁰²

Another question, posted on the same website, was slightly more general, and in this case the inquirer simply asked whether “it is possible to have a women's *minyan*.”⁴⁰³ Rabbi ‘Uzi’el Eliyahu replied that the answer depends on what the inquirer is referring to: “It is *permitted* for a group of girls or women to pray the entire service together and sing freely. It is *prohibited* for a group of girls or women to recite *d’varim sh’biq’dushah*, or take out a Torah scroll and come up to the Torah.” Under these conditions, he adds, it is actually preferable for women to pray by themselves, as in this case they can sing in their services without any limitations. While the Rabbi does not state this explicitly, he implies that when women are praying in the women's section of a synagogue, they are not allowed to sing as their singing may be regarded as a sexual distraction (*qol b’isha ‘ervah*) to the men praying in the men's section.⁴⁰⁴ A similar answer was given by Rabbi Yuval Cherlow on the *Moreshet* website, who emphasized the lack of halakhic validity of a Torah reading without a *minyan* of men.⁴⁰⁵

⁴⁰¹ For an elaborate discussion on the legal validity of customs, see Elon, *Ha-Mishpat Ha-‘Ivri: Toldotav, Meqorotav, ‘Eqronotav*, chap. 21–22.

⁴⁰² According to Abraham Grossman, women's-only synagogues that included a female prayer leader (but not a Torah reading) have been common in medieval Germany. See *Pious and Rebellious: Jewish Women in Medieval Europe*, 180–185.

⁴⁰³ ‘Uzi’el Eliyahu, “Minyan Nashim”, *Kipa*, 5 Av, 5764. <http://www.kipa.co.il/ask/show/45725-%D7%9E%D7%A0%D7%99%D7%99%D7%9F-%D7%A0%D7%A9%D7%99%D7%9D>. Retrieved February 2014.

⁴⁰⁴ This opinion is disputed by Rabbi Eliezer Melamed, a National-*Haredi* Rabbi, who was asked directly whether or not women are allowed to sing during services. According to Melamed, women are indeed permitted to sing in synagogue, as they pray in the women's section and cannot be seen from the men's section, and since it is impossible to discern which woman is singing in what voice. He does add, however, that women are not to sing in a particularly loud voice that will stand out among other voices.

Melamed, Eliezer, “*shirat nashim bizman ha-t’filah*,” *Yeshiva*, 17 Sivan, 5762. <http://www.yeshiva.org.il/ask/?id=572> Retrieved February 2014.

⁴⁰⁵ Cherlow, Yuval, “*Irgun minyan l’banot l’bat mitzvah kollel ‘aliyah la-torah – ha’im yesh hashash l’mar’it ‘ayin o p’gi’ah ba-hafraidah ha-mequbelet?*” *Kipa*, 5 Kislev, 5769. <http://shut.moreshet.co.il/shut2.asp?id=109792> Retrieved February 2014.

Rabbi Hayim Rettig, an educator from the *Binot* yeshiva in Ra'anana, was posed a question on the *Kipa* website by a woman named Adi, who wanted to know if there is a fundamental halakhic problem with women reading Torah in front of other women.⁴⁰⁶ Rettig's answered that "of course there is a problem," as Torah reading should only be conducted in the presence of a *minyan*, and a group of women cannot qualify as a *minyan*. The Rabbi, however, did not limit his response to the realm of Jewish law, but added his philosophical view on the topic:

In my opinion, women's worship can be fulfilled in other ways [...] Ritual prayer, reading Torah three times a week, [and] time-bound positive commandments, are intended for men who are in need of this framework, as their spiritual power is lower. Women do not need those, [as] they can connect even without *t'fillin*, they can reach the Lord even without *tsitsit*. You [women] should go higher than where men are, [by] spontaneously praying from your hearts.

This type of apologetic reasoning, ascribing to women a higher spiritual status in which rituals are superfluous, is not uncommon in Orthodox discourse. For example, Rabbi Samson Raphael Hirsch (1808-1888)—a prominent German Rabbi and intellectual, considered to be one of modern Orthodoxy's most influential scholars—famously promoted such views. In his commentary on the Torah, Hirsch writes that "women's exemption from time-bound positive commandments cannot be due to their inferiority [...] The Torah did not obligate women in such commandments

⁴⁰⁶ Rettig, Hayim, "*qri'ah ba-torah l'nashim*," *Kipa*, 3 Heshvan, 5768. <http://www.kipa.co.il/ask/show/133176-%D7%A7%D7%A8%D7%99%D7%90%D7%94-%D7%91%D7%AA%D7%95%D7%A8%D7%94-%D7%9C%D7%A0%D7%A9%D7%99%D7%9D>

because they do not need them.”⁴⁰⁷ Such commandments, he claims, are essentially symbolic acts representing truths and values. While men require frequent ritualistic acts in order to be reminded of their purpose in the world, Hirsch claims, women possess a “natural piousness and enthusiasm to fulfill their role” and have no need for such rituals.

Another answer focusing on the supposed ontological difference between men and women was given on the National-*Haredi Yeshiva* website by Rabbi Yaakov Ariel, the Chief Rabbi of Ramat Gan, a prominent Religious-Zionist halakhic authority.⁴⁰⁸ Ariel was faced with a question by a woman who started by emphasizing that she belongs to a “regular [*sic!*] (Orthodox) synagogue.” The woman reported that her synagogue president wishes for his daughter to read from Torah in honour of her Bat-Mitzvah, and wondered if there is an actual prohibition for women to do so in front of other women, and what the source for the prohibition is. In addition, she asked, “how should one treat the president in this situation?” Ariel replied that “the very idea of a Bat-Mitzvah imitating a Bar-Mitzvah is a mistake.” As men and women are not identical, he writes, each of them should commemorate the event in a way that “suits their personality instead of imitating the opposite sex.” This, he claims, is essentially the idea behind the biblical prohibition on men wearing women’s clothes and vice versa.⁴⁰⁹ Ariel adds that there is no room for women reading from the Torah, even without any men present, as one cannot recite the benediction over the Torah without a *minyan*, “so why bother with this artificial spectacle?”

⁴⁰⁷ R’ S.R. Hirsch’s Commentary on the Torah. Leviticus 23:43.

⁴⁰⁸ Ariel, Yaakov, “*Isha sh’olah la-torah*,” *Yeshiva*, 30 Tishrei 5769. <http://www.yeshiva.org.il/ask/?id=40932> Retrieved February 2014.

⁴⁰⁹ Deuteronomy 22:5. The prohibition was later extended by the Rabbis to include additional prohibitions such as on men shaving their underarms or pubic hair or on women wearing armour. See *Shulḥan ‘Arukh*, Y.D. 182.

Another answer, focusing mostly on setting the boundaries of the enclave rather than solely on legalistic reasoning, was given by Rabbi Baruch Efrati on the *Moreshet* website.⁴¹⁰ In this case, the inquirer informed the Rabbi that “there is a *minyan* in Chicago in which women come up to the Torah” and that “while visiting Jerusalem with my family I saw a *minyan* like it [there]!” The inquirer wished to know “the Torah’s opinion” on the matter, as well as the proper way to protest it “if it is forbidden (and I think it is...)” The inquirer did not mention if he is referring to a women’s prayer group or an egalitarian synagogue. Efrati provided the following lengthy answer:

Obviously, there is no room for such a thing amongst faithful Jews, and this is how all of the great halakhic authorities of our generation decided, in order to avoid the prohibition of reciting blessing in vain⁴¹¹ as there is no *minyan* present, and mainly due to ‘mild to moderate Western winds’ that waft from such deeds. Such deeds often come together with proposals to abolish the seven clean days [that are observed as days of abstinence after a woman finished menstruating. OS] and [other] far-reaching halakhic leniencies. I am not generalizing, but there is a definite trend here that must not be blurred, even if it is unpleasant and even though it is inaccurate [*sic!*].

Efrati adds that while theoretically a woman may come up to the Torah in a quorum of men, this was never practiced, and this may only be changed by the great halakhists of the generation

⁴¹⁰ Efrati, Baruch, “*Nashim qor’ot ba-Torah*,” *Moreshet*, 12 Shvat, 5771.
<http://shut.moreshet.co.il/shut2.asp?id=136739>. Retrieved February 2014.

⁴¹¹ Jewish law prohibits reciting a benediction, or a blessing, when there is no obligation to do so. According to the Talmud, doing so constitutes as pronouncing the name of God in vain – a Mosaic prohibition. See Bavli, *B’rakhot*, 34a; Exodus 20:6

(*g'dolei Yisra'el*). Protest, he claims, will not be beneficial here, but rather “reinforcing the powers that light our nation with holiness, and education towards empowering women using methods from the house of study.” According to Efrati, religious feminine identity can be expressed within the current Orthodox system, “without breaking any fences.” The “cosmetics of rituals,” he adds, “are an attempt to solve the problem of spiritual emptiness by changing the world of ceremonies.” While admitting that there is a need for changes in the religious world, he stresses that these will happen from within the system and in appropriate times. Efrati ends his response by recognizing that there are in fact a minority of Rabbis who permit women to read from the Torah, but “like any minority opinion, it is to be respected but not followed.”

Another answer by Rabbi Yuval Cherlow, while stressing the perception that *‘aliyot* for women are a watershed distinguishing between Orthodox Judaism and other denominations, also reluctantly permitted a women-only Torah reading.⁴¹² Cherlow was approached by an inquirer whose daughter was about to turn twelve, and his wife was planning on the daughter reading Torah in honour of the occasion in a women’s *minyan*. The inquirer, who admitted that the matter is new and unfamiliar to him, wanted to know whether or not it is permissible. In his answer, the Rabbi related to the issue of *k’vod ha-tsibur*, and admitted that in contemporary times it is difficult to see the prohibition as valid and binding. Nonetheless, Cherlow stresses, the prohibition on women receiving *‘aliyot* has become more important over the years, and today it serves as a dividing line between “halakhically authentic Judaism and other alternatives.” Cherlow once again stressed the notion that ten women do not qualify as a *minyan*, and that there is no real halakhic validity to such a reading. He did suggest a way of having such a reading in a

⁴¹² Cherlow, Yuval, “*‘Aliyah la-Torah l’bat mitzvah*,” *Moreshet*, 7 Sivan 5772. <http://shut.moreshet.co.il/shut2.asp?id=152488>. Retrieved February 2014.

way in which the readers do not commit any transgression,⁴¹³ but made sure to emphasize that he does not see any real value in such a reading. “I have to admit,” he writes, “that I am not enthusiastic, and am even resistant regarding this issue [...] This is not a halakhic Torah reading,” but rather a performance which has no real meaning or significance. He ends his response by stressing that “if you choose to take this path, it is permitted according to Jewish Law, but as noted, I find it difficult to consider it as a desirable path.”

The only online answer that I have found, which relates positively to idea of a women’s *minyan* was posted by Rabbi Amit Kula, the Rabbi of Kibbutz Alumim, on the *Moreshet* website.⁴¹⁴ Kula was asked regarding the permissibility of women dancing with a Torah scroll during the *Simḥat Torah* festival,⁴¹⁵ as well as women reading Torah in the context of a women-only *minyan*. The Rabbi began his answer by stating that there are different opinions on the matter, and that different communities may receive different rabbinical answers, so he is simply stating his own opinion. According to him, there is no halakhic problem with either of the cases, but as these are innovative customs they are to be examined in terms of profit vs. loss. “There are times in which opening the channel for women to approach the Torah scrolls causes conflicts in the congregation, disrespect for the Torah, and a lack of piety,” he writes, “and in such cases it is to be avoided.” On the other hand, he adds, “if it opens the possibility for women to approach holiness, rejoice with the Torah, and renew their covenant with the Master of the Universe—how can we try to prevent it?” Kula adds that in his Kibbutz women read from the Torah every year during *Simḥat Torah*, “respectfully, and according to the teachings of halakha,” and this

⁴¹³ In order for the Torah blessings not to be recited in vain, the Rabbi suggested that the women who are receiving *‘aliyot* will not recite the benedictions as part of the morning service, and therefore, when they are going up to the Torah they will be reciting the blessing for the first time that day.

⁴¹⁴ Kula, Amit, “*Qri’ah ba-Torah u-minyan nashim*,” *Moreshet*. 25 Tishrei, 5768. <http://shut.moreshet.co.il/shut2.asp?id=94699>. Retrieved February 2014.

⁴¹⁵ It is customary for the entire congregation to receive an *Aliyah* during this festival, but this honour was – of course – traditionally reserved for men only. See Rothkoff and Sabar, “*Simḥat Torah*.”

contributes to a feeling of spiritual uplifting among the congregation and better attendance at services.

With regards to the issue of Partnership Minyanim, the situation is similar. A vast majority of the answers reviewed consider it to be a negative phenomenon, which is located well beyond the boundaries of normative Orthodoxy. In fact, I have only encountered one online responsum that permits praying in a Partnership Minyan. The answer, which was reviewed in a previous chapter, was by Rabbi Ronen Lovitz and included only one short sentence—“in my opinion, it is permissible.” Lovitz, a member of the left-leaning Orthodox rabbinical association *Beit Hillel*, and whose wife, Rivkah Lovitz, is a known feminist activist and one of the first women in Israel to serve as a rabbinic advocate, presents a view that is clearly an anomaly among the Rabbis answering web-based questions. As noted before, the answer, short and hesitant as it is, received a fair amount of scathing criticism from surfers who were quick to ‘tag’ it under categories such as “Reform,” “infidels,” and “heretics.” As will be seen, the answer is essentially an exception that proves the rule, which places Partnership Minyans well beyond the boundaries of the enclave.

Rabbi Ratson ⁴¹⁶Arusi, the Chief Rabbi of Qiryat Ono, was asked on the *Moreshet* website regarding his thoughts about such communities, and simply answered that one should “absolutely not” take any part in them.⁴¹⁶ ⁴¹⁶Arusi did not provide any explanations or citations. Similarly, Rabbi David Zuckerman was asked on the *Kipa* website whether or not it is permissible to pray in such a synagogue.⁴¹⁷ Zuckerman admitted that he never heard of such congregations, but had to research the issue. According to his findings, he asserts, “I would not

⁴¹⁶ ⁴¹⁶Arusi, Ratson, “‘Aliya nashim la-Torah,” *Moreshet*, 4 Heshvan, 5770. <http://shut.moreshet.co.il/shut2.asp?id=120674>. Retrieved February 2014.

⁴¹⁷ Zuckerman, David, “Shira Hadasha,” *Kipa*, 23 Elul, 5767. <http://www.kipa.co.il/ask/show/128867-%D7%A9%D7%99%D7%A8%D7%94-%D7%97%D7%93%D7%A9%D7%94>. Retrieved February 2014.

call such a place a synagogue [...] so one would not even consider comparing a place in which the objective is fulfilling the word of the Lord as it was given, to a place in which the objective is—apparently—fulfilling the desires of men (and women).” Any worshiper of the Lord, Zuckerman concludes, must stay away from such places.

Rabbi Yaakov Ariel was posed a lengthy question on the *Yeshiva* website regarding Partnership Minyans.⁴¹⁸ After explaining at length what the innovations are in such communities, the inquirer stated that he finds the fact that there is such a *minyan* in his hometown (Modi’in) to be very painful, and asked if the rabbi could answer “at length” about his opinion on the matter. The inquirer wished to know whether the attitude to such a community should be any different “if the changes are not motivated by the women’s desire for equality on behalf of the women, but by their aspiration to come closer to the Almighty,” and whether or not a man who prays in such a community is fit to serve as a prayer leader in another Orthodox synagogue. While Ariel ignored most of the inquirer’s questions, he answered that “women’s involvement in prayer or Torah reading is not halakhic”. There is no possibility to come closer to the Lord in non-halakhic ways. Women can pray by themselves in a private place and sing to themselves, but without a Torah reading, etc. and not in a place of public worship.” He concluded his answer, for which he did not provide any sources or support, by simply stating that “one is not to pray in a place where the service is conducted in a non-halakhic manner.”

Rabbi Yuval Cherlow was approached on the *Moreshet* website by an inquirer who wanted to know the Rabbi’s opinion on “the growing phenomenon” of Partnership Minyans.⁴¹⁹ Cherlow replied that he doubts that this is indeed a growing phenomenon, and that “even though

⁴¹⁸ Ariel, Yaakov, “*Beit Knesset Shira Hadasha*,” *Yeshiva*, 23 Iyar, 5766. <http://www.yeshiva.org.il/ask/?id=19299>. Retrieved February 2014.

⁴¹⁹ Cherlow, Yuval, “*‘Aliyah la-torah shel nashim, ha-rav Tsvi Yehuda v’negi’a b’nashim*,” *Moreshet*, 20 Adar, 5772. <http://shut.moreshet.co.il/shut2.asp?id=150061>. Retrieved February 2014.

the original reasons for not granting women *‘aliyot* are no longer relevant—it [withholding *‘aliyot* from women—O.S.] became a basic tenet of the synagogue.” The source for this view, Cherlow adds, is Rabbi Joseph B. Soloveitchik’s view on the *mehitsa*—the barrier between men and women in an Orthodox synagogue—that he claimed was necessary not because it prevents men from looking at women, but because it is an essential component of the synagogue.⁴²⁰

Cherlow’s views, influenced by J.B. Soloveitchik,⁴²¹ concerning the fixed attributes of the synagogue, are also apparent in the discourse concerning women teaching classes or giving sermons in Orthodox synagogues. Cherlow was approached by an inquirer who stated that he belongs to a congregation in which most of the members, both men and women, are university graduates, “who were exposed to lecturers of the opposite sex.”⁴²² The inquirer was wondering regarding the possibility of allowing women from the congregation, “who have a vast knowledge in Torah,” to deliver a lesson traditionally conducted after services. He also wished to know what would be the proper location for this lesson. Cherlow started his reply by stating unambiguously that “women have a part in Torah. They too teach Torah, and are permitted to preach in front of the congregation. If someone has a problem with lustful feelings that arise in him when a woman is preaching, he should not listen to her preaching.” However, Cherlow adds, women are not to preach within the synagogue in front of worshipers, as the synagogue sermon in the men’s section is a part of public prayer, “even if it is given after the service.” Therefore, it is proper for the sermon or class to be given in a dedicated room, or from the women's section. Cherlow

⁴²⁰ “The requirement for separation is Halachically so elementary and axiomatic, historically so typical of the Synagogue in contradistinction to the Church since antiquity, and philosophically so expressive of our religious experience, that whoever dares to question this institution either is uninformed or consciously distorts religious realities.” J. D. Soloveitchik, “An Open Letter” in Litvin, *The Sanctity of the Synagogue: The Case for Mechitzah, Separation between Men and Women in the Synagogue, Based on Jewish Law, History and Philosophy, from Sources Old and New*, 140.

⁴²¹ Cherlow studied at the *Har Etzyon* Yeshiva, headed by Rabbi Dr. Aharon Lichtenstein – Soloveitchik’s prominent student and son-in-law.

⁴²² Cherlow, Yuval, “*Divrei Torah nashim*,” *Moreshet*, 17 Kislev, 5768, <http://shut.moreshet.co.il/shut2.asp?id=96536>. Retrieved February 2014.

concluded his responsum by stating that while modesty is a trait of utmost importance, “it does not mean compartmentalizing or silencing women, but rather modest conduct by both genders.”

A series of questions was posed to Rabbi Yaakov Ariel on the *Yeshiva* website, dealing with the possibility of women preaching in a synagogue. The first question was posed by an inquirer who stated that the synagogue in which he prays allows women to preach from the *bimah* (pulpit), and “sometimes the woman does not wear a head covering and/or wears sleeveless garments [...] not to mention the length of her skirt or her low-cut shirt.”⁴²³ The inquirer wished to know if it is even permissible to pray in such a *minyan*, and if it is permissible to leave the sanctuary during the woman’s sermon, “as this will probably hurt the woman as well as other people and cause a desecration of the Divine Name.” Ariel answered that “a separation between men and women must be maintained throughout the service. There is no room for a women’s sermon in the middle of the service even if they are modestly dressed, and all the more so when they are not. This is sacrilege, find yourself another synagogue.” Ariel’s answer received two follow up questions. One question dealt with the possibility of women giving a lesson in a synagogue, but not during the service.⁴²⁴ Here, Ariel hints at the notion that those advocating women’s involvement in religious life are prone to other reforms in Jewish Law:

If the lesson is not a continuation of the service it is permissible, but only if the women are properly dressed. Also, a *d’var Torah* (‘word of Torah’), as the name implies, refers to the Torah given to Moses at Sinai and its

⁴²³ Ariel, Yaakov, “*D’var Torah ‘al yedei nashim bi’zman ha-t’fillah*,” *Yeshiva*, 21 Kislev, 5774. <http://www.yeshiva.org.il/ask/?id=84492>. Retrieved February 2014.

⁴²⁴ Ariel, Yaakov, “*D’var Torah shel nashim l’ahar ha-t’fillah*,” *Yeshiva*, 25 Kislev, 5774. <http://www.yeshiva.org.il/ask/?id=84549>. Retrieved February 2014.

continuation according to the unbroken tradition transmitted from generation to generation (this condition, of course, also applies to men!).

Ariel ended his reply by stating that he himself witnessed Prof. Nehama Leibowitz⁴²⁵ refusing to give a lesson within a sanctuary. He repeated similar arguments in his reply to a second follow up question.⁴²⁶

Attitude Towards Women's Public Prayer in Islamic Websites

While the Jewish websites reviewed did not show any significant difference between the attitude towards women-only prayer groups and mixed congregations that allow women to lead parts of the service, it seems that the situation in the Muslim websites is slightly different. As noted, there are authoritative—though not undisputed—traditional Islamic sources allowing women to lead other women in prayer, and it seems that the online discourse recognizes them. Thus, a question was posed on the *salafī Islam Q&A* website, in which the inquirer wondered if women can pray as a congregation (*jamā'ah*) with a woman serving as the *imām*.⁴²⁷ The website's editorial board did not pose the question to one of their in-house scholars, but instead fully quoted a *fatwā* from a book called “*wilāyah al-mar'ah fī al-fiqh al-islāmī*” (*Women's Leadership in Islamic Jurisprudence*)⁴²⁸. The first part of the quoted scholarly opinion does not deal directly with the permissibility of an *imāmah* in congregational prayer, but with the permissibility of women reciting the calls for prayer (*adhān* and *iqāmah*). According to the quoted scholars, Ḥāfiẓ Muḥammad Anwar and Ghānim Sadlān Ṣāliḥ, women can recite the calls for prayer for

⁴²⁵ Nehama Leibowitz (1905-1997) was a renowned Biblical scholar.

⁴²⁶ Ariel, Yaakov, “*D'var Torah shel nashim l'ahar ha-t'fillah*,” *Yeshiva*, 25 Kislev, 5774. <http://www.yeshiva.org.il/ask/?id=84556>. Retrieved February 2014.

⁴²⁷ “Women Leading Prayer,” *Islam Q&A*. Fatwa No. 14247. <http://islamqa.info/ar/14247>

⁴²⁸ Anwar, Ḥāfiẓ Muḥammad and Ṣāliḥ, Ghānim Sadlān, *Wilāyat Al-Mar'ah Fī Al-Fiqh Al-Islāmī*, 176.

themselves or other women, but not for men or a mixed congregation. Ḥāfiẓ and Ghānim add that in a case when a woman chooses to do so, she is to keep her voice low but at the same time make sure that the congregation is able to hear her. Similarly, the scholars state that is forbidden for women to lead men or a mixed congregation in prayer, but that it is *mustaḥabb* (recommended, or desirable, but not obligatory) for women to lead other women in prayer. In such a case, they add, the woman is to stand in the same line as the other women and not stand in front of them. The scholars did not state any difference of opinion between the schools of thought, or stated any sources for their ruling.

A similar question was posed on the *Wasaṭī Islam OnLine* website, in which the inquirer—identified as ‘Metin’—asked whether women can lead one another in congregational prayer.⁴²⁹ The editorial board answered that “the majority of Muslim scholars hold the opinion that a woman can lead other women in congregational prayer,” and cited a *fatwā* by Sheikh ‘Atiyyah Saqr, the former head of the *fatawa* committee at the Egyptian Al-Azhar University. According to Saqr, congregational prayer is of utmost importance, and according to a *ḥadīth*—for which he does not cite any sources—congregational prayer is between twenty five and twenty seven times more important than the prayer of an individual. While the Malikī School, he states, forbids women altogether from leading other women in congregational prayer, the majority of scholars do allow that, if there are no men who can lead them. Saqr then mentions the Umm Waraqah *ḥadīth*, but states that the Prophet “allowed her to lead other women in her household.” As noted before, the *ḥadīth* did not actually mention if Umm Waraqah’s household included women only, and in fact many scholars claim that she led men as well. Saqr adds that some jurists maintain

⁴²⁹ Saqr, ‘Atiyyah, “A Woman leading other Women in Prayer,” *OnIslam*, 17/8/2003, <http://www.onislam.net/english/ask-the-scholar/acts-of-worship/prayer/congregational-prayer/174734.html>. Retrieved March 2014. The question was reposted on the *OnIslam* website site after *Islam OnLine* was closed.

that when a woman leads other women in prayer she is to stand in the same line as they do, while others hold that there is no evidence preventing her to stand in front of the other women.

A different opinion was presented by Sheikhs Ilyas Patel and Faraz Rabbani on the *Qibla* website.⁴³⁰ This traditionally oriented website allow surfers to approach scholars from different schools of thought, and in this case an inquirer asked specifically about why is it considered *makrūh* (discouraged) for women to lead other women in prayer in the *Ḥanafī* school. The scholars begin their answer by citing two seemingly contradicting *aḥādīth*. According to the first one, the Prophet said that “there is no good in a congregation of women,”⁴³¹ and according to the second one, ‘Ā’isha, the Prophet’s wife, led women in prayer and stood in between them.⁴³² The two scholars then cite Imām Zafār Al-Sunān, who explain the contradiction by stating that the first tradition “explains the general offensiveness of women’s own congregation,” while the second one indicates that at times they may be permitted, “and to teach the women the proper method of prayer” in such cases. The scholars add that without a suitable reason, “a congregation of women would be prohibitively disliked,” as this goes against the *Ḥanafī* legislations, according to which the preferred means of prayer for a woman is to pray alone, or behind a congregation of men.⁴³³ The Sheikhs end their answer by stating that “It is also important to understand that the nature of legal responsibility differs between men and women. That which is best for men to do is not necessarily best for women, and vice versa.”

⁴³⁰ Patel, Ilyas and Rabbani, Faraz, “Women's Congregational Prayer in the Hanafi School,” *Qibla*, 2008, Question ID 1305. http://spa.qibla.com/issue_view.asp?HD=1&ID=1305&CATE=4. Retrieved March 2014.

⁴³¹ Reported by Al-Ṭabarānī

⁴³² Reported by ‘Abd Al-Razzāq Al-Ṣan‘ānī

⁴³³ In another online answer given on the same website, Rabbani claims that it is generally disliked for women to pray at a mosque, “because it is reversing the nature of their religious responsibility,” and women are to pray in a mosque only if they are there for another reason such as broadening their religious knowledge. See Rabbani, Faraz, “Women and Congregational Prayer,” *Qibla*, 2008, Question ID 4420. http://spa.qibla.com/issue_view.asp?HD=1&ID=4420&CATE=112. Retrieved March 2014.

The topic of women leading mixed congregations came up in the online Islamic world as Amina Wadud announced her intentions to lead a mixed Friday noon prayer in March 2005. On March 16th, two days before the ‘Wadud-prayer’ took place, a question on the issue was posed to Sheikh Yusuf Al-Qaraḍāwī on the *Islam OnLine* website.⁴³⁴ The question, attributed to “Abu-Ahmad” reviewed Wadud’s intentions to lead a mixed-gender Friday prayer, in which women will sit alongside men and be confined to the back rows. The inquirer states that Wadud has conducted research on the topic and claimed that there is nothing in the Qur’ān or the *sunnah* that prohibits women from leading both males and females in prayer. He asked for Al-Qaraḍāwī’s view on the topic as “he is known for his moderate opinions.” Al-Qaraḍāwī began his elaborate and lengthy answer by stating that “Throughout Muslim history it has never been heard of a woman leading the Friday Prayer or delivering the Friday sermon, even during the era when a woman, Shagarat Ad-Durr, was ruling the Muslims in Egypt during the Mamluk period.” Unlike Christian prayer, he continues, which only involves uttering supplications, Islamic prayer “involves different movements of the body,” and also requires utmost concentration. Thus, “it does not benefit a woman, whose structure of physique naturally arouses instincts in men, to lead men in Prayer and stand in front of them,” as this creates a sexual distraction that is undesirable during worship. Al-Qaraḍāwī quotes a *ḥadīth* (without citing its source) that claims that women’s best rows during worship are the last ones and vice versa, while for men the opposite is true.

⁴³⁴ Al-Qaraḍāwī, Yūsuf, “Woman Acting as Imam in Prayer,” *On Islam*, 16/3/2005, <http://www.onislam.net/english/ask-the-scholar/acts-of-worship/prayer/congregational-prayer/170796.html>. Retrieved March 2014. The question was reposted on the *OnIslam* website site after *Islam OnLine* was closed.

Al-Qaraḍāwī then turns to a balanced legalistic discussion of the topic.⁴³⁵ While asserting that there is not a single Muslim jurist who permitted women to lead the Friday prayer or to preach in front of a mixed congregation, he also admits that there is no text that specifically forbids it. The only *ḥadīth* that specifically states that “a woman may not lead a man in prayer,” he claims, is extremely weak and cannot be taken as evidence for forbidding these actions. Moreover, he adds, the Umm Waraqah *ḥadīth*—which he also considers to be weak—contradicts the former one and introduces a specific case in which a woman did lead a mixed congregation. Al-Qaraḍāwī adds that scholars are disputed as to whether Umm Waraqah led only the women of her household or men as well, but adds that even if men were present, they were members of her family and in such a case there would no fear of illicit sexual thoughts.

Al-Qaraḍāwī cites an interpretation of the Umm Waraqah *ḥadīth* by the prominent medieval Ḥanbalī scholar, Imām Ibn Qudāmah (1147-1223), who claims that the very reason for reporting the case in the *ḥadīth* literature is that the case of a woman being instructed to lead men in prayer is unusual. Unexpectedly, Al-Qaraḍāwī disagrees with Ibn Qudāmah, and states that he believes that “any woman well-versed in the Qur’an like Umm Waraqah may lead her family members, including men, in both obligatory and supererogatory Prayers,” and mentions that Ḥanbalī scholars have permitted women to lead men in supererogatory prayers. He then cites several *aḥādīth* that report women leading other women in prayer while standing between them, and claims that such an act is the proper Islamic action for Muslim women who are interested in engaging more deeply with ritual: “Would that our sisters who are so enthusiastic about women’s rights revive this act of Sunnah—a woman leading other women in Prayer—instead of innovating this rejected novelty: a woman leading men in Prayer.”

⁴³⁵ Ibid

Concluding his lengthy answer, Al-Qaraḍāwī abandons the legalistic reasoning, and turns to lamenting the fact that Muslim women are even interested in leading men in prayer:

A last word to conclude this issue: What is the necessity of making all this fuss? Is that what the Muslim woman lacks—to lead men in Friday Prayer? Was that one of the Muslim women’s demands at any time? We see other religions specifying many matters for men and their women do not protest. So why do our women do so, exaggerating in their demands and arousing what will cause dissension among Muslims at such time when they need their unity the most to face afflictions, hardships, and major plots that aim at their complete destruction?⁴³⁶

He ends the reply by asking Muslims in the United States to reject the attempts to challenge Sharīʿa on this topic, and to “stand as one in front of these trials and conspiracies woven around them.”

A similar question was posed on the same website to Aḥmad Kutty, a scholar at the Islamic Institute of Toronto, Ontario.⁴³⁷ In this case, the inquirer asked for the scholar’s opinion regarding “the idea that imams do not necessarily need to be male,” as the Qur’ān and the *ḥadīth* are silent on the topic. Like Al-Qaraḍāwī, Kutty replied at length, not limiting his answer to legalistic reasoning but offering personal insight as well. Before addressing the question itself, Kutty stated that two concepts must be emphasized. First, he claims, “The question of *imamah* (leading) in Prayer has nothing to do with the issue of gender equity or equality

⁴³⁶ Ibid.

⁴³⁷ Kutty, Ahmad, “Woman-led Prayers,” *OnIslam.net*, 15/6/2005, <http://www.onislam.net/english/ask-the-scholar/acts-of-worship/prayer/congregational-prayer/170904.html>. Retrieved March 2014.

between the rights of men and women.” Unlike a Catholic priest, he states, the *imām* does not serve as an intermediary between the worshiper and God, and thus “to consider *imamah* as a privilege that confers some special spiritual prerogatives on a person is enigmatic to Islam.” Second, he admits, “women need to claim their God-given rights in Muslim society,” and become active participants in all aspects of Islamic life. However, using public prayer to claim those rights, he claims, “is at best a poor choice, if not outright aberration.”

Similarly to some of the rabbinical responsa reviewed, Kutty begins his legalistic reasoning for his answer by discussing the nature of Islamic prayer, and its unchanging nature.⁴³⁸ Prayer, he claims “belongs to those rather limited areas of Islamic Sharia’h that have been immutably fixed,” and cannot be modified under any circumstance. Thus, the laws of prayer as laid down by the Prophet do not provide any evidence that women can lead a mixed congregation of men and women who are not related to each other. Women are indeed able to lead men who are related to them in prayer, according to Kutty, as outlined by the case of Umm Waraqah, as well as women-only congregations. If there was any room for allowing women to lead men in prayer, he claims, it would have certainly been done by prominent women who were very close to the Prophet, such as ‘Ā’isha. Kutty adds that not only that there is no legal justification for a woman to lead the Friday prayer, but also that women are not even obligated to attend it, as “such a duty could be in conflict with their vital duties of caring and nurturing the future generations—a function which is far more ennobled and dignified in Islam than anything else.” This type of apologetic reasoning is, as noted, quite common in Orthodox Jewish discourse⁴³⁹, where women’s exemption from time-bound positive commandments is often explain by the idea that performing these commandments may interfere with women’s duty as

⁴³⁸ Ibid

⁴³⁹ See Biale, *Women and Jewish Law*, 13.

housewives and mothers. He concludes—once again, similarly to some Jewish scholars—by stating that gender equality cannot be achieved by a struggle between men and women but by both genders understanding their “complementary, not overlapping roles.” The whole issue of female prayer leadership, says Kutty, “seems to be driven by a secular paradigm” that emphasizes competition rather than unity.

As noted before, none of the Muslim websites included in this study allow visitors to the site to comment on the scholarly answer, and thus they limit the democratic aspect of the medium. Nevertheless, surfers do have an opportunity to present their views on a topic and to relate to answers given on the website while presenting their question to a scholar. An example of this is a question sent by a person identified as “Riz” who sent a question to the “Ask about Islam” section of the *OnIslam* website.⁴⁴⁰ Riz’s inquiry begins with him complementing the website’s scholars, and wondering why the scholarly responses on the website regarding the permissibility of female prayer leadership were all negative. “Quite frankly,” he states, “there is nothing, absolutely nothing in the Quran or the Hadith to indicate that women are prohibited from leading men in prayer, except the fact that women are told to stand in the back rows.” The inquirer mentions that there are many mosques in the Chinese Hui region that are led by women, and it is “rather extreme to believe those men have wasted their time praying, and God will not accept their prayer simply because a woman is leading them.” Riz mentioned that many of the answers on the site rely on weak *ahādīth* and many of them dismiss the Umm Waraqah *ḥadīth* as a unique example that cannot be applied in contemporary times. However, he adds, “if the Prophet Muhammad really was against women from becoming imams [*sic!*], he would have very clearly announced that.” Riz ends his inquiry by stating that “leadership in Islam is based on

⁴⁴⁰ Khalife, Maan, “May Women Lead Mixed Congregational Prayers?,” *OnIslam.net*, 13/11/2012. <http://www.onislam.net/english/ask-about-islam/faith-and-worship/aspects-of-worship/459788-earth-rotating-or-sun-rotating.html>. Retrieved March 2014.

merit and qualifications, rather than gender race or class.” How can it be then, he asks, that contemporary scholars prohibit women from leading prayer while relying only on weak traditions?

The answer, given by a Maan Khalife, who is only identified as a member of the website’s editorial staff, relied on several arguments that were not used in any of the other scholarly answers reviewed.⁴⁴¹ First Khalife emphasizes that the mosques in China that Riz was referring to are female-only, and that women are indeed only allowed to lead other women in prayer. As noted before, there are reports, however, that men are indeed praying in these mosques, with the *imāmah*’s permission.⁴⁴² While the inquirer noted that he does recognize that there are reliable traditions as to why women are to stand in the back row, Khalife cited a *ḥadīth* according to which the Prophet always asked the women of his household to stand behind the men while praying (Muslim 004:1390). This, the responder explain, is due to reasons of modesty, as while performing the prescribed bodily movements during worship (*ruqʿu* and *sujud*), “the behind is portrayed causing the shape of the buttocks to be more visible from behind the cloth. [*sic!*]”

Khalife then turns to the issue of female leadership in general, rather than prayer leadership.⁴⁴³ As the word *imām*, he says, refers to a community leader as well as a prayer leader, the person leading the prayers should ideally be a community leader as well. With this in mind, he cites a *ḥadīth* collected by Bukhārī (88:219), according to which “when the Prophet heard the news that the people of the Persia had made the daughter of Khosrau their Queen (ruler), he said, ‘Never will succeed such a nation as makes a woman their ruler.’” It is unclear as to why Khalife

⁴⁴¹ Ibid.

⁴⁴² Silvers and Elewa, “‘I Am One of the People’: A Survey and Analysis of Legal Arguments on Woman-Led Prayer in Islam,” 143.

⁴⁴³ Khalife, “May Women Lead Mixed Congregational Prayers?”

cited this tradition, or how it supports his argument, as he immediately adds that it “does not mean she may not be a community leader” but merely the leader of the entire Islamic nation. Like Kutty, Khalife adds that prayers are to be done exactly in the way prescribed by the Prophet, and that congregations in which men and women intermingle and are led by a woman are a recent innovation. He adds that since women are not permitted to pray while menstruating (based on Bukhārī 6:318), “if women were Imams, we would need two women to lead the prayers.” Khalife concludes his answer by stating that while he is certain that the Chinese mosques are only for women, if men were praying there under a woman’s leadership they are certainly unaware of the prohibition. In this case, he claims, their prayers are still accepted as “Allah rewards us according to our intention. Here, we must distinguish between not knowing and knowing but yet ignoring.”

Discussion

Several themes come to mind when examining these scholarly questions and answers. First, while in other topics it was clear that attempts to break the boundaries of the enclave were made mostly from the scholars’ initiative, in the case of women and public ritual the picture is very different. Here, while the issue of women leading other women in prayer is seen as borderline, with some scholars—mainly in the Muslim world—treating it as a desirable approach to increasing women’s participation in religious life, all of the scholarly answers reviewed made it clear that women leading mixed congregations is a taboo that cannot be broken without stepping outside the enclave. Remarkably, this trend was seen all across the religious spectrum, with no noticeable difference between Jews or Muslims or between the right-wing scholars of *Islam Q&A* and *Yeshiva*, and more liberal scholars who show sympathy towards feminism, such as

Yuval Cherlow and Ahmad Kutty. The inquirers, on their part, are not that unanimous in their views. Even though some inquirers were clearly against the phenomenon, such as the Jewish surfer who not only assumed that it was forbidden but also wished to find out what is the proper way to protest such happenings,⁴⁴⁴ others were a lot more positive.

Some surfers appear to be specifically turning to scholars known for their moderate views, in hope of them being lenient on the topic, such as the reader asking Rabbi Cherlow about his daughter celebrating her Bat-Mitzvah with a women-only Torah reading,⁴⁴⁵ and the surfer who approached Sheikh Al-Qaraḍāwī regarding the Wadud prayer.⁴⁴⁶ The responding scholars however, while providing the inquirers with well-researched answers, also affirmed the boundaries of the orthodoxy—Jewish or Muslim—and made it clear that ultimately the answer is no. The most noteworthy example of an inquirer pushing the enclave’s boundaries is of course Riz, the Muslim surfer who sent a lengthy inquiry in which he outlined his own legal arguments in support of women’s prayer leadership.⁴⁴⁷ This, in fact, is the only Islamic inquiry reviewed in this study that demonstrated a real challenge to scholarly authorities, and an attempt to engage in an actual rational-critical debate with the responding scholars. Unfortunately, the response that Riz received did not really meet his expectations. Riz was answered by an anonymous scholar, not nearly of the same caliber as Al-Qaraḍāwī or even Kutty, who provided him with a disorganized answer that contained weak legalistic arguments and sexist language.

Another noticeable theme in the answers reviewed is the striking similarity between the answers given by Religious-Zionist rabbis—especially from the more liberal end of the spectrum—and the *Wasaṭī* scholars. Scholars from both these faiths emphasized the unchanging nature of

⁴⁴⁴ Efrati “*Nashim qor’ot ba-Torah*”

⁴⁴⁵ Cherlow, “*‘Aliyah la-Torah l’bat mitzvah*,”

⁴⁴⁶ Al-Qaraḍāwī, “Woman Acting as Imam in Prayer,”

⁴⁴⁷ Khalife, “May Women Lead Mixed Congregational Prayers?”

religious ritual, even in light of social changes that appear to be demanding their alteration. Both charging the proponents of ritual change with inauthenticity, claiming that they are influenced by a secular mindset rather than by a sincere religious sentiment. While the Jewish responding scholars often stressed that women's place in the synagogue has been a distinguishing marker between authentic (Orthodox) form of Judaism and the various liberal movements, this argument was generally absent from the Muslim responses as the Muslim world has no real tradition of heterodox movements characterized by a more dominant role for women in ritual. The response given by Maan Khalife, however, did mention that congregations in which men and women stand side by side are a recent innovation, lacking traditional sources.

It is also worth noting that both Rabbis and Muftīs resorted to what is often referred to in feminist circles, especially around the Blogosphere, as “mansplaining”;⁴⁴⁸ i.e. essentialistic descriptions of the woman's natural tendencies, and explanations regarding the “proper” manners for women to express their religious ideals. Similarly to the scholars reviewed in the previous chapter, commenting on strategic issues relating to the Israeli-Palestinian conflict, these Rabbis and Muftīs make use of their intellectual status acquired in the field of religious law to promote their views on issues that are outside their field of expertise.

⁴⁴⁸ See Robinson, “The Art of Mansplaining.”

Chapter VII:

Summary and Conclusions

Utilizing a discourse analysis, case study approach, this dissertation focused on Jewish and Islamic websites that allow their visitors to pose questions related to religious law to well-known rabbis and *muftīs*, receive an answer on the website itself—rather than by private email—and, in some cases, comment on the scholars’ answers. The Q&A reviewed focused on the attitudes towards various ‘others’: members of other faiths, members of a nation in conflict with their own, and those challenging traditional gender roles in the field of public prayer. Several research questions were posed: are online Questions and Answers a direct continuation of the responsa/*fatāwā* genre or are the websites creating a new form of religious discourse? Are online Q&A marking the boundaries of a religious enclave, and who is setting these boundaries—the inquirers or the scholars? How are the various ‘others’ treated? Is the medium actually creating a democratic, rational-critical discourse, resembling Habermas’ ideal public sphere? And does the medium’s public nature enable the religious scholars to assume the role of public intellectuals?

Online Q&A as Compared to Previous Discourse

A notion apparent in some Internet studies is that there is a clear dividing rift between offline and online communications.⁴⁴⁹ The first research question examined in the study was whether or not this divide exists between online and offline *t’shuvot* or *fatāwa*. As neither halakha nor *sharī’a* set clear guidelines regarding what exactly is required of a text to qualify as a *t’shuvah* or a *fatwā*, it is difficult to determine whether web-based Q&A are a new type of religious discourse. That being said, the examination of scholarly answers from both traditions demonstrate that the

⁴⁴⁹ Jensen, “New Media, Old Methods—Internet Methodologies and the Online/Offline Divide,” 47.

Muslim Q&A websites are much closer to traditional written *fatāwā* than the Jewish ones are close to classic responsa. Regardless of the topics discussed, the answers on the Muslim websites tended to be much longer, and relied more on authoritative traditional sources, than their Jewish counterparts. Many of the Jewish responding scholars did not hesitate to admit that they are stating their own personal opinion, without providing the inquirers with a solid reasoning or scholarly reference for their answer.⁴⁵⁰ The wide variation in the styles of the Jewish scholarly answers—ranging from one-liners that contain no references to any traditional sources, to longer, well researched essays—situates them as an intermediate genre, somewhere between a written answer and a face-to face conversation. This is an attribute common in many forms of online communication, referred to as TextTalk.^{451 452}

As noted, the Muslim scholarly answers are much more in line with the traditional *fatāwā* genre. The answers tended to be longer, much more thoroughly researched, and even if not all of the scholars' arguments were backed by sources (and not all of those that did were actually supported by the sources), all of the answers reviewed contained at least some references to the Qur'ān or *ḥadīth*. As there is no *shar'ī* legal requirement to back a *fatwā* with sources, it appears that the scholars responding on the Muslim sites are much more mindful of the notion that relying on traditional sources extends their legitimacy.

Perhaps the biggest difference between online Q&A and traditional responsa/*fatawa* is the inquirers' ability to respond to the scholarly answers and engage in a more open, more egalitarian discourse. The quality of these discussions and the language used, however, leaves a lot to be desired.

⁴⁵⁰ See, for example, Lovitz, "Shira Ḥadasha"

⁴⁵¹ Suler, "Text Talk: Psychological Dynamics of Online Synchronous Conversations in Text-Driven Chat Environments."

⁴⁵² For an elaborate discussion of the way electronically mediated communications impact language in terms of register, informality, and brevity, see Baron, "Assessing the Internet's Impact on Language."

Q&A Websites as an Ideal Public Sphere

The study challenged the popular conception, according to which internet based discussions are inherently democratic, as the web restores the dialogical nature of the public sphere, and allows people to engage—at least theoretically—in rational-critical debates.⁴⁵³ While Q&A websites possess the theoretical potential to become a vehicle for rational-critical debates, in which anyone can contribute their opinions regardless of gender, socio-economic status, level of education, religious acumen, or location, this potential is only partially fulfilled.

One of the barriers identified by G.B. Rodman preventing the internet from becoming a true democracy is the fact that websites' operators have the ability to moderate discussions, delete comments at their discretion, or limit participation altogether.⁴⁵⁴ This can be seen very clearly in the Muslim websites reviewed, that simply do not allow users to comment on the scholarly answers. Nonetheless, as was seen in several cases, users have found ways other than directly commenting on a *fatwā* to voice their opinions regarding the scholarly opinions presented. Thus, when a visitor to the *OnIslam* website wished to protest the website's scholars' opinion on women leading mixed congregations in prayer, he simply sent a question in which he presented his own legal arguments.⁴⁵⁵ Similarly, when a reader wished to protest *Islam OnLine* being too liberal for his taste, he found a way to do this outside that particular website, by replying to a question sent on *Yahoo! Answers*.⁴⁵⁶

Habermas was often criticized for the fact that while he praised the eighteenth century bourgeois public sphere for allowing open access to anyone, in reality it was restricted to a well-

⁴⁵³ Rodman, "The Net Effect: The Public's Fear and the Public Sphere," 28; Margetts, "The Internet and Democracy," 423.

⁴⁵⁴ Rodman, "The Net Effect: The Public's Fear and the Public Sphere," 29–31.

⁴⁵⁵ Khalife, "May Women Lead Mixed Congregational Prayers?"

⁴⁵⁶ "Whatever Happened to the fatwa part of islamonline.net...", *Yahoo! Answers*.

to-do, educated male elite.⁴⁵⁷ When examining religious Q&A websites, the picture is a little more complex. On one hand, the inquirers can come from all walks of life, regardless of age, sex, level of education, or status. In evidence to this, the study witnessed many questions and comments by women, some of them appear to have been written by teenagers,⁴⁵⁸ and while one needs to be somewhat computer-literate in order to participate in these discussions,⁴⁵⁹ there is certainly no minimal level of religious or textual literacy required to do so. Nonetheless, the fact of the matter is that the responding scholars, Jewish or Muslim, were all male. This is especially conspicuous when reviewing the answers regarding women's participation in public religious life. When ultimately these are men who are seen as the ultimate authority deciding on what women can or cannot do, it is difficult to relate to the medium as an example of an ideal public sphere, in which everyone's opinion is equally valid. In addition, just as Joan Landes claimed that the very topics discussed in the eighteenth century public sphere alienated women from these discussions,⁴⁶⁰ one can argue that the fact that many Muslim and Jewish-Orthodox women did not receive the same level of religious education as their male counterparts, places them at a disadvantage when trying to participate in a religious-legal discussion. Notably, the most thorough and well-researched question regarding women's participation in Islamic public prayer, was sent by a man.⁴⁶¹

Boundaries of the Enclave and the Rejection of the West

⁴⁵⁷ Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," 63; Thompson, "The Theory of the Public Sphere," 181.

⁴⁵⁸ See, for instance Navon, Haim, "She'elah Hatsufah Meo'd – Lama LaRav Ein Zaqan?," in which the linguistic register and style of the comments may indicate that they were written by teenagers.

⁴⁵⁹ Rodman, "The Net Effect: The Public's Fear and the Public Sphere," 29.

⁴⁶⁰ Thompson, "The Theory of the Public Sphere," 181; See also Landes, "Further Thoughts on the Public/private Distinction."

⁴⁶¹ Khalife, "May Women Lead Mixed Congregational Prayers?"

According to Habermas, a true democratic rational-critical public sphere is distinguished by an “ideal speech situation.”⁴⁶² In this situation, all participants in a conversation strive to reach the truth without behaving strategically or letting their biases interfere. Studies have indicated that internet-based discourse seldom follows Habermas’ principle, and instead are characterized by people only reading and joining in discussions that reinforce their pre-existing opinions. The examination of the Q&A websites did not challenge these studies. Many questions are phrased in such a way that it is very clear that the inquirers are expecting an answer that would justify their existing beliefs. When an inquirer asks the rabbi how is it possible that he does not have a beard, he is not expecting a well-researched explanation, but simply trying to inform the rabbi that his views set him outside what he regards as the boundaries of the religious enclave.⁴⁶³ Similarly, when an inquirer asks whether it is permissible to call Jews “apes and swine,” one can assume that they are simply seeking approval for this behaviour.⁴⁶⁴

Generally, it appears that many of the scholars and surfers—Jewish or Muslim—downright reject ideas such as equality, human rights, and the sanctity of human lives, treating them as an undesirable Western influence. This trend is apparent in questions and answer dealing with both interfaith relations and women’s place in religious life. Interestingly, this rejection of Western values is very apparent in National-Religious and *Wasaṭī* circles, despite the common perception of these streams as “moderate,” who—at least officially and on the surface—accept the rules of the democratic game. While the responding scholars and inquirers alike are very happy to take advantage of their democratic right to free speech, they often do so in order to promote anti-democratic views. Thus, Rabbi Moshe ṢAmiel protests the use of the term “democracy” in order

⁴⁶² Sunstein, “Neither Hayek nor Habermas,” 91.

⁴⁶³ Navon, Ḥaim, “*She’elah Ḥatsufah Meo’d – Lama LaRav Ein Zagan?*,”

⁴⁶⁴ A Group of Muftīs, “*hal yajwwaza an naṭlaqa ‘alā al-yahūd annahum abnā’ al-qirdah wa-al-khanāzīr?*”

to justify perceptions of equality,⁴⁶⁵ a visitor to the *Kipa* websites blames democracy for what he considers to be the ailments of Israeli society,⁴⁶⁶ and Sheikh Yusūf Al-Qaraḏāwī encourages Muslims to give up the foreign concept of “loving this worldly life and hating death,”⁴⁶⁷ as this is the only way they can achieve victory over the Jews in Palestine.

As noted, this rejection of the West and its values extends even to issues of intrafaith relations, and specifically to the issue of women’s place in public religious life. Rabbi Baruch Efrati, for instance, accuses women who want to increase their participation in public prayer of being subject to “light to moderate Western winds,”⁴⁶⁸ and Sheikh Aḥmad Kutty explains that the concept of equality in prayer leadership has nothing to do with gender equality but rather is a secular conspiracy that is designed to harm Islamic unity.⁴⁶⁹ Strikingly, this topic actually reveals a rift between the leadership—Jewish or Islamic—and the laity, where the scholars label any attempt to change women’s role in religion as a breaking of the boundaries of legitimate religious discourse, and where the laity, on their part, are attempting to expand the boundaries of the enclave. This can be seen when a scholar approaches Sheikh Qaraḏāwī asking him for his views on women leading mixed congregations, and stressing that he chose to ask him because “he is known for his moderate opinions.”⁴⁷⁰ If the inquirer indeed expected Qaraḏāwī to be lenient on the subject, he quickly finds that his moderate views on other issues do not extend to this topic. Similarly, an inquirer approaches Rabbi Yuval Cherlow, also known for his moderate views on certain topics, asking him about the possibility of women preaching in an Orthodox synagogue, while hinting that he finds it to be appropriate in this specific context.⁴⁷¹ Much like in

⁴⁶⁵ ṢAmiel, Moshe, “*Ha-Im Limkor Bayit l’Aravi*”

⁴⁶⁶ Efrati, Baruch, “*Yehudiya ‘Im ‘Aravi*”

⁴⁶⁷ Al-Qaraḏāwī, Yūsuf, “Is the Muslims-Jews Conflict Creedal or Political?”

⁴⁶⁸ Efrati, Baruch, “*Nashim qor’ot ba-Torah*”

⁴⁶⁹ Kutty, Ahmad, “Woman-led Prayers”

⁴⁷⁰ Al-Qaraḏāwī, Yūsuf, “Woman Acting as Imam in Prayer”

⁴⁷¹ Cherlow, Yuval, “*Divrei Torah nashim*,”

Qaraḏāwī's case, Cherlow refuses to condone any practice that he perceives to be an alteration in the framework of the synagogue.

The dispute between the scholars and the laity may very well extend beyond the boundaries of web-based discussions, as it appears that worshipers are not waiting for the scholars' approval. While Rabbi Cherlow states his skepticism with regards to whether the Partnership Minyan phenomenon is indeed expanding,⁴⁷² and Rabbi David Zuckerman insists that he has never heard of such synagogues,⁴⁷³ the *Kolech* (Religious Women's Forum) website lists twelve such communities in Israel, with the first one established in 2003.⁴⁷⁴ The Jewish Orthodox Feminist Alliance (JOFA) similarly lists twenty three Partnership Minyans in North America. Likewise, even though none of the responding scholars reviewed have permitted such practice, progressive mosques—which allow women to lead a mixed congregation in prayer and deliver the Friday afternoon *khutbah*—are now starting to gain momentum in the USA and Canada.⁴⁷⁵ Although the number of such mosques is still very small, this phenomenon only began less than ten years ago, after Amina Wadud's 2005 prayer service.

The Religious Scholar as a Public Intellectual

Richard Posner defines public intellectuals as those writing on political and cultural matters for a non-specialized audience,⁴⁷⁶ who do not shy away from controversial topics, are preoccupied with the direction society is taking, are prone to extreme positions, and are not overly concerned with the accuracy of their reports.⁴⁷⁷ Yehuda Shenhav claims that public intellectuals are those

⁴⁷² Cherlow, Yuval, “‘Aliyah la-torah shel nashim, ha-rav Tsvi Yehuda v'negi'a b'nashim,”

⁴⁷³ Cherlow, Yuval, “‘Aliyah la-torah shel nashim, ha-rav Tsvi Yehuda v'negi'a b'nashim,”

⁴⁷⁴ See <http://www.kolech.com/kehilot.asp>

⁴⁷⁵ See Hina Tai, “Progressive Mosques Gain Ground in America.”

⁴⁷⁶ Posner, *Public Intellectuals: A Study of Decline: With a New Preface and Epilogue*, 25.

⁴⁷⁷ *Ibid.*, 35.

who use their status as specialists in one field in order to present themselves as authorities in other fields.⁴⁷⁸ The web-based scholarly answers reviewed in this study clearly situate the responding rabbis and muftis as public intellectuals according to both definitions. As noted before, both halakha and *shari'ah* are legal systems encompassing all walks of life, dealing with judicial issues as well as ritual ones. These blurred boundaries between the sacred and the mundane make it very difficult to determine what topics are outside a scholar's field of expertise. Moreover, it is possible that Jewish or Muslim scholars writing about the direction society is taking, or offering strategic advice with regards to the Israeli-Palestinian conflict, do not feel that they are actually stepping outside their field of specialty.

As noted, many of the scholarly answers are not necessarily based on any real traditional sources, and simply rely on the responding scholar's personal opinion. Thus, when Rabbi Shmuel Eliyahu writes that a Philippine caretaker "does not belong" in a Passover Seder, without really explaining why, is he answering as an expert in religious law, or simply giving his own personal opinion on intermingling with other nations?⁴⁷⁹ Similarly, when Dr. Rajib Abū Maliḥ is asked about the proper way to handle the Israeli-Palestinian conflict, and he replies that the proper way to handle a conflict is to first understand with the nature of the enemy, this time backing his answer with Qur'ānic quotes about the nature of the Jews, is he offering religious or strategic advice? The line is more clearly crossed when Raphael, the *yeshiva* student answering on the *kippa* website, states that the concept of land-for-peace is by definition wrong and that all security experts agree that a fierce military operation is the only way to combat terrorism.⁴⁸⁰ This

⁴⁷⁸ Shenhav, "B'gidat HaIntellectualim [The Betrayal of the Intellectuals]."

⁴⁷⁹ Eliyahu, Shmuel, "'Ovedet Zarah b'Leil HaSeder"

⁴⁸⁰ Havreim Maqshivim, "Musar u'Milḥama, 'Mavet la'Aravim'? Maḥteret Yehudit"

appears to be a textbook example of Posner's claim that public intellectuals "are often careless with facts and rash in predictions."⁴⁸¹

The same tendency can also be seen when scholars are quick to explain the motives behind women's desires to increase their participation in public ritual. Sheikh Qaraḏāwī, for instance, states that women who wish to lead a mixed congregation in prayer are "exaggerating in their demands and arousing what will cause dissension among Muslims at such time when they need their unity the most to face afflictions."⁴⁸² Here, Qaraḏāwī does not only treat this aspiration as a violation of Islamic law, but also ascribes to these women the desire to spread conflict amongst the *ummah*. Essentially, this is once again an example of a scholar stepping outside the realm of religious law, shifting to a social protest against Western influence. The same trend is visible in Rabbi Efrati's answer claiming that religious feminist trends go hand in hand with attempts at challenging the core of Jewish law, and are—as noted—influenced by "mild to moderate Western winds."⁴⁸³

Online Religious Legal Discourse—Past, Present and Future

Several years ago, when asked by one of my committee members about my focus on websites, I answered that internet discourse is essentially "a time and a place." It is also probably the fastest changing location one can think of. In the eight years since starting research on this topic towards my MA degree, the online religious legal discourse has constantly evolved. Websites have constantly opened, closed, or changed their form. Some of the websites included in this study: *Moriya* and *Understanding Islam*, for instance, do not exist anymore; *Islam OnLine* changed so drastically that it was no longer relevant to the study; and *OnIslam* was started in

⁴⁸¹ Posner, *Public Intellectuals: A Study of Decline: With a New Preface and Epilogue*, 35.

⁴⁸² Al-Qaraḏāwī, Yūsuf, "Woman Acting as Imam in Prayer"

⁴⁸³ Efrati, Baruch, "*Nashim qor'ot ba-Torah*"

order to fill the gap left by the *Islam OnLine* crisis. The topics discussed on the websites changed as well. When the study began, for example, egalitarian mosques and Partnership Minyans were no more than a fringe phenomenon; today they are heavily debated, online and offline. At the onset of this study, specialized websites dedicated to religious legal discussions were the most natural, popular location for having such discussions online, but in the years that passed since then, online discourse in general, and online religious discourse in particular, were swept away by a new type of interface: social media.

This study intentionally focused on “mainstream” websites, well regarded in their respective communities, and featuring renowned scholars who answered the inquirers’ question. The reason for this was that one of the main goals of the study was to locate the boundaries of the Orthodox and Sunni enclaves, and essentially identify what qualifies a member of the faith as an “other.” A new study, aiming to find the topics discussed on the fringes of religious societies, topics that are currently beyond the boundaries of the enclave but will be challenging the mainstream in years to come, would have to focus on religious discourse in social media, and specifically on Facebook. Originally created as a means of keeping in touch with friends and family, the website has become (amongst its many other uses) a very effective vehicle for serious religious legal discussions, be it in dedicated discussion groups, pages dedicated to specific scholars or communities, or even on personal “timelines.” These discussions often more resemble a Habermasian public sphere than any of the websites reviewed in this study. Moreover, the various types of discussion groups, and the fact that even fringe religious groups are given the space to argue their narrative, may account for a different model of democracy than the republican public sphere – the pluralist model.⁴⁸⁴ This model stresses the “many” rather than the “few” and is “based on interest groups as the building block of society.” The fact that smaller

⁴⁸⁴ Margetts, “The Internet and Democracy,” 423.

interest groups can form very easily using social media, inevitably contributes to a more nuanced, less centralized discourse.

In his article “Internet Methodologies and the Online/Offline Divide,” Klaus B. Jensen suggested that Internet Studies should focus less on what users do with existing media, and instead focus on “how they may be seeking to change them.”⁴⁸⁵ Social media, I would argue, provides an excellent opportunity for disenfranchised groups and individuals to do “something different” and break the barriers of mainstream media. While mainstream webpages such as *OnIslam* will probably not even consider featuring Amina Wadud as one of their responding scholars, currently 1,309 Facebook users from all over the world are following Wadud’s postings.⁴⁸⁶ This is in addition to those connected to her profile as “friends.” 2,638 users are members of a Facebook group called “Amina Wadud Supporters,” in which Wadud often shares her teachings.⁴⁸⁷ Scholars such Rabbi Hayim Navon often share teachings and ideas on their personal Facebook page (4068 followers), which they open for discussion.⁴⁸⁸ While everyone is able to moderate their own pages, decide who can participate in these discussions, and even delete comments at their discretion, these posts nonetheless often produce complex, rational-critical discussions. One particularly noteworthy Facebook group is “*Ani Feministit Datiya V’Gam Li Ein Hush Humor*” [“I’m a Religious Feminist, and have no Sense of Humour either”] which is a place in which women and men from different Jewish affiliations discuss issues of Jewish feminism.⁴⁸⁹ While the group is moderated, and its moderators are very quick to delete comments that they deem sexist, the group’s participants take pride in the fact that it does not

⁴⁸⁵ Jensen, “New Media, Old Methods—Internet Methodologies and the Online/Offline Divide,” 55.

⁴⁸⁶ See <https://www.facebook.com/dramina.wadud>. (April 2014)

⁴⁸⁷ <https://www.facebook.com/groups/50243792068/>

⁴⁸⁸ <https://www.facebook.com/haravnavon?fref=ts>

⁴⁸⁹ <https://www.facebook.com/groups/352850698102983/>

conform to a particular Jewish denomination and challenges the common Orthodox view according to which non-Orthodox Jews are not legitimate conversation partners.

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