

Current Jewish Questions

Women of the Wall

I. Introduction to the Women of the Wall

1. Women of the Wall – Sarah Szymkowitz

<http://www.jewishvirtuallibrary.org/jsource/Judaism/WOW.html>

WOW was founded in December 1988 during the first International Jewish Feminist Conference in Jerusalem. A group of approximately one hundred women who attended the conference went to pray at the Kotel, where they were disrupted by verbal and physical assaults by the ultra-Orthodox men and women. A group of Jerusalem women, who eventually formed the Women of the Wall, continued to pray at the Kotel frequently after the conference was over and suffered continual abuse. After a particularly bad incident, WOW filed a petition to the government of Israel. The response, which was negative, included a list of extreme halachic opinions that ban women from praying in groups, touching a Torah scroll, and wearing religious garments. Most Jews, even many Orthodox Jews, do not agree with these opinions. Indeed, it is a point of Jewish law that since Torah scrolls can never become ritually impure, women may touch and hold them at any time.

In 1991, WOW appealed to the Supreme Court, arguing that they should be allowed to worship according to their custom in safety and security. For several years the issue was debated in court. Finally, in 1994, WOW lost its case, but the Supreme Court decided that a commission should be set up to resolve the issue. In 1996 the commission proposed that WOW move to the southeastern corner of Jerusalem outside the Old City. WOW found this unacceptable and appealed for a new commission. The group won a small victory when the Supreme Court awarded the group five thousand shekels for attorneys' fees as compensation for the enormous amount of time the case took due to the government's slow response time.

In 1997, a new commission was appointed and the Supreme Court helped the legal process move faster. In the Knesset, Shas tried to pass a bill that would change the status of the Kotel from a national site, to an Orthodox synagogue, but the bill did not pass. Later WOW went to court again. On May 22, 2002, the court ruled in WOW's favor, granting women the right to wear prayer shawls at the Kotel, pray aloud and read from a Torah scroll as part of the prayer service. Jewish feminists all over the world rejoiced, but the happiness of WOW was shattered when the state appealed the decision. Four days later, Shas submitted several bills to override the Supreme Court decision, including one that would make communal prayer by women punishable by a fine and seven years in prison.

In 2005, a panel of nine judges ultimately ruled against Women of the Wall, five to four. Though WOW lost its case in the Supreme Court, the group continues to worship at the Western Wall every Rosh Hodesh. The members of WOW also read the Scroll of Esther at the Kotel every Purim and the Book of Lamentations every Tisha b'Av.

2. Women of the Wall Mission Statement (Retrieved January 23, 2013)

<http://womenofthewall.org.il/about/mission-statement/>

As Women of the Wall, our central mission is to achieve the social and legal recognition of our right, as women, to wear prayer shawls, pray and read from the Torah collectively and out loud at the Western Wall.

We work to further our mission through social advocacy, education and empowerment.

In our **social advocacy** work, we aim to change the status-quo that is currently preventing women from being able to pray freely at the Western Wall. This goal has great ramifications for women's rights in Judaism and in Israel and must be achieved through social advocacy in order to raise awareness and change the social perception of these issues.

We take it upon ourselves to **educate** Jewish women and the public about the social, political and personal ramifications of limiting and eliminating women's right to pray as a group at a holy site. When the law and the society literally, publicly and deliberately silence women in prayer, it is a violation of civil rights, human rights and religious freedoms. Education is the key to changing perspectives, laws and lives.

Every time we meet to pray, we **empower** and encourage Jewish women to embrace religion freely, in their own way. We stand proudly and strongly in the forefront of the movement for religious pluralism in Israel, in the hopes to inspire and empower women from all over the world and across the spectrum of Jewish movements to find their spiritual voice.

With this great mission before us, our vision is to strengthen and expand our organization, to reach out and influence policy makers and leaders, to demand full access to prayer at the Western Wall for women. In addition, Women of the Wall works to expand our network of allies and partners around the world who will advocate and take action with us.

3. At a Sacred Site, a Fight Over Women and Prayer – Jodi Rudoren

Published: December 22, 2012

<http://www.nytimes.com/2012/12/23/world/middleeast/at-western-wall-a-divide-over-prayer-deepens.html?pagewanted=all>

But after a flurry of arrests this fall that set off an international outcry, the women arrived for December's service to find a new protocol ordered by the ultra-Orthodox rabbi who controls the site. To prevent the women from defying a Supreme Court ruling that bars them from wearing ritual garments at the wall, they were blocked by police officers from bringing them in.

"How can you say this to me?" demanded a tearful Bonna Devora Haberman, 52, a Canadian immigrant who helped found the group Women of the Wall in 1988. "I'm a Jew. This is my state."

The officer was unmoved. "At the Western Wall, you can't pray with a tallit," he said, referring to the fringed prayer shawl in Ms. Haberman's backpack. "You can't go in with it."...

"When my kids start expressing frustration with Israel as a society because what they hear and see from a distance is not welcoming to them in their religious practice — that's not good for the Jewish people, let

alone for the state of Israel,” said Rabbi Steven C. Wernick, the director of the United Synagogue of Conservative Judaism...

“Secular Israelis do not see this as their problem; to them it’s a bunch of crazy American ladies,” said Shari Eshet, who represents the New York-based National Council of Jewish Women here. “It’s embarrassing for Israel, it’s embarrassing for Jews, and the American Jewish community is beginning to understand that it’s a slippery slope here.”...

“The next chapter of what it means to be a Jewish state is being defined right now,” said Elana Sztokman, the director of the Jewish Orthodox Feminist Alliance, who is writing a book that includes a chapter about Women of the Wall. “We have to figure out what does Israel want, what role do we really want religion to have in this state? And it’s happening on the backs of women.”

This did not evolve here in Israel, this is an import from abroad,” said Anat Hoffman, the group’s leader. “Many of Israel’s best inventions were imports,” she added. “For example: Zionism.”

Israel’s Supreme Court ruled in 2003 that women cannot bring a Torah or pray with ritual garments at the Western Wall, saying that doing so disrupts the public order. The court designated a discreet part of the wall, called Robinson’s Arch, for coed prayer with full regalia.

But the women complain that separate is not equal. They are at work on a new Supreme Court petition that challenges the 13-member board of the Western Wall Heritage Foundation, which governs the site, saying its ultra-Orthodox majority does not represent the Jewish public.

II. Some Halakhic Considerations

A. Women Wearing Tallit

4. B. Menachot 43b

Our Rabbis taught: **All must observe the law of zizith**, priests, Levites, and Israelites, proselytes, **women** and slaves. **R. Simeon declares women exempt, since it is a positive precept dependent on a fixed time**, and women are exempt from all positive precepts that are dependent on a fixed time... R. Simeon declares women exempt? What is R. Simeon's reason? — It was taught: That ye may look upon it: this excludes a night garment. You say it excludes a night garment, but perhaps it is not so, but it excludes rather a blind man's garment? The verse, when it says, Wherewith thou coverest thyself, clearly includes a blind man's garment; how then must I explain the verse, That ye may look upon it? As excluding a night garment. And why do you choose to include a blind man's garment and to exclude a night garment? Include a blind man's garment since it is looked upon by others, whilst I exclude a night garment since it cannot be looked upon by others.

תלמוד בבלי מנחות מג:א
ת"ר: **הכל חייבין בציצית**, כהנים, לויים וישראלים, גרים, נשים ועבדים; ר"ש פוטר בנשים, מפני שמצות עשה שהזמן גרמא הוא, וכל מצות עשה שהזמן גרמא נשים פטורות... ר"ש פוטר בנשים. מאי טעמא דר"ש? דתניא: +במדבר ט"ו+ וראיתם אותם - פרט לכסות לילה; אתה אומר: פרט לכסות לילה, או אינו אלא פרט לכסות סומא? כשהוא אומר: +דברים כ"ב+ אשר תכסה בה - הרי כסות סומא אמור, הא מה אני מקיים וראיתם אותם? פרט לכסות לילה; ומה ראית לרבות כסות סומא ולהוציא כסות לילה? מרבה אני כסות סומא שישנה בראיה אצל אחרים, ומוציא אני כסות לילה שאינה בראיה אצל אחרים.

B. Halakhic Policy and Minhag Hamakom

5. IS THE ENTIRE KOTEL PLAZA REALLY A SYNAGOGUE?

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Rabbi Prof. David Golinkin

<http://www.schechter.edu/responsa.aspx?ID=48>

Why is the Ministry of Religion in Charge of the Kotel?

In his recent book about Jewish holy places in Eretz Yisrael from 1948-1968, Dr. Doron Bar, a Senior Lecturer in Land of Israel Studies at the Schechter Institute, devoted a chapter (pp. 205-219) to the Kotel after the Six Day War. In June 1967, the Kotel was under the jurisdiction of Rabbi Goren and the IDF Chaplains. A few days after the war, bulldozers came and cleared away many houses near the Kotel to form a large plaza. At that time, Prime Minister Levi Eshkol and Defense Minister Moshe Dayan wanted to give the responsibility for all the religious and historical sites in Judea and Samaria including the Kotel to the National Parks Authority. Dr. Zerah Warhaftig, the Minister of Religion, was adamantly opposed and by June 26th, the Kotel was under the jurisdiction of the Ministry of Religion. At the same time, the Knesset passed the "Protection of Holy Places Law 5727, 1967" which appointed the Chief Rabbis of Israel to set the rules and regulations of the Kotel.

Rabbi Shlomo Goren, the Chief Rabbi of the IDF, officially handed over the Kotel to Zerah Warhaftig on July 3, 1967. Until that date, there was no mehitzah at the newly cleared Kotel Plaza. By July 19, 1967, the Ministry of Religion had erected a mehitzah and the men's section was four times larger than the women's section. This led to a public outcry and Prime Minister Levi Eshkol called the area with a mehitzah mikhlaot [=pens or prisons]. Orthodox Jews and the Ministry of Religion reacted strongly and rejected the claims of those who said that the Kotel should be given to the National Parks Authority. Others said that the Kotel is only a retaining wall of the Temple and therefore a secular, historical remnant. The Ministry of Religion later set up Mishmar Hakotel, the Kotel Guard, in April 1968, whose members wore special uniforms.

By November 1967, two meters of earth had been dug up near the Kotel which created a plaza with two levels. The lower level was used for prayer and the upper level was already used for military swearing-in ceremonies by September, 1967. In early 1968, a struggle developed between the Ministry of Religion and the Chief Rabbinate vs. Prof. Benjamin Mazar and the Department of Antiquities who began to excavate the southwest corner of the Kotel. The Chief Rabbinate claimed that the Kotel and the entire area surrounding the Temple Mount are holy and may not be viewed as historical or archaeological sites. In the end, they reached a compromise: Mazar may excavate the southwest corner but not the area of the Kotel plaza.

Thus, in June 1967, many thought that the Kotel plaza should be a national park. Zerah Warhaftig won the battle and since then the Kotel has been under the jurisdiction of the Ministry of Religion and the Chief Rabbinate. Even so, the 1968 episode regarding the archaeological excavations shows that the power of the latter authorities was not absolute and they were only left in control of the Kotel Plaza itself.

<p>6. M. Pesachim 4:1 Where it is the custom to do work on the eve of Passover until midday one may do [work]; where it is the custom not to do [work], one may not do [work]. He who goes from a place where they work to a place where they do not work, on from a place where they do not work to a place where they do work, we lay upon him the restrictions of the place whence he departed and the restrictions of the place whither he has gone <u>and a man must not act differently [from local custom] on account of the quarrels [which would ensue].</u></p>	<p>6. משנה פסחים ד משנה א מקום שנהגו לעשות מלאכה בערבי פסחים עד חצות עושין מקום שנהגו שלא לעשות אין עושין ההולך ממקום שעושין למקום שאין עושין או ממקום שאין עושין למקום שעושין נותנין עליו חומרי מקום שיצא משם וחומרי מקום שהלך לשם <u>ואל ישנה אדם מפני המחלוקת</u></p>
<p>7. B. Pesachim 50b The inhabitants of Hozai were accustomed to separate hallah on rice. [When] they went and told it to R. Joseph he said to them, Let a lay Israelite eat it in their presence: Abaye raised an objection against him: <u>Things which are permitted, yet others treat them as forbidden, you may not permit it in their presence?</u></p>	<p>7. תלמוד בבלי מסכת פסחים דף נ: בני חוזאי נהגי דמפרשי חלה מארוזא. אתו ואמרו ליה לרב יוסף. אמר להו: ניכלה זר באפייהו. איתביה אביי: <u>דברים המותרים ואחרים נהגו בהן איסור (עמוד ב) אי אתה רשאי להתירן בפניהם</u></p>

C. Religious Coercion

<p>8. B. Berachot 19b R. Judah said in the name of Rav: If one finds mixed kinds in his garment, he takes it off even in the street. What is the reason? [It says]: There is no wisdom nor understanding nor counsel against the Lord; wherever a profanation of God's name is involved no respect is paid to a teacher.</p>	<p>8. תלמוד בבלי ברכות יט ב: אמר רב יהודה אמר רב: המוצא כלאים בבגדו פושטן אפילו בשוק, מאי טעמא +משלי כ"א+ - אין חכמה ואין תבונה ואין עצה לנגד ה' - כל מקום שיש חלול השם אין חולקין כבוד לרב.</p>
<p>9. B. Berachot 20a There was the case of R. Adda b. Ahaba who saw a heathen woman wearing a red head-dress in the street, and thinking that she was an Israelite woman, he rose and tore it from her. It turned out that she was a heathen woman, and they fined him four hundred zuz.</p>	<p>9. תלמוד בבלי ברכות כ א: כי הא דרב אדא בר אהבה חזייה לההיא כותית דהות לבישא כרבלתא בשוקא, סבר דבת ישראל היא, קם קרעיה מינה; אגלאי מילתא דכותית היא, שיימוה בארבע מאה זוזי.</p>

D. Public Religious Demonstrations

10. Rabbis offer plan for non-Orthodox prayer at Wall

Jeremy Sharon 12/27/2012

<http://www.jpost.com/JewishWorld/JewishNews/Article.aspx?id=297466>

Hoffman again dismissed the solution proposed by the Supreme Court in 2003 to establish a prayer area for non-Orthodox denominations in the Robinson's Arch complex, likening it to "sitting at the back of the bus."

"If it's so holy, if it's such a hot spot, why don't the ultra-Orthodox want to go there?" she asked. "I want to chose wherever I want to sit on the bus and I don't need government permission to pray next to the wall."

The Robinson's Arch area does not have the same amenities and 24-hour accessibility as the Western Wall Plaza, but Hoffman said that even if the site was upgraded it would not be acceptable unless it were accessible from the plaza.

"I want to see and be seen," she said.

<p>11. B. Berachot 24b 'One who says the Tefillah so that it can be heard is of the small of faith'. R. Huna said: This was meant to apply only if he is able to concentrate his attention when speaking in a whisper, but if he cannot concentrate his attention when speaking in a whisper, it is allowed. And this is the case only when he is praying alone, but if he is with the congregation <u>[he must not do so because] he may disturb the congregation.</u></p>	<p>11. תלמוד בבלי ברכות כד:ב המשמיע קולו בתפלתו הרי זה מקטני אמנה. אמר רב הונא: לא שנו אלא שיכול לכוין את לבו בלחש, אבל אין יכול לכוין את לבו בלחש - מותר; והני מילי - ביחיד, אבל בצבור - <u>אתי למיטרד צבורא.</u></p>
<p>12a. Micha 6:8 He has shown you, O mortal, what is good. And what does the LORD require of you? To act justly and to love mercy <u>and to walk humbly with your God.</u></p> <p>12b. B. Sukkah 49b The School of R. Anan taught: It is written, The roundings of thy thighs. (Song of Songs 7:2) Why are the words of the Torah compared to the thigh? To teach you that just as the thigh is hidden, so should the words of the Torah be hidden, (It should be taught in privacy, not in the market place (cf. M.K. 16a)) and this is the import of what R. Eleazar said, What is the implication of the text, It hath been told thee, O man, what is good, and what the Lord doth require of thee: Only to do justly, and to love mercy, and to walk humbly with thy God? 'To do justly' means [to act in accordance with] justice; 'to love mercy' refers to acts of loving kindness' 'and to walk humbly with thy God' refers to attending to funerals and dowering a bride for her wedding. <u>Now can we not make a deduction a fortiori: If in matters which are normally performed publicly the Torah enjoins 'to walk humbly', how much more so in matters that are normally done privately?</u></p>	<p>12. מיכה ו:ח הגיד לך אדם מה טוב ומה יקוק דורש ממך כי אם עשות משפט ואהבת חסד והצנע לכת עם אלהיך:</p> <p>תלמוד בבלי סוכה מט:ב תנא דבי רב ענן: מאי דכתיב +שיר השירים ז+ חמוקי ירכיך למה נמשלו דברי תורה כירך - לומר לך: מה ירך בסתר - אף דברי תורה בסתר. והיינו דאמר רבי אלעזר: מאי דכתיב +מיכה ו+ הגיד לך אדם מה טוב ומה ה' דורש ממך כי אם עשות משפט ואהבת חסד והצנע לכת עם אלהיך. עשות משפט - זה הדין, ואהבת חסד - זו גמילות חסדים, והצנע לכת עם אלהיך - זו הוצאת המת והכנסת כלה לחופה. והלא דברים קל וחומר: ומה <u>דברים שדרך לעשותן בפרהסיא - אמרה תורה הצנע לכת, דברים שדרך לעשותן בצנעא - על אחת כמה וכמה.</u></p>

13. The Women and the Wall Between Israel and the Diaspora

Johnathan Tobin – 1/27/2012

<http://www.commentarymagazine.com/2012/12/27/the-women-and-the-wall-between-israel-and-the-diaspora/>

The battle over the Women of the Wall is just one more illustration of the gap between the rhetoric about Israel being the heritage of all of the Jewish people and the fact that the country is, as a matter of course, always going to be governed to suit the needs and the beliefs of those who live there.