New Claimants to Religious Tolerance and Protection: A Case Study of American and Canadian Muslims

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Introduction

In *The Myth of the Judeo-Christian Tradition*, Arthur A. Cohen questions the notion that a "Judeo-Christian" tradition even exists, and suggests that it is an invention of twentieth century American politics spawned by efforts to form a cultural consensus and, in the process, homogenize religious identification and promote interfaith harmony.[1] The conception of such a tradition is, in Cohen's words, ". . . mythological or, rather, not precisely mythological but ideological and hence, as in all ideologies, shot through with falsification, distortion, and untruth."[2]

A political use of the term "Judeo-Christian" has gained particular currency in the latter part of the twentieth century as reliance on certain religious values, symbols and rhetoric in public discourse has both generated and reflected popular approval, the ideal of separation of church and state notwithstanding. Common assumptions about the place of religion and morality in public life are being reevaluated. In an era of greater conformity and consensus-building, ushered in by a general swing toward conservatism in North American politics, an effort is being made to resurrect a shared set of traditional beliefs and values thought once to be the backbone of American

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[1]For a different analysis and an example of consensus history which praises the Judeo-Christian tradition, see Will Herberg, *Protestant, Catholic, Jew. An Essay in American Religious Sociology.* (Garden City, N.Y.: Doubleday Anchor, 1960). See also discussion in Mark Silk, "Notes on the Judeo-Christian Tradition in America." *American Quarterly* 36 (1984), 74-77.

[2]Arthur A. Cohen, *The Myth of the Judeo-Christian Tradition.* (New York: Harper and Row, 1970). Cohen writes, "We can learn much from the history of Jewish-Christian relations, but one thing we cannot make of it is a discourse of community, fellowship, and understanding." (p. xiii). See also Martin E. Marty, "A Judeo- Christian Looks at the Judeo-Christian Tradition," *The Christian Century* October 8, 1986; p. 858.

and Canadian life. Instead of celebrating diversity and pluralism in North America, the emphasis has been placed on the merits of unity and a shared sense of ethics. Conservatives are engaged in an effort to redefine American values and beliefs and ameliorate what they see as deplorable conditions precipitated by the liberalism, secularity and moral relativism of the 1960s. This corrective impulse is proving to be an important factor in reshaping both the religious and political scene.

It is in this context that the meaning of difference has been obscured. A commitment to pluralism has been an important part of the heritage of North American societies, especially Canada, since their inception and yet what is meant by reference to the "Judeo-Christian" tradition remains ambiguous.[3] Rather than promoting interfaith harmony, the current use of the concept functions to exclude those who are judged to deviate from the social and cultural norm or to be nonbelievers, i.e., persons conceived to be a threat to the bedrock values of America. Observers of the North American religious scene have noted that religion is used as a means of negotiating one's place in society and establishing identity.[4] Public figures appeal to our sense of national identity and patriotism by talking about the United States as a "Judeo-Christian nation," which, in effect, serves to exclude other religious groups (such as Muslims) and nonreligious groups from the mainstream of American society.[5]

What is implied by reference to "Judeo-Christian" is even narrower—those who actually mean to promote an exclusively Christian America[6] use it to signify the defense of purportedly Christian-cum-American values and life-style from the inroads of secular humanism. President Reagan, in his 1983 speech to the National Association of Evangelicals in Orlando, Florida,

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[3]Although President Reagan has often spoken of the "Judeo-Christian" tradition, his religious references are decidedly Christian. See Chapter 5 (especially pp. 74-7), Paul D. Erikson, *Reagan Speaks, The Making of an American Myth*. (New York: New York University Press, 1985).

[4]Wade Clark Roof and William McKinney, *American Mainline Religion, Its Changing Shape and Future*. (New Brunswick, N.J.: Rutgers University Press, 1987), p. 76. See also Martin E. Marty, *A Nation of Behavers*. (Chicago: University of Chicago Press, 1976); and R. Lawrence Moore, *Religious Outsiders and the Making of Americans*. (New York: Oxford University Press, 1986).

[5]Yvonne Y. Haddad, "A Century of Islam in America," *The Muslim World Today*, Occasional Paper No. 4. (Washington, D.C.: Islamic Affairs, 1986); p. 9.

[6]Martin E. Marty, "A Judeo-Christian," 859. Also Erikson, *Reagan Speaks*. Erikson writes of the language Reagan uses "that seems almost calculated to make non-Christians uncomfortable." "Our only hope for tomorrow is in the faces of our children," he said in 1983, "And we know Jesus said, 'Suffer the little children to come unto me, and forbid them not, for such is the Kingdom of God.'" Erikson, *Reagan Speaks*, p. 76. See also Roof and McKinney, *American Mainline Religion*, p. 31.

warned of the encroaching spirit of "modern-day secularism" and the designs of liberals and "secular humanists" who "proclaim that they're freeing us from superstitions of the past" in order to destroy the "tried and time-tested values upon which our civilization is based."[7] Allusions to the "Judeo-Christian" tradition of North America are not meant to applaud the religious diversity of our heritage, but to confront the threat of moral degeneracy—real or imagined—embedded in the advance of secular humanism, seen as liberalism under another guise. It is the elaboration of an ideology of "difference," or a definition of "us" vis-a-vis "them," of those who adhere to a conservative belief system versus those who do not. Very little, if any, recognition is granted to the content of the Jewish legacy and what *is* considered relevant—namely the Old Testament prophets—is appropriated and "protestantized" in the narrative of America's Puritan experience, while the rest is discarded. The impact of this usage on the Jewish population of North America, not to mention the many other faiths, carries profound implications and raises questions about the commitment to the principles of pluralism and tolerance and the concept of religion found in North America.

The reality that this imagined or real struggle between Christian-cum-American values vs. secular humanism masks is one of growth and complexity, both in the number and nature of religious sects that have appeared on the North American horizon of late. Because of this growing diversity, there is a need to take a second look at the developing American concept of pluralism and tolerance.

Post-World War II developments in the religious composition of the United States and Canada, due in part to increased immigration from Asia and the Middle East, declining religious membership in the conventional triumvirate of Protentantism, Catholicism and Judaism and the concomitant growth of secularism, have produced a vastly more pluralistic religious environment in both countries. A diverse assortment of faiths now represents a sizable number of North American religious adherents.[8] Among these the Muslim community is growing the fastest, at a rate that will make it the second largest religious community in the United States by the twenty-first century.[9]

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[7]Erikson, *Reagan Speaks*, p. 77.

[8]One source estimates conservatively that the nonconventional faiths (e.g., Muslims as well as Orthodox Christians, Buddhists and Hindus) now comprise four percent of the total United States population, an increase from one percent in the 1950s. See Wade Clark Roof and William McKinney, *American Mainline Religion, Its Changing Shape and Future*. (New Brunswick, N.J.: Rutgers University Press, 1987), pp. 17 and 235.

[9]If the U.S. Muslim community continues to grow at the present rate it will be the second largest religion – smaller than Christianity but larger than Judaism – by the year 2015. Yvonne Y. Haddad, "A Century of Islam in America," *The Muslim World Today Occasional Paper* No. 4. (Washington, D.C.: The American Institute for Islamic Affairs), 1986, p.1.

This paper seeks to shed some light on the quality of the Muslim experience in North America and to document their efforts to become an accepted part of American society. Can America be identified as Judeo-Christian and still accommodate Muslims? The number of Muslim immigrants entering the United States and Canada has more than doubled since 1960. During the same period, the number of North American converts to Islam has also risen. This rate of growth of the Muslim-American and Muslim-Canadian populations, combined with the recent wave of religious resurgence in the Muslim world and the popular association in North America of Islamic revival with international terrorism, presents a challenge to the shape of North American societies and their commitment to the principle of tolerance. The evolution of the objectives of the indigenous African-American Muslim community—from black separatism to accommodation and a stronger identification with the global community of "orthodox" Islam—is yet another factor which helps define the diverse Muslim community and Muslims' claims for greater tolerance within the North American milieu.

Islam in North America is maturing. Religious consciousness in the Muslim community has been reawakened and intensified by Islamic resurgence in the Middle East and Asia. The global resurgence of Islam has affected the goals and identity of the Muslim community in the United States and Canada and has encouraged Muslims to assert their religious identity more publicly and to be more religiously observant. Muslim-Americans and Muslim-Canadians, regardless of national origins, are being galvanized by events in the Muslim world at large as well as by their reception in the host societies of North America. Until recently Muslims in North America have only been marginally unified by their common faith, but with the changing circumstances in the world they leave behind and into which they arrive, the prevailing perceptions among Muslims about their identity, position and future have been altered.

Moreover, the presence of Muslims in North America is gaining the attention of the larger society. *Time* magazine published an article entitled "Americans Facing Toward Mecca, The Fast-growing Muslim Community is Invisible No Longer" in its May 23, 1988, issue. Although Islam has been practiced in North America for more than one hundred years[10] it has only

[10]For evidence that Islam was the faith of Africans brought to the U.S. as slaves, see Allan D. Austin, *African Muslims in Anetbellum America: A Sourcebook*. (New York: Garland Publishing, 1984). In addition, immigration of significant numbers of Syrians and Lebanese to the U.S. and Canada by the 1880s helped to establish Islam in North America. For information about the Afro-American movements in the U.S. see E.U. Essien-Udom, *Black Nationalism: A Search for Identity in America*. (New York: Dell Publishing, 1962); Charles Eric Lincoln, *The Black Muslims in America*. (Boston: Beacon Press, 1961). A bibliography of the literature on indigenous Islam is provided in Yvonne Y. Haddad, "Muslims in America: A Select Bibliography." *The Muslim World* 76, no. 2 (April 1986), p. 93.

recently received even nominal recognition as an American phenomenon. Islam is still widely perceived to be a foreign creed and is maligned by its association in the media with terrorist activity abroad and black separatism in the U.S. Because of a prevailing sense, however erroneous, that Islam is a threat to society, it is a faith that is not easily accommodated.

The principle of religious tolerance becomes valid and meaningful only through its elaboration within the particular circumstances of time and place. Muslim aspirations to be recognized as full members of North American societies raises questions about the meaning of religious tolerance. With the notable exceptions of Abdo A. Elkholy's *The Arab Moslems in th United States* (1966) and Yvonne Y. Haddad's *Islamic Values in the United States* (1987), scant scholarly attention has been paid to the circumstances of Muslim communities in North America to date.[11] Most studies have been sociological case studies of specific immigrant communities and often do not differentiate clearly between the influence of religious and ethnic factors. These offer valuable insights into the patterns of assimilation and acculturation of certain immigrant communities that happen to be Muslim and begin to discuss Muslim responses to challenges presented by the host society. However, these studies do not deal in any systematic or analytical way with the responsiveness of the host societies—the United States and Canada—to the special circumstances of Muslims.

The paucity of information and studies about the reception of Islam and Muslims in North America conceals an important aspect of the evolution of North American society, ideology and institutions. While scholarly literature tends to focus on the experiences of Protestants, Catholics and Jews as the mainstream faiths, and of Jehovah's witnesses, Mormons, Native Americans, Hare Krishnas and Amish as minority faiths, nothing has been written about the reception of Islam as a faith that seems to many people to be foreign to, if not at odds with, the dominant Judeo-Christian tradition. Most people are in favor of religious freedom and tolerance in principle, but are less supportive of these norms in specific situations. Popular conceptions of Muslims and Islam may mitigate the willingness of Americans and Canadians to adhere to the espoused principles of religious freedom and tolerance when called for by Muslims in North America.

Studies of memoirs, articles and letters written by immigrants from the

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[11]For reference to literature on Muslims in North America, see Yvonne Y. Haddad, "Muslims in America: A Select Bibliography." *Muslim World* 76, no. 2 (April 1986); and "Muslims in Canada: A Preliminary Study." H. Coward and L. Kawamura, eds., *Religion and Ethnicity*. (Waterloo: Wilfrid Laurier University, 1978).

Arab[12] countries and from other areas of the Muslim world[13], as well as African-American Muslims[14] reveal early Muslim experiences with discrimination. Several recent works have examined negative stereotyping of Muslims, especially Arabs, and of media distortions of the Muslim image.[15] Problems of misunderstanding, prejudice and hatred have become acute during the last quarter of the twentieth century as Islam and Muslims are maligned by association with terrorist acts abroad.[16]

Crude caricatures of Muslims appear abundantly in the production and organization of popular culture. Events and situations, whether fictional or real, are presented to us through a framework of symbols, concepts and images through which we mediate our understanding of reality. Our "common sense" ideas about race, ethnicity and religion help us order social life in a way that is easily understood and meaningful, and provide clues about appropriate behavior and shared expectations. Popular culture—specifically the news and entertainment media—generates stereotypes and relies on our familiarity with them in formulating our idea of the world. It does not communicate information and ideas in an efficient, i.e. timely, fashion. Discussion of the effects of such overt manifestations of prejudice on Muslims has

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[12]e.g. Michael W. Suleiman, "Early Arab Americans, the Search for Identity" in Eric Hooglund, ed., *Crossing the Waters, Arabic Speaking Immigrants to the United States Before 1940.* (Washington, D.C.: Smithsonian Institution Press, 1987), pp. 37-54; and "Arab-Americans: Community Profile" in *Journal Institute of Muslim Minority Affairs (JIMMA)* 5, no. 1 (1983/4), pp. 29-35; and Adele L. Younis, "The First Muslims in America: Impressions and Reminiscences" in *JIMMA* 5, no. 1 (1983/4), pp. 17-28.

[13]e.g. Raymond Brady Williams, *Religions of Immigrants from India and Pakistan.* (Cambridge and New York: Cambridge University Press, 1988); and Salim Khan, "Pakistanis in the Western United States" in *JIMMA* 5, no. 1 (1983/4), 43-46.

[14]e.g. see *Muhammad Speaks* (publication of the Nation of Islam) and Malcolm Little and Alex Haley, *Autobiography of Malcolm X.* (New York: Ballantine Books, 1964).

[15]See especially Edward W. Said, *Orientalism.* New York: Vintage Books, 1978; Michael C. Hudson and Ronald G. Wolfe, eds., *The American Media and the Arabs.* (Washington, D.C.: Center for Contemporary Arab Studies, 1980); the 1979 International Press Seminar, *The Arab Image in Western Mass Media.* (London: Morris International Ltd., 1980); Laurence Michalak, "The Arab in American Cinema: A Century of Otherness" in *Cineaste* 17, no. 1 (1989), pp. 3-9; and *Cruel and Unusual: Negative Images of Arabs in American Popular Culture* Second Edition, Issue Paper no. 15, *ADC Issues.* (Washington, D.C.: American-Arab Anti-Discrimination Committee), n.d.; and Janice J. Terry, *Mistaken Identity: Arab Stereotypes in Popular Writing.* (Washington, D.C.: American-Arab Affairs Council, 1985).

[16]In May 1986 the U.S. Justice Department's Immigration and Naturalization Service (INS) prepared a 31-page document called "Alien Terrorists and Undesirables: A Contingency Plan," in which details for surveillance and detention of people are developed. Only Iranians and Arabs are mentioned explicitly as possible subjects. The plan states that the government would "concentrate its counter-terrorism efforts against particular nationalities or groups known to be composed of certain nationalities [i.e. Muslims], most probably those citizens of states known to support terrorism." (Cited in "Aliens face jail in plan," *Detroit Free* Press, July 7, 1987.)

only begun, although the primary focus to date has been almost exclusively on the distorted image of the Arab.

It is important to examine the effects of the institutionalization of stereotypes of Muslims not only at the popular level but in other sectors of society as well, such as in education and government. How pervasive our common assumptions are about the world and those who occupy it is worth scrutiny. The purpose of my research is to shed some light on the character of the Muslim experience in North America by examining the responsiveness of legal institutions as Muslims seek recognition and tolerance. It will seek to clarify "the role of law in constructing an authoritative image of social relations and shaping popular consciousness in accordance with that image"[17] in the particular context of Muslim aspirations to be included within the parameters of a pluralistic society. How the law has been used to fashion categories of difference that may serve to exclude Muslims from full participation in society will be examined. The present study focuses on the experience of Muslims in the United States and Canada in order to (1) provide a contemporary and concrete example which illustrates the functions of law in defining how society orders itself; (2) say something meaningful about the experience of a liminal group (a religious minority) in two seemingly similar contexts (liberal democratic states, one with a long tradition of text-based constitutional guarantees and the other with only brief experience in this regard), and (3) contribute to the growing literature on Muslim life in the Americas.

It has been noted that "Islamic scholars, students of religion, Middle East experts, and analysts of the American scene all tend to overlook the presence of Islam in America, or to dismiss it as of only marginal interest."[18] This project will add to the study of the long and rich heritage of North American practices of Islam and, specifically, to see how Muslims have emerged as new claimants to religious tolerance and protection in the North American setting. It undertakes to review the general evolution of legislative and judicial definitions of "religion" developed for the purpose of extending constitutional and statutory protection to unconventional faiths that deviate from societal norms that apply generally.[19] Special attention is

[17]"From the Special Issue Editors," *Law and Society Review* 22, no. 4 (1988), p. 631.

[18]Yvonne Y. Haddad, "A Century of Islam in America." *The Muslim World Today* Occasional Paper no. 4. (Washington, D.C.: Islamic Affairs Programs of the Middle East Institute, 1986), p.1.

[19]Discussion of definitions of "religion" can be found in several law review articles including Freeman, "The Misguided Search for the Constitutional Definition of "Religion"" in *Georgetown Law* Journal 71 (1983); and Note, "Soul Rebels: The Rastafarians and the Free Exercise Clause" in *Georgetown Law* Journal 72 (1984).

given to judicial and legislative considerations as to whether Islam and Muslim practices constitute protected "religion."

The main part of the study then examines the locations in which Muslims' claims have emerged: in courts, zoning boards, Selective Service boards, military tribunals, human rights commissions, and legislatures. The language found in the responses of courts, legislatures, and executive boards and commissions to the attempts of Muslims to negotiate their place in society – in prisons, the workplace, the military, and the neighborhood – is significant. An analysis of it will help to reveal the connection between American and Canadian Muslims' claims for religious tolerance and the production of ideologies – elaborations of difference, its value and the wisdom of tolerance of difference – at the local and national levels in the United States and Canada. Material for the study is drawn from American and Canadian statutes, judicial opinions, legal briefs and other legal and legislative documents involving Muslims. It is argued that the extent to which Muslims' claims for tolerance have been accommodated depends upon a number of factors including: (1) the specific historical moment (war, hostage crisis, etc.); (2) the perceived strangeness of Islamic beliefs and practices and the threat they pose to the fundamental values of the dominant culture; (3) the size, expansionist tendencies and assimilation patterns of Muslim groups; (4) the material costs of tolerance; and (5) support of third parties (i.e., as advocates of religious tolerance).

A study of the particular circumstances and claims of Muslim communities for tolerance and acceptance as part of the North American landscape will help to illustrate the extent to which the norms of cultural pluralism are realized at the local and national levels. Only an analysis which takes into consideration the realities of a community which continues to encounter prejudice and misunderstanding despite promises of equal treatment can help us better understand the responsiveness of important mechanisms that are designed to promote the core values of the larger society.