

*Religious Zionism  
Post Disengagement:  
Future Directions*

EDITED BY  
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## “Religious Zionist Halakhah” – Is It A Reality Or Was It A Dream?

*Aviad Hacoen*

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## I. INTRODUCTION

Any attempt to define a particular *halakhic* authority or halakhic issue in a simplistic fashion, and squeeze it into a procrustean bed, into a uniform and well-delineated framework, is fated for failure,<sup>1</sup> or at the very least, serious difficulties and pitfalls. Halakhic literature, like its authors, is not characterized by a single or uniform color. It is an enormous, complex, variegated and multi-faceted system, each of its representatives standing on his own, and any attempt to consider them altogether in a single stroke is liable to miss the mark.<sup>2</sup>

Moreover, if this complexity (which also characterizes other legal systems) is not enough, any attempt to follow the paths of Halakhah – both ancient and modern – leads to yet another great impediment, namely, the absence of system.<sup>3</sup> The age-old halakhic tradition, going back to biblical and talmudic times, is marked by halakhic discussion lacking order: family law intermingles with

criminal law, the laws of acquisition are set next to public law, and in between there are words of *aggada* and ethical teachings, stories and mystical visions, dreams and acts of magic.

The discussion appearing in the halakhic sources is also not always constructed in a logical fashion. It is marked by disorderly give and take, questions and answers, and disparate passages, the relationship between which often draws on nothing more than the power of association.<sup>4</sup>

Furthermore, by its very nature and essence, halakhic literature is constructed not out of general principles, but of specific cases. It follows a casuistic course,<sup>5</sup> which develops from case to case, and it is only through a combination of the individual cases, that it is sometimes – but not always – possible to piece together an orderly and structured halakhic-legal picture.<sup>6</sup>

Perforce, these characteristics effect our topic as well, for there is no single volume or set of volumes that reflect the world of Religious Zionist Halakhah<sup>7</sup> – if indeed such a world actually exists – in its full grandeur and majesty. Anyone who wishes to clarify this issue must select, out of the vast sea of Halakhah, hundreds and even thousands of halakhic works, which he thinks, objectively or subjectively, belong to “Religious Zionist Halakhah,” and from them and through them try to find characteristics that faithfully express the entirety as a whole.

This itself poses a difficulty: Before we come to define the characteristics of “Religious Zionist Halakhah,” we must first ask the more fundamental question: Does “Religious Zionist Halakhah” really exist, or is it only a dream?

And what precisely is the meaning of “Religious Zionist Halakhah” in this context? Is it determined by its bearers – halakhic authorities who include themselves in the social ranks of Religious Zionism? Or perhaps the determining factor is not the sociological affiliation of the halakhic authority, but rather the substance of his ruling?

We can sharpen the point even further and ask: Is “Religious Zionist Halakhah” found only among those authorities who are affiliated – or identified – with the sociological ranks of Religious

Zionism, or is it possible to find “Religious Zionist Halakhah” even in the works of halakhic authorities who identify themselves with the haredi camp?

In the other direction, it may also be asked: Is every ruling issued by a halakhic authority who is identified with Religious Zionism an example of “Religious Zionist Halakhah”? Or perhaps we must carefully examine its content, and only on the basis of its substance – and not on the basis of its author – are we to judge the matter one way or the other.

These questions will stand at the center of our discussion. But before we begin to expand upon these issues, let us open with an introductory remark. *A priori*, it is possible that someone might question the very attempt to categorize and catalogue Halakhah as “Religious Zionist.” Surely, Israel’s Torah is one, and we are guided by the fundamental principle that “this Torah will not be replaced and there shall be no other Torah from the Creator, blessed be His name.” If this is the case, and “Halakhah is Halakhah is Halakhah,” what room is there to distinguish between “Religious Zionist Halakhah” and other Halakhah?

In this article, I shall try to present – despite the difficulties mentioned above – several primary categories that might help us find our way in this halakhic entanglement. We must, however, note and emphasize that the variety of halakhic works and authorities necessitates a complex view of the overall picture, and in the event that, along the way, we label a specific authority or halakhic ruling with a certain designation, this is merely for the sake of convenience, and in no way does it come to establish any hard and fast rules about its identification with any particular halakhic approach.

Furthermore, to the best of my knowledge, as of yet there has been no systematic and comprehensive mapping of the Religious Zionist halakhic enterprise. Such a mapping would provide us with a clearer and more reliable picture of the various parameters to which attention must be paid in an investigation of this sort.

First and foremost, it is possible to divide Religious Zionist Halakhah into chronological periods.<sup>8</sup> For convenience sake, we shall speak of three sub-periods:

- 1) The first period is that of the halakhic authorities who lived during the early days of Religious Zionism, including sages, such as Rabbis Kalischer, Alkali, Mohilever, Kook, and their colleagues. It should, however, be noted that these figures are known primarily for their ideological contributions, and that hardly any attention has been paid to their halakhic teachings,<sup>9</sup> even though they too provide invaluable insights.
- 2) “The second generation” is represented by halakhic authorities whose initial activity was outside *Eretz Israel* in the years that preceded the establishment of the state, and the rest of their lives was spent in the State of Israel, such as Rabbis Herzog, Uziel, Yisraeli, Unterman, Nissim, Zevin, Tchoresh, Friedman, Goren, and others.
- 3) The third generation is represented by rabbis whose Torah development took place for the most part in Eretz Israel, and most or all of their lives were spent in the State of Israel. This group includes city rabbis like Rabbis H.D. Halevi and Y. Ariel,<sup>10</sup> roshei yeshiva like Rabbi Lior; and the rabbis of the religious kibbutzim.<sup>11</sup>

A different division that might be considered is one that runs along a geographical axis: rabbis who were educated outside of Israel or raised on a tradition taken from there (e.g., Rabbis Herzog and Unterman) can be distinguished from rabbis who were trained and educated in Eretz Israel.

In this context, special attention should be paid to rabbis who, despite their clear identification with the Religious Zionist movement, remained in the Diaspora. Foremost in this group are Rabbi Yehiel Yaakov Weinberg,<sup>12</sup> author of “*Seridei Esh*,” and the “Rav” – Rabbi Joseph B. Soloveitchik.<sup>13</sup>

We cannot discuss in detail all of these sub-divisions. We shall suffice with the presentation of this general outline that suggests certain points of reference, and constitutes a basis that can be filled in with the more subtle details that comprise the issue.

## II. FACTORS INFLUENCING THE CREATION OF “RELIGIOUS ZIONIST” HALAKHAH

*A priori*, it is possible to suggest two main axes that constitute important factors in the creation of Religious Zionist Halakhah and influence its development: the personal element, that focuses on the creator, the halakhic authority, and his addressees, the members of the community to whom his rulings are directed; and the circumstantial element, that focuses on the circumstances in which the Halakhah itself comes into being.

### 1. The Personal Element: the Creator, the Religious Zionist Halakhic Authority

On the personal level, we must define who is a Religious Zionist halakhic authority. This could be by way of a positive definition or alternatively by way of a definition by process of elimination.

As for a positive definition, a halakhic authority may be regarded as Religious Zionist if certain parameters are fulfilled in him that assign him to Religious Zionism (e.g., affiliation with a certain movement or party, affiliation with a state institution that is identified with Religious Zionism, lifestyle, or the like).

By process of elimination, a halakhic authority may be viewed as Religious Zionist if he is not affiliated with the haredi camp.<sup>14</sup>

The following parameters may be helpful in categorizing a particular halakhic authority as “Religious Zionist”:

- 1) **The halakhic authority’s biography:** A significant number of halakhic authorities who may be categorized as Religious Zionist share certain biographical markers that distinguish them from their haredi counterparts, e.g., military service, study in “Religious Zionist” Yeshivot<sup>15</sup> or university education (Rabbi Joseph B. Soloveitchik, Rabbi I. Herzog,<sup>16</sup> Rabbi Y.Y. Weinberg, and Rabbi Professor Eliezer Shimshon Rosenthal, who served as a halakhic advisor to the religious kibbutz movement in the early days of the state;<sup>17</sup> Rabbi Dr. Aharon Lichtenstein,<sup>18</sup> Rosh Yeshiva of Yeshivat Har Etzion, Rabbi Dr. Moshe Tendler,<sup>19</sup> and others.<sup>20</sup> Rabbi Shlomo Goren was never officially enrolled in a

university, but according to his own testimony, in his youth he attended classes in Greek and philosophy at the Hebrew University in Jerusalem, concurrently with his study in the Hevron Yeshiva, and he customarily integrated sources regarded as unconventional in the halakhic world – such as the writings of Josephus – in his own rulings).<sup>21</sup> study in yeshiva high schools and Yeshivot Hesder,<sup>22</sup> and the like. Another biographical element, almost anecdotal, that distinguishes between Religious Zionist halakhic authorities and their Haredi counterparts is the readiness on the part of some of them – e.g., Rabbis Herzog, Zevin, Hadayah, Kasher, Goren, Yosef, Kafih, Yisraeli, H.D. Halevi, and Waldenberg – to accept the Israel Prize for Torah literature awarded by the State of Israel and presented to the recipients at an impressive ceremony on Israel Independence Day.<sup>23</sup>

- 2) **Location:** Religious Zionist Halakhah is generally perceived as Halakhah whose authors live in Eretz Israel, in contrast to the vast majority of halakhic literature, which, until recent times, was created by halakhic authorities living in the Diaspora.<sup>24</sup>
- 3) **Organizational affiliation:** Affiliation with one of Religious Zionism’s institutions or with an institution that is almost exclusively identified with it, e.g., the Chief Rabbinate until the 1990s (Rabbis Herzog, Uziel, Z.P. Frank, M. Rath, Zevin, Unterman, and Goren); the Mizrachi movement (Rabbis Rath<sup>25</sup> and Zevin<sup>26</sup>); the Ha-Po’el ha-Mizrachi movement (like the members of *Hever ha-Rabbanim* of Ha-Po’el ha-Mizrachi, such as Rabbis Yisraeli, Tchoresh, and their colleagues); Yeshivot Hesder<sup>27</sup> (e.g., my revered teachers, Rabbis Amital and Lichtenstein, and Rabbis Ariel and Lior).
- 4) **Ideological affiliation:** This group includes rabbis who never belonged to any organizational framework affiliated with the Religious Zionist establishment, but whose ideology corresponded to the teachings of Religious Zionism, e.g., Rabbis Yitzhak Nissim, Rishon le-Zion<sup>28</sup>; Yaakov Moshe Toledano, author of *Responsa Yam ha-Gadol* and chief rabbi of the city of Tel Aviv;<sup>29</sup> and others.

- 5) **Lifestyle:** Another parameter, which is likely to help us assign a particular halakhic authority to one of the groups, is his lifestyle at the time that he issues his ruling. Religious Zionism is generally identified with living in a heterogeneous community, characterized by a lifestyle that is more modern and open than that of the haredi community. This finds expression in various ways, e.g., in dress (of a more modern style) that is different from that which is customary in haredi society; a sympathetic attitude and openness to Western culture in general and general education in particular;<sup>30</sup> a more open and tolerant attitude toward the status of women and their place in society (including assumption of leadership roles and participation in national service, or perhaps even the Israeli army);<sup>31</sup> or greater tolerance of secular phenomena.<sup>32</sup> Alongside these general characteristics, a Religious Zionist halakhic authority may be distinguished from his haredi counterpart by specific behaviors that set him apart from members of the haredi community, e.g., active participation in the special activities conducted on national holidays and days of commemoration, such as Holocaust Memorial Day,<sup>33</sup> IDF Memorial Day, Independence Day (and the recitation of *Hallel* with a blessing on that day<sup>34</sup>), combat service in the IDF,<sup>35</sup> and the like.

Even this simple division may be likely to create difficulties when we come to categorize certain Torah personalities who were active in the halakhic field. Thus, for example, Rav Avraham Isaac Hacohen Kook refrained from formal affiliation with the Mizrahi movement, and as a sign of protest against a number of its actions, he established – in an almost demonstrative manner – the *Degel Yerushalayim* movement, which he viewed as a parallel and competing movement. Should then Rav Kook be seen as a Religious Zionist halakhic authority? Judging by his influence, Rav Kook was undoubtedly one of the most outstanding figures among the creators of Religious Zionist ideology, and its proponents have claimed him as one of their own, but his affiliation with Religious

Zionism – not only organizationally, but even historically – is by no means simple.<sup>36</sup>

Similarly, Rabbi Shlomo Goren is undoubtedly one of the leading figures in the Religious Zionist halakhic discussion. Despite the fact that he saw the State of Israel as a renewal of the “Kingdom of Israel,”<sup>37</sup> Rabbi Goren – in addition to his years of study in the Hevron Yeshiva in Jerusalem, a training ground for many of the leaders of the haredi establishment – on various occasions dissociated himself both from the identification of the State of Israel as “the beginning of the redemption” (*athalta de-ge-ulah*),<sup>38</sup> and from his identification with the Religious Zionist establishment, with which he often engaged in confrontation. One of his major confrontations revolved around his demand to abolish the separate religious units in the army (which were exclusively identified with the Religious Zionists), and more than once his views brought him to assert his independence vis-à-vis the Religious Zionist establishment.<sup>39</sup>

In the other direction: Rabbi Ovadyah Yosef, one of the greatest halakhic decisors of our generation, was for many years affiliated with the religious establishment<sup>40</sup> which, while he was in office, was identified with Religious Zionism. This was true at the beginning of his career, when he served as a *dayan* (rabbinic judge) on the Petah Tikva Rabbinical Court, and also later, when he was chief rabbi of Tel Aviv and Rishon Le-Zion and chief rabbi of Israel. While he served in these high offices, he even dealt with the classic questions on the Religious Zionist agenda, for example, the recitation of Hallel and *Al ha-Nissim* on Israel’s Independence Day and on Jerusalem Day, and the *heter mekhirah* which permits the temporarily selling of land to a non-Jew and to continue farming it during the Sabbatical year.<sup>41</sup>

Nevertheless, Rabbi Ovadyah Yosef’s roots, both in the Bukhara neighborhood of Jerusalem and in the Porat Yosef Yeshiva, whose heads – Rabbis Ades, Zedakah and Abba Shaul – were counted among the leaders of the Sefardi-haredi community, and also his activity over the past two decades as spiritual leader of the Shas movement<sup>42</sup> firmly set him in the position of halakhic decisor for the haredi community (if only the Sefardi sector). And certainly,

in the eyes of many in the Religious Zionist community, he is not perceived as a Religious Zionist halakhic authority.

Other examples of the difficulty in classifying a particular halakhic authority as “Religious Zionist” or “haredi” include Rabbis M.M. Kasher,<sup>43</sup> Z.P. Frank,<sup>44</sup> Y.M. Ehrenberg, O. Hadayah,<sup>45</sup> and others.

Another complex example is Rabbi Eliezer Yehuda Waldenberg. He grew up in the Old Yishuv in Jerusalem, most of whose members staunchly opposed Religious Zionism. Nevertheless, he became one of the assistants of Rabbi Ben Zion Meir Hai Uziel, Rishon Le-Zion and chief rabbi of Israel, who was closely affiliated with the Mizrachi movement and an ardent Zionist. For many years Rabbi Waldenberg sat on a rabbinical court, both regional and supreme, but in his later years he once again became identified – rightfully so, or not – with the more haredi branch of halakhic decision-making.<sup>46</sup>

Despite this identification, Rabbi Waldenberg was one of the pioneers who dealt with “laws of the State” in a systematic fashion,<sup>47</sup> and his halakhic response to the establishment of the State of Israel and the laws that govern it may in and of itself justify including him in the category of “Religious Zionist” halakhic authorities.<sup>48</sup>

The same may be said about Rabbi Shlomo Yosef Zevin. Despite the fact that he was an impassioned Lubavitcher hassid (and that movement, as is well known, is very far from classical Religious Zionism), Rabbi Zevin recited Hallel on Israel Independence Day; he was an active partner in various Religious Zionist projects, and he even supported them in his halakhic rulings.

Alongside these figures, we can point to a number of rabbis who straddle the border between the Religious Zionist world and the haredi world, e.g., the chief rabbi of Israel and Rishon le-Zion Mordechai Eliyahu. Special attention should be paid to the exemplary rabbinic figure of Rabbi Shlomo Zalman Auerbach. Though, in general, he is clearly identified with the haredi world, a closer examination of his halakhic rulings reveals how far this description is from being precise.<sup>49</sup> The same may be said about certain rabbinic personalities who were close to the Po’alei Agudat Israel movement, e.g., the *roshei yeshiva* of Yeshivat Kol Torah in Jerusalem, Rabbis

Yonah Merzbach and Yehiel Schlessinger, and the Po’alei Agudat Israel rabbis, e.g., Rabbi (and later Knesset member and Deputy Minister) Kalman Kahana, and their colleagues, who, despite their identification with the haredi community, were in many areas close to Religious Zionism.

Even leaders of the haredi camp, like the *Hazon Ish* and Rabbi Y.Sh. Kahaneman, the Ponevezher Rav, are liable to be found – on certain issues – close to the Religious Zionist camp, whether in theory, or at least in practice.<sup>50</sup>

## **2. The Personal Element: the Halakhic Ruling’s Addressees**

One of the characteristic traits of Religious Zionist Halakhah is its addressees. In traditional Jewish society, a halakhic ruling was generally directed at an audience of uniform character.<sup>51</sup> Usually it was directed at a community whose members belonged to a particular stream – a particular branch of Hassidut, a particular region, or the like – and willingly accepted upon themselves the decisor’s authority and acted accordingly.

This is not true of Religious Zionist halakhic authorities. In many cases their target audience is a very heterogeneous community, comprised of diverse and variegated populations, who are more different than alike. This is certainly the case regarding a chief rabbi or a city rabbi who directs his rulings at the populace at large, which includes not only Torah-observant Jews, but thoroughly secular ones as well. This is also true regarding a halakhic ruling directed to soldiers serving in the army, who also hail from many different and varied populations.

This diversity, and especially the fact that many potential addressees of a halakhic ruling are not necessarily Torah-observant Jews,<sup>52</sup> and certainly not at a level of strict and stringent observance, often – though not always<sup>53</sup> – bring the halakhic decisor to adopt a more lenient approach,<sup>54</sup> and to take into account certain “meta-halakhic considerations,”<sup>55</sup> e.g., “so as not to put to shame,”<sup>56</sup> “human dignity,” “what will people say,” and the like. To remove all doubt, let us emphasize that such considerations are commonly found in halakhic literature throughout the generations. But the use made of

them by Religious Zionist halakhic authorities is far more intensive and on a far grander scale than the use made of them in a society whose halakhic addressees comprise a more or less uniform group, meticulous in its religious observance.

Thus, for example, one of the main justifications for the heter mekhirah during the Sabbatical year was the fact that many farmers were not Torah-observant, and stringency would only bring them to violate the *shemittah* laws. Therefore, the halakhic authorities preferred to find them some sort of allowance – even if forced – so that they not intentionally transgress the prohibition of working the land during the Sabbatical year.

The same is true regarding the issue of women's suffrage. The fact that many of the addressees of their rulings belonged to a community in which women went out into the world and actively participated in economic and community life, forced the Religious Zionist halakhic authorities to find an appropriate response – in the framework of Halakhah – that would allow for the integration of women in positions of community leadership.<sup>57</sup>

### **3. The Circumstances Surrounding the Ruling's Coming into Being: the Time and the Place**

Halakhic rulings – Religious Zionist halakhic rulings included – are not created in a vacuum. Such rulings do not appear out of nowhere, but rather emerge in the context of a world where many different factors are operative. A halakhic ruling is influenced not only by its author, his biography and personality, and not only by the identity of its addressees. Every halakhic ruling – Religious Zionist rulings included – is also influenced in great measure by the circumstances of its coming into being – the time and the place.<sup>58</sup>

Historical, social, and economic changes in the world impact upon the realms governed by Halakhah, and sometimes also upon the content of the final halakhic decision. Historical factors (for example, migration from rural communities to urban centers, the industrial revolution, wars, expulsions, immigration, and the like), social factors (for example, secularization, the growth of the Reform

movement, assimilation, and the like) and economic factors (economic plenty, inflation, shortages, and poverty) often have important halakhic repercussions.

For our purposes, the establishment of the State of Israel created a real change in the Jewish world. Historically, it created a new situation in which after 2,000 years of exile, the Jewish people had a state of their own with an army, a police force, and centralized systems of education, health and welfare. The country’s leadership was forced to grapple with varied challenges, most importantly, maintaining the security of the state and its citizens, absorbing immigrants arriving in colossal numbers from the four corners of the earth,<sup>59</sup> establishing systems of education, health and welfare that would meet the needs of the diverse populations, establishing agricultural, commercial and industrial infrastructures on scales previously unknown in Jewish society throughout the ages, and the like. These circumstances brought with them new halakhic problems that hitherto had been unknown – certainly at that intensity and scale – in the world of Halakhah. For example, operating an army and police force on the Sabbath, importing food products on such a grand scale, finding a solution for thousands of immigrants coming from assimilated families or for intermarried couples, and others.

The security and existential threat which the Jewish *Yishuv* and the State of Israel faced prior to and immediately following the establishment of the state, made it necessary to find complex, creative and at times even daring halakhic solutions. Some of them were intended as “temporary measures,” and some were accepted as permanent solutions. In any event, the “time” and the “place” greatly influenced both the realms of Religious Zionist Halakhah and its contents.

### **III. CHARACTERISTIC FEATURES OF “RELIGIOUS ZIONIST” HALAKHAH**

Alongside an analysis of the personal and biographical elements, it is also possible to propose several characteristic features of the creation itself – Religious Zionist Halakhah. These characteristics relate to a

number of factors: 1) areas of occupation; 2) method of the ruling; 3) form of the ruling; 4) the media through which the ruling is communicated to its addressees; 5) the substance of the ruling.

### 1. Areas of Occupation

Many of those who could be included in the camp of Religious Zionist halakhic authorities deal with areas of Halakhah that had heretofore been entirely, or at least partly, ignored – for example, “the laws of the state” and “the laws of modernity.”

#### A) OCCUPATION WITH “LAWS OF THE STATE”

For thousands of years, Torah sages – to the exclusion of isolated exceptions<sup>60</sup> – hardly ever dealt with “laws of the state” in the wide sense of the term.<sup>61</sup> The absence of a Jewish political entity pushed this topic to the sidelines, and if anybody already dealt with it, it was only in the narrow sense of “laws of the community.” Torah authorities did not relate to the administration of a modern, democratic state, founded on the principles of equality and human rights, the operation of an army and police force, the administration of local governments, a national educational system, the treatment of social and economic problems (e.g., National Insurance) and the like.

And all the more so, the Jewish community across the ages almost never had to occupy itself with finding halakhic solutions to problems arising in a society most of whose members do not define themselves as Torah-observant, and a fifth of whose population is not even Jewish.

The years preceding the establishment of the state and the years following Israel’s declaration of independence gave rise to a rich literature dealing with “the laws of the state.”

When, however, we examine the identity of the halakhic authorities who dealt with these issues, we quickly see that it is almost impossible to find among them halakhic authorities affiliated with haredi society. These generally preferred to close their eyes to the historical changes brought about by the establishment of the state, and they continued as in the past to rule on matters regarding the Sabbath, festivals, and forbidden foods, problems that had been dis-

cussed in the Diaspora for generations, almost totally ignoring the new halakhic questions encountered by the residents of the newly founded State of Israel.

In contrast, a group of Religious Zionist halakhic authorities crystallized, who put their minds to the new situation, and tried to come up with different solutions. Thus, for example, Rabbi Y.L. Fishman-Maimon revived the idea of establishing a *Sanhedrin*,<sup>62</sup> an idea which gave rise to an extensive literature, some authorities supporting it and others sharply objecting to it.

Rabbi I. Herzog exerted great effort to revive Jewish law in the new state, and to establish it as law of the state. He even suggested practical solutions to reconcile the almost unavoidable conflict between traditional Halakhah and modern democratic principles, such as equality between sons and daughters regarding issues of inheritance.

His colleague, Rabbi B.Z.M.H. Uziel, found creative solutions that allowed for the integration of women in positions of leadership and the assumption on the part of non-Jews of positions of authority.<sup>63</sup>

Rabbi Shlomo Goren established dozens of new arrangements in matters pertaining to army life.<sup>64</sup>

Special mention should be made of the *Hever Rabbanim* group of the Ha-Po'el ha-Mizrachi movement, headed by Rabbi Shaul Yisraeli,<sup>65</sup> which found practical solutions to problems arising from the need to operate agricultural concerns even on the Sabbath and festivals, e.g., milking cows on the Sabbath.

Over time, “the laws of the state” expanded and came to include halakhic occupation with issues such as the halakhic status of lands belonging to the Jewish National Fund for the purpose of *shemittah*;<sup>66</sup> viewing the laws passed by the Israeli Knesset as *dina de-malkhuta*, law of the land; the functioning of the police, according to Halakhah;<sup>67</sup> the halakhic propriety of a census,<sup>68</sup> labor strikes, arms sales, integration of women and non-Jews in positions of leadership, and the like.

The rabbis of the “third generation” expanded the halakhic parameters of “laws of the state” even further, so that they include

issues that were almost never discussed before in classical halakhic literature, and certainly not in a deep and systematic manner, such as “the laws governing the prevention of traffic accidents.”<sup>69</sup>

**B) OCCUPATION WITH “LAWS OF MODERNITY”**

Another characteristic feature of what could be perceived as Religious Zionist Halakhah is the expansion of the parameters of Halakhah to include issues stemming from the encounter with modernity. While there is no direct – or necessary – connection between Religious Zionism and modernity and its offshoots, the fact is that most – though, of course, not all<sup>70</sup> – of the halakhic authorities who have occupied themselves with these issues in a comprehensive manner have been identified with Religious Zionism.<sup>71</sup> Thus, articles were written and rulings issued on such topics as the Internet and treatment of AIDS,<sup>72</sup> the discussion of which is unheard of in the world of haredi halakhic rulings.

**C) HARNESSING HALAKHAH FOR POLITICAL ENDS**

One of the most striking characteristics of Religious Zionist Halakhah, especially from the Six-Day War onward, is the way that it has been harnessed to what appears, at least in the eyes of an outside observer, as clearly political ends. Religious Zionist halakhic authorities began to issue “halakhic rulings”<sup>73</sup> dealing with clearly political issues on the political agenda of the State of Israel, e.g., the “Who is a Jew” question, handing over parts of Eretz Israel into non-Jewish hands,<sup>74</sup> “the laws of the intifada,”<sup>75</sup> and even issues such as Mafdal’s joining the government coalition<sup>76</sup> or the validity of a coalition agreement.<sup>77</sup>

In the halakhic literature itself, there is disagreement regarding the question of whether Halakhah has a stand on every “political” issue of this sort, and whether, according to Halakhah, “everything is subject to halakhic adjudication.”<sup>78</sup> According to those who expand the bounds of Halakhah and say that it has something to say on every issue, every political issue is also a halakhic question. In any event, attention should be paid to the fact that the great majority

of such “political” questions were discussed by halakhic authorities of the school of Religious Zionism, and not by haredi halakhic authorities.<sup>79</sup>

In such cases, these “halakhic rulings” were sometimes publicized by way of newspaper advertisements or by way of proclamations plastered on the city streets.

## 2. Methodology and Sources of Decision-Making

The uniqueness of Religious Zionist halakhic authorities is characterized not only by their expansion of the halakhic field to include new areas of Halakhah, never imagined by their forefathers, but also by the methodology that they employed in their halakhic decision-making. Even in the classical and “ordinary” realms of Halakhah, e.g., the realms of *Orah Hayyim* and *Yoreh De'ah*, it is possible to identify unique markers of the method of halakhic decision-making used by Religious Zionist halakhic authorities.

### A) KOHAH DE-HETERA ADIF – SHOWING PREFERENCE TO THE LENIENT POSITION – AND THE USE OF “META-HALAKHIC” TOOLS

One especially striking feature of the decision-making process employed by the halakhic authorities of the Religious Zionist school is the inclination toward leniency and allowances. Two primary reasons may be suggested for this phenomenon:

- 1) The urgent need to find solutions – and not just identify problems – to burning halakhic issues, some of which were of critical importance to the state and its citizens (e.g., resolving the *agunah* problems faced by the widows of the Dakar submarine crew; accepting the Bene Israel community arriving from India and the immigrants arriving from eastern Europe in the early days of the State; receiving the immigrants coming from Ethiopia and the former Soviet Union in recent decades).
- 2) The heterogeneity of the addressees of these rulings, substantial numbers of whom, as stated above, were not Torah-observant, made it necessary for the halakhic authorities to find lenient

creative solutions, in the framework of Halakhah, that would allow them to be included among the addressees of the halakhic discussion.

Needless to say, the principle of *kohah de-hetera adif* was well known and widely utilized in the halakhic world from time immemorial.<sup>80</sup> In recent generations, however, an inclination towards stringency has been clearly evident in all realms of Halakhah, and the adoption of a lenient approach in the framework of Religious Zionist Halakhah is certainly one of its distinctive features.<sup>81</sup>

Along with the “power of leniency,” Religious Zionist halakhic authorities make ample use, relatively speaking, of many other tools in the halakhic toolbox – e.g., “better that they should act unintentionally and not intentionally,” “dignity of the community,” “what will people say,” *takanat ha-shavim* (measures instituted to encourage penitence), *tinokot she-nishbu* (children who were taken captive),<sup>82</sup> and the like – in order to reach halakhic results that can offer solutions to difficult problems on the halakhic agenda, and that can be applied even in circumstances where many of the ruling’s addressees are not Torah-observant. At the same time they generally refrain from invoking halakhic principles that create distance and separation from “the sinners of Israel,” such as “Give it to the wicked man to swallow and let him die.”<sup>83</sup>

**B) A “STATE-ORIENTED” AND UNIFYING APPROACH  
VERSUS A “SECTORIAL” AND SEPARATIST APPROACH**

One of the striking features that impact on the halakhic decision-making process is the general outlook of the halakhic decisor. As opposed to a *posek* from the haredi school, whose eyes are generally directed toward some specific addressee as has been the custom of halakhic authorities for generations, the eyes of a halakhic authority from the Religious Zionist school are pointed to a broader population.<sup>84</sup> This is all the more true when he is asked to deal with a halakhic question in the capacity of the state position that he holds (chief rabbi of the State of Israel, city rabbi, chief rabbi of the IDF, and the like). In such cases, the answer must take into consideration

not only the individual, but the entire collective – the state-wide and all-embracing ramifications of his ruling. Thus, for example, one cannot compare a ruling issued to a Torah-observant soldier regarding articles that may be handled on the Sabbath to a directive aimed at all the soldiers of IDF, many of whom are non-observant. Stringency in such a situation, which may be appropriate for the observant soldier, is liable to constitute a “decree which the community cannot bear” for the tens of thousands of non-observant soldiers, and lead to grand scale Sabbath desecration, so that the loss outweighs any benefit.

Furthermore, the haredi approach is not only sectorial and aimed at a narrow slice of the population, but also separatist by its very nature. A haredi halakhic authority sees nothing wrong in his community’s separating itself from the non-observant majority of the population, and sometimes even sees in this an important and praiseworthy value. The majority of Religious Zionist halakhic authorities, on the other hand, see the unity of the Jewish people as an important value, towards which Halakhah must strive, and whose practical realization it must promote.<sup>85</sup>

This difference is particularly striking with respect to halakhic questions related to conversion and the “Who is a Jew” issue. Stringency in this regard, which might be appropriate for a particular sector that from the outset accepts upon itself all halakhic outcomes, stringent as they might be, is liable to wreak havoc for the wider Jewish community in Israel and in Jewish communities throughout the world, and can lead to the further distancing of hundreds of thousands of Jews from their roots. A state-oriented, rather than a sectorial approach, is more likely to draw them near and make them feel connected to the Jewish people.

### ***C) USE OF SOURCES ORIGINATING IN ERETZ ISRAEL***

Some Religious Zionist halakhic authorities, such as Rabbis Kook and Goren, gave great weight, if not always decisive – and not by chance<sup>86</sup> – to halakhic sources originating in Eretz Israel, such as the Jerusalem Talmud.<sup>87</sup>

**D) USE OF MODERN RESEARCH TOOLS AND  
“OUTSIDE LITERATURE”**

The overwhelming majority of haredi halakhic authorities refrain from using modern research tools (e.g., reliance on scientific and medical findings), and do not make use of non-halakhic literature. And what is more, even when they do use them, they generally refrain from mentioning them in their halakhic rulings, lest that grant legitimacy to occupation with such sources. This is not the case with Religious Zionist halakhic authorities, who not infrequently seek assistance in scientific or philosophical literature, even that of non-Jewish authors,<sup>88</sup> and even give it expression in their rulings.<sup>89</sup>

**3. Style, Language and Form of the Ruling**

The rulings of Religious Zionist halakhic authorities are very often recognizable by their language, style, or form. In contrast to the “language of the Rabbis,” spiced with Aramaisms and talmudic expressions, that characterizes traditional halakhic rulings, many – though not all – Religious Zionist halakhic authorities adopt an entirely different style. For the most part, their responsa are written in modern Hebrew<sup>90</sup>; in many cases, these responsa are polished, divided into sections and sub-sections,<sup>91</sup> and gracefully edited.<sup>92</sup> Moreover, some Religious Zionist halakhic authorities refrain from showering upon the addressee – and upon the community that reads their works – an abundance of citations from the *poskim*, *rishonim* and *aharonim*. This is done intentionally, in order to reach a wider audience, and so that their rulings will be clear and understandable even to one who has not mastered the Talmud and codes. Typical examples of this style can be found in the nine volumes of *Responsa Aseh Lekha Rav*, by Rabbi H.D. Halevi, in the four volumes of *Yam ha-Gadol*, by Rabbi Y. Metzger, and in the halakhic writings of Rabbis Aviner and Cherlow.

**4. The Media through which the Halakhic Ruling is Communicated to its Addressees**

Another unique feature of Religious Zionist Halakhah is the relatively

wide use that its authorities, primarily those of the “third generation,” make of modern communication media. Thus, for example, several volumes have appeared, whose publishers boast about the fact that the responsa contained therein had first been communicated by fax.<sup>93</sup> There is also a very extensive literature, the ramifications of which have not as yet been seriously discussed, that uses the Internet as the medium for disseminating halakhic rulings.<sup>94</sup>

It goes without saying that haredi halakhic authorities also make use of these media, but on a much more restricted scale, and they certainly do not boast or take pride in this development.<sup>95</sup>

Another formal feature that characterizes Religious Zionist Halakhah – much more so than Halakhah emanating from the haredi school – is the way it is communicated by way of halakhic articles, rather than in codes or responsa. In the classical world of Halakhah, the responsa literature and codes dominate, both quantitatively and with respect to the great number and wide variety of issues that they deal with.<sup>96</sup>

Torah journals are a relatively recent phenomenon in the world of halakhah, and even after they made their appearance on the stage of Torah literature, the lion’s share of practical halakhic writing continued to be disseminated to the public by way of halakhic codes and books of responsa.

This is not the case regarding Religious Zionist Halakhah. When one examines the Torah literature that has been published over the past century, it readily becomes apparent that Religious Zionist halakhic authorities composed relatively few books of Halakhah and responsa<sup>97</sup> in “real time,”<sup>98</sup> in comparison with those published in haredi circles.

In contrast, in the periodicals and newspapers which publish halakhic articles dealing with timely issues, the contribution of Religious Zionist halakhic authorities is considerable. Various explanations may be offered for this phenomenon, though it seems that it is partly due to the fact that the immediate publication of a halakhic ruling is at times necessary in order to provide an answer to a current problem. Whereas the publication of a volume

of responsa containing hundreds of rulings generally takes a long time,<sup>99</sup> halakhic journals appear much more frequently, and also allow for discussion between different halakhic authorities.

It is not surprising, then, that most Religious Zionist halakhic rulings appeared in various periodicals, e.g., *Sinai* and *Torah she-be-al Peh* – the long-standing journals of Mossad HaRav Kook, edited by Y.L. Maimon, and then later by his son-in-law Yitzhak Raphael; *Mahanayyim* – the weekly journal of the army rabbinate, edited by my revered father, Rabbi Menachem Hacohen, where most of the rulings of Rabbi Shlomo Goren, chief rabbi of the IDF, first appeared; *Ha-Torah ve-ha-Medinah*, edited by Rabbi Shaul Yisraeli, in which appeared most of the halakhic articles of the Religious Zionist rabbis in the first decade after the establishment of the state; *Shevilinear*, *Gevilin*, *Shanah be-Shanah*, *Morashah*, and the like.<sup>100</sup> These periodicals provided a fitting answer to the need for a clarification of “laws of the state,” in the wide sense, and served as the primary instrument of their dissemination. *Hatzofeh*, the Mizrachi movement’s newspaper, served as an important vehicle for the publication of short halakhic articles. Interestingly, the important periodicals published by Religious Zionists in the United States – *Or ha-Mizrah* and *Ha-Darom* – also made a significant contribution to the clarification of laws relating to contemporary issues.

Over the last twenty-five years, the periodical *Tehumin* and the Torah journals issued by the Yeshivot Hesder, and the other Religious Zionist Yeshivot took over this important role.<sup>101</sup> We shall mention some of them: *Alon Shevut* and *Daf Keshet* (Yeshivat Har Etzion); *Kotleinu* and *El mi-Hutz la-Homot* (Yeshivat ha-Kotel); *Sha’alei Da’at* and *Mi-Sifra le-Saifa* (Yeshivat Sha’alvim); *Ma’aliyot* (Yeshivat Birkat Moshe in Ma’aleh Adumim); *Kol ba-Ramah* (Yeshivat ha-Golan); *Iturei Kohanim* (Yeshivat Ateret Kohanim in the Moslem quarter of Jerusalem); and *Tzohar* (rabbis of the Tzohar organization). These journals have become a massive and important collection of original halakhic writing from the school of Religious Zionism.

It may be noted that the aforementioned phenomenon has also a formal-technical dimension, influenced by the content. Whereas the vast majority of traditional volumes of responsa were published

in Rashi script, which for many members of the present generation in Israel and abroad makes them inaccessible, the periodicals issuing from the school of Religious Zionism – as well as the halakhic codes and books of responsa being published today – appear in block print, and are sometimes even translated into other languages. This leads, of course, to a wider distribution and study of this literature, and broadens the community of addressees – a goal which, as was stated above, characterizes Religious Zionist Halakhah.

### **5. The Substance of the Ruling**

The most important characteristic of Religious Zionist Halakhah is, of course, not the language, style, form, or medium, but the content and essence.

Here there is room to ponder whether a halakhic ruling emanating from a halakhic authority of the Religious Zionist camp differs from one issued by a haredi authority. This question is connected to a wider issue regarding the relationship between ideology and Halakhah, an issue many aspects of which have recently been discussed at length, in dozens of papers presented in Jerusalem at a conference devoted entirely to this issue.<sup>102</sup> In the present framework, we cannot, of course, examine all the fascinating aspects of this issue, and we will merely point to a few examples that illustrate the possible influence of Religious Zionist ideology on halakhic decision-making.

Regarding this issue, there appears to be room to distinguish between three different areas of Halakhah:

#### ***A) RULINGS RELATING TO RELIGIOUS ZIONIST ISSUES***

Already upon superficial examination, the direct and immediate influence of Religious Zionist ideology is plainly evident in those matters that relate by their nature and essence to areas that touch upon Religious Zionist ideology or stand at the heart of Religious Zionist activity.

Thus, for example, a Religious Zionist halakhic authority is likely to assign religious significance to the State of Israel,<sup>103</sup> to the point that he will view it as “the Kingdom of Israel” with all the many

ramifications that follow from that designation. He is likely to take democratic principles into account (though not all of them, and not in equal measure) when he comes to decide halakhic questions.<sup>104</sup> As opposed to haredi halakhic authorities, who close their eyes and sometimes even display hostility toward “religious legislation,” which they see as a “secularization of Halakhah,” many Religious Zionist halakhic authorities view it in a positive manner.<sup>105</sup> A Religious Zionist halakhic authority will also have a positive attitude toward the fulfillment of the commandment of moving to Eretz Israel in our time, even in cases where it stands in direct confrontation with other important halakhic values (e.g., the commandment to honor one’s parents).<sup>106</sup> At the same time he will voice serious reservation about leaving Eretz Israel and traveling abroad merely for the sake of pleasure.<sup>107</sup> He will look favorably upon the observance of holiday customs on Israel Independence Day, and the recitation of Hallel – with or without a blessing – over the establishment of the state and its military victories. He will view army service as generally obligatory, and specifically, he will almost certainly support the drafting of Yeshiva students into the Israeli army.<sup>108</sup>

This ideology also impacts on the institutional dimension. A halakhic authority who sees himself as belonging to the Religious Zionist camp will presumably recognize the halakhic authority of the chief rabbinate of the State of Israel<sup>109</sup> and the special status of the State Rabbinical Courts, and strive to expand their authorities as much as possible,<sup>110</sup> and sometimes even see in them an “important court.”<sup>111</sup> Such an authority will presumably recognize the binding halakhic standing of most of the laws passed by the Israeli Knesset (to the exclusion of those relating to ritual issues);<sup>112</sup> and he will even recognize the authority of the Supreme Rabbinical Court, despite the halakhic problems surrounding its establishment and the acceptance of its authority.<sup>113</sup>

Regarding these issues and the like, it is manifestly evident that the halakhic authority’s ideological position impacts upon his halakhic decision-making. In contrast to the Religious Zionist halakhic authority, a non-Zionist halakhic authority will in many cases ignore these issues and display absolute indifference to them.

In other cases, he will sharply oppose Zionist institutions, and in certain cases he will even apply to them – if only for rhetorical purposes – the law of *yehareg ve-al ya'avor*, “one should suffer martyrdom, rather than transgress the prohibition.”<sup>114</sup>

**B) ISSUES ARISING FROM THE ESTABLISHMENT, EXISTENCE AND ACTIVITIES OF THE STATE OF ISRAEL**

Another area of Halakhah in which Religious Zionist ideology may have a certain impact on halakhic decision-making relates to issues arising from the establishment, existence or activities of the State of Israel.

Thus, for example, the attitude towards pluralism and the various human rights, is influenced by the need to reconcile between “the Jewish and the democratic values of the State of Israel” and its government, which are the cornerstone of its existence. These issues are discussed in the writings of the halakhic authorities of the Religious Zionist school,<sup>115</sup> but find hardly any expression in the halakhic writings of the haredi sages.<sup>116</sup>

Another example is the issue of extradition. The question of handing over a Jewish criminal (or suspected criminal) to another country that is seeking his extradition is not essentially connected to Zionist or Religious Zionist ideology, and it arose already in the past in classical halakhic sources, long before anyone ever imagined that the vision of a Jewish state could be actualized. However, the fact that extradition is executed in the framework of relations between states, and that its results are liable to effect the state’s foreign relations and standing in the eyes of the world, is liable to influence the content of a halakhic ruling issued in its regard. A “sectorial” halakhic authority, whose eyes are directed exclusively at the specific matter at hand, is liable to rule against extradition, whereas his counterpart who has a broader and more “state-oriented” perspective, is likely to support the criminal’s extradition in light of broader considerations.<sup>117</sup>

A similar issue involves the attitude toward non-Jews in general, and in specific cases in particular.<sup>118</sup>

The issues of autopsies and organ transplantation were also examined differently by Religious Zionist halakhic authorities than

by their counterparts in the haredi camp. For the most part, the latter take into account narrow, “local” considerations, which relate to the specific case. Therefore, their rulings generally follow the old halakhic tradition, which is stringent in these areas, and suggest practical solutions to the problem – e.g., bringing cadavers from abroad for the study of anatomy – without considering the possible public ramifications of such rulings. In contrast, the Religious Zionist or “state-oriented” halakhic authorities, such as Rabbi Sh. Goren, also considered the public and diplomatic ramifications of such rulings, including the concern about the desecration of God’s name that would be caused by the import of non-Jewish cadavers or the almost absolute prohibition of organ transplants, and therefore they tended to find – in the world of Halakhah and within its framework – justifications for leniency in such cases.<sup>119</sup>

**C) PENETRATION OF RELIGIOUS ZIONIST IDEOLOGY INTO “TRADITIONAL” AREAS OF HALAKHAH**

The third area of Halakhah that requires discussion is comprised of halakhic questions, which at least on the surface, do not appear to be connected in any way to Religious Zionist ideology, but nevertheless we can see how that ideology impacts upon them, sometimes more and sometimes less. We shall briefly discuss two such instances.

An analysis of the halakhic rulings issued by the authorities of the Religious Zionist school teaches that ideological tendencies have indeed penetrated even into traditional halakhic realms, e.g., the laws of the Sabbath, *kashrut*, and personal status, which on the face of things have no special connection to Zionist or Religious Zionist ideology.

In this framework, we cannot expand at length with examples, but we shall note a few of them, like a drop in the sea. One of the most difficult issues that halakhic authorities must grapple with is finding ways to permit agunot to marry. We are talking about a very old field of Halakhah, about which there exists a vast literature. Indeed, the severity of the prohibition of allowing a “married woman” to remarry without having received a *get*, and the concern about creating *mamzerim* (children of adulterous or certain incestuous

relationships, who are excluded from the Jewish community), have led to the situation where many contemporary halakhic authorities refrain from dealing with such issues. Those who do deal with them, often tend to more stringent approaches, even when there are authoritative lenient positions upon which they can rely.<sup>120</sup>

Rabbi Shlomo Goren, both because of his daring and dauntless personality, and because of the offices that he occupied – chief rabbi of the IDF and chief rabbi of the State of Israel – understood that this issue could not be dismissed with a stringent ruling, not only because of classical halakhic considerations, such as “the rabbis are lenient regarding an agunah,” but also because of the ramifications on the functioning of the Israeli army. Therefore, he sought and found groundbreaking ways to permit the agunot created by the War of Independence, the Dakar submarine, and the like. His colleague, Rabbi Ovadyah Yosef, acted in a similar fashion with respect to the agunot created by the Yom Kippur War (and from 9/11).

The question of the fitness of the various “lost communities of Israel” to marry into the Jewish community is also by no means a new halakhic issue. An entire chapter of tractate *Kiddushin*, “Ten classes of Jew of traced genealogy went up from the Babylonian captivity,” is devoted to the means of clarifying a person’s Jewishness, to which were added over the course of the generations reams of commentary, novellae and rulings. But whereas for centuries, the discussion related to questions concerning specific individuals, the establishment of the State of Israel created a need to confront the genealogical fitness of entire communities, which sometimes numbered tens of thousands of people, e.g., the Bene Israel from India, the Beta Israel and Falashmura from Ethiopia, and those immigrating from the former Soviet Union.<sup>121</sup>

Also in the realm of the laws of personal modesty, one of the areas that distinguish – justly or not – between the Religious Zionist and the haredi communities, it is possible to find divergent opinions. Whereas haredi halakhic authorities tend to be stringent in matters of modesty, some authorities of the Religious Zionist school are aware – owing to their broader perspective and wider audience – that there is room for certain leniency, of course within

the bounds of Halakhah, on this issue as well. A striking example of this phenomenon is Rabbi Ovadyah's lenient ruling allowing women to wear trousers – under a skirt – a ruling that most certainly would not have been issued by a haredi halakhic authority.<sup>122</sup>

#### **IV. LOOKING FORWARD: SUMMARY AND CONCLUSIONS**

In this article, I have attempted to lay the groundwork for characterizing the world of Halakhah emanating from the school of Religious Zionism. An examination of its various levels – overt and hidden – has revealed a complex, varied, and fascinating array of forces that are factors in its formation. Some of them are connected to the creators of Religious Zionist Halakhah – the halakhic authorities who drive its engines; and some are connected to the creation itself – the circumstances of the creation of the Halakhah, the particular time and the particular place.

I have tried to briefly point to the various components operating in the world of Religious Zionist Halakhah, and its characteristic features. My analysis demonstrates that it is characterized by, among other things, greater – though not exclusive – emphasis and weight directed to issues dealing with “laws of the state” in the wide sense, issues concerning “laws of modernity,” and sometimes even the harnessing of Halakhah to “political” ends.

An analysis of the content of Religious Zionist Halakhah teaches that it is possible to identify characteristic features, e.g., intensified use of the halakhic principle of *kohah de-hetera adif*; adopting a state-oriented approach rather than the sectorial approach that characterizes the Halakhah issuing from haredi circles; and use of sources originating in Eretz Israel, of modern research tools and “outside literature.” The style, language, and form of a halakhic ruling, as well as the media through which it is communicated to its addressees, sometimes indicate that the ruling belongs to the Religious Zionist halakhic system.

What awaits us in the future with respect to the halakhah issuing forth from the school of Religious Zionism? In light of the social dynamism that characterizes the world of Judaism and the Jewish

people in general, and the world of Religious Zionism (as that of the haredim as well) in particular, we cannot know. It is possible to outline, if only in general terms, “from where we came,” but it is much more difficult to know “where we are heading” and this is for several reasons.

One reason is the great dynamism that characterizes Religious Zionism in its various forms. Like any other living movement, Religious Zionism has never been static, stuck in one place. Nevertheless, following the crystallization of its central ideas at the beginning of the twentieth century, and especially after the establishment of the state, certain institutions, practices and lifestyle (e.g., dress, speech, literature, and the like) became entrenched and have survived for many years.

In recent years, we are indeed witness to many significant changes in all these realms, as well as the development of varied and diverse currents and sub-currents,<sup>123</sup> which are often very distant from each other, but which can be defined – both because of their essential nature, and because of their self-image – as standing under the wide umbrella of “Religious Zionism.”

A second reason is the continuing decline in the world of halakhic decision-making, and the shift of leadership from halakhic decisors to roshei yeshivot. This phenomenon is characteristic of the world of Halakhah in general, but it leaves its mark on Religious Zionism as well. In great measure, the shoes of important halakhic decisors, whose authority had been recognized by all – or almost all – (even if they did not always agree with their rulings), e.g., Rabbis M. Feinstein and J.B. Soloveitchik in the United States, and Rabbis I. Herzog, Sh. Goren, E.Y. Waldenberg, and Sh. Z. Auerbach in Israel, have not been filled.<sup>124</sup> In their place, local pockets of halakhic decision-making have been created, the influence of which is far more restricted.

A third reason is the decline in status and power of the Religious Zionist establishment. The centralized political power of Religious Zionism which had in the past been concentrated in the hands of the Mizrachi-ha-Po'el ha-Mizrachi movement has been divided up, and parts of it have been scattered in all directions. A

direct result of this loss of power has been the almost total cessation of “religious legislation,”<sup>125</sup> which was so characteristic of the early years of the state, and the legislation already existing is hardly enforced.<sup>126</sup> This change has brought with it a significant change in the composition of the Rabbinical Courts and the city rabbis. There has been a significant decline in the standing of the chief rabbinate of Israel, and the change in those standing at its helm has led to a dilution and depletion of the Religious Zionist halakhic rulings issued by that institution.<sup>127</sup>

It may be assumed that the changing times are also a factor. In the early years of the state, many of the halakhic problems that characterized the world of Religious Zionist Halakhah were entirely new, and every ruling involved a great novelty. This is no longer true today. Following the development and establishment of Religious Zionist decision-making over the course of a generation, a firm foundation has been formed, all – or most – additions to which are but like grains of sand falling on a great dune, the impression and novelty of which are almost unrecognizable. This is true about “laws of the state,” laws relating to the army and war,<sup>128</sup> and other realms of Halakhah as well.

It seems, however, that certain tendencies that were pointed out above, are likely to grow stronger. As for matters of external form, the use of the Internet as a medium by which to disseminate Torah teachings and halakhic rulings is growing from day to day, and it may be surmised that its place and weight in the world of Religious Zionist Halakhah will only become greater. The same applies to the appearance of collections of articles – as distinguished from classical volumes of responsa; further improvements in the printing and distribution processes will lead to an increase in the number and frequency of such works.

The tendency toward leniency and a state-oriented (as opposed to a “sectorial”) approach will remain in place, in light of the urgent need to find appropriate solutions for broad populations, e.g., the conversion issue, the plague of assimilation that is eating away at world Jewry, and the continued integration of religious soldiers in the IDF (whose numbers in senior command positions are growing),

and of Torah-observant Jews in all areas of the economy, society, and the state.

Alongside these inclinations, certain tendencies have become apparent in recent years that point to a tempering of some of the phenomena described above. The development of a new sector, the *hardali* – *haredi leumi* sector,<sup>129</sup> which vacillates on the thin rope stretched between the Religious Zionist and haredi camps, is likely to herald a more conservative and stringent tendency in the halakhic rulings issued by the Religious Zionist school, whether as an intentional change in direction, or as a reaction and response to liberal inclinations penetrating this school from the “Modern-Orthodox” movement.

Diplomatic, social and political changes – such as the disengagement from the Gaza Strip and Gush Katif, the growing diversity in the National-Religious school system (creating a variety of colors and shades of colors among the educational institutions, as opposed to the relative uniformity that characterized them in the past), and the diminished power of the Mafdal – the traditional representative of Religious Zionism – in the Knesset, and its remaining outside the government coalition, are likely to impact in various ways and to one degree or another upon Religious Zionist Halakhah in the future.

## NOTES

1. Thus, for example, there are those who wished to see the *Hatam Sofer*, the most prominent representative of Orthodoxy in the modern period, as also representing a radically stringent halakhic approach, perhaps in the wake of his famous statement that “*hadash* [something new] is prohibited by Torah law.” There is, however, a wide gap between image and reality, and on certain halakhic issues the Hatam Sofer inclines toward far greater leniency than other sages. See: M. Samet, *Ha-Hadash Asur min ha-Torah* (Jerusalem, 2005), 306–318. In the other direction, Rav Kook is perceived by many as a lenient and tolerant halakhic authority. While it is true that tolerance constitutes a fundamental value in his thought, in certain areas of Halakhah he was exceedingly stringent, adopting extreme positions. Examples of this include the absolute prohibition that he cast – in opposition to the view of many of his contemporaries (e.g., Rabbi Uziel) – upon women’s right to vote and be elected, and his and his disciples’ radically negative attitude toward Christianity, which I have discussed elsewhere. See Aviad Hacohen, “*Natzrut ve-Notzrim be-Einayim Rabbaniyot be-Et ha-Hadashah – me-ha-Rav Kook ve-ad ha-Rav Ovadyah*”

Yosef,” *Mahanayyim*, 15 (2004): 89–124. Also Rabbi Mohilever, whose connection to the “*Hibbat Zion*” movement and whose support for the acquisition of a general education made him suspect of harboring “liberal” ideas, was at times stringent on matters regarding which others were lenient, e.g., the question of a *get* sent by way of the mail. See *Sefer Shemu’el*, pp. 11–12, note 8.

2. The same applies to the attempt to label a particular halakhic authority as “conservative,” “formalist,” “activist,” or “liberal,” which in most cases does not reflect the complexity of his decision-making. On this, see A. Hacohen, “*Shikkulim Meta-Hilkhatiyim be-Pesikat ha-Halakhah – Mitveh Rishoni*,” in A. Ravitzky and A. Rosenak, eds., *Proceedings of the First International Congress on the Philosophy of Halakhah* (pending publication).
3. Rambam’s great code, the *Mishneh Torah*, is, of course, the exception that proves the rule.
4. Regarding the Oral Law in its early stages, it stands to reason that what contributed to this was the fact that the mishnah and the talmud were not committed to writing, but rather taught orally, and that associative connections were utilized in order to make the texts easier to memorize. As a result, we frequently find in the talmud a series of disparate statements, dealing with totally unrelated topics, the only common denominator between them being the fact that they were all uttered by the same sage.
5. Regarding the casuistic nature of Jewish law, see M. Elon, *Ha-Mishpat ha-Ivri*, 3rd ed. (Jerusalem, 1988), 879, 1001.
6. Regarding the attempt to categorize halakhic rulings, see the fundamental article of C.I. Waxman, “Toward a Sociology of *Pesak*,” in M. Sokol, ed., *Rabbinic Authority and Personal Autonomy* (Northvale, NJ: Jason Aronson, 1992); idem, “The Sociology of *Psika* (halakhic ruling): An Example from American Jewry” [Hebrew], in ed, Eliezer Don Yehiya, *Between Tradition and Innovation: Studies in Judaism, Zionism, and the State of Israel* [Hebrew] (Ramat-Gan: Bar-Ilan University Press, 2005). See also: Marc B. Shapiro, “Sociology and Halakha,” *Tradition*, 27 (Fall, 1992): 75–85.
7. The idea of “Religious Zionism” is itself weighed down by the heavy baggage of diverse definitions. Many authors have discussed the features of Religious Zionism, and this is not the forum to expand upon the issue. We shall merely point to several fundamental sources, for illustrative purposes, in which references may be found to additional literature: E. Shweid, “*Te’ologiyah Le’umi-Tziyyoni be-Reishitah – al Mishnato shel ha-Rav Yitzhak Ya’akov Reines*,” in eds., Y. Dan and Y. Hacker, *Mehkarim be-Kabbalah, be-Filosofiyah Yehudit, u-be-Sifrut ha-Mussar ve-he-Hagut Mugashim le-Yeshayahu Tishbi* (Jerusalem, 1986), 689–720; D. Schwartz. *Ha-Tziyyonut ha-Datit – bein Higayon le-Meshihyut* (Tel Aviv, 1999); and elsewhere.
8. It is superfluous to mention that this division, like any division, is in a certain sense arbitrary, and made only for the sake of convenience. In the end, we are dealing with an ongoing movement, where one period merges into the next, there being no clear and distinct separation between them.
9. This, despite the fact that these sages as well wrote extensively in the field of

- Halakhah. See, for example: Rabbi Z.H. Kalischer's *Moznayim le-Mishpat* (1855), or his critique of a pamphlet written by Levi Herzfeld, a Reform rabbi from Braunschweig, who called for the abolition of various commandments, including those dependent upon the Land of Israel. Rabbi Kalischer's halakhic positions, including his call for a renewal of the sacrificial order, observance of the special commandments dependent upon the Land of Israel, and aliya to the Land of Israel – were clearly influenced by his fondness for settling the Land and his “Religious Zionist” attitude, which found strongest expression in his famous work, *Derishat Tziyyon*. Another example is the work of Rabbi Sh. Mohilever, *Hikrei Halakhah ve-She'ilot u-Teshuvot* (Jerusalem, 1944). Rabbi Avraham Isaac Hacoen Kook is exceptional; despite the fact that most scholarly attention has been paid to his ideological writings, an effort has been made, particularly in recent years, to study also his halakhic writings. See, for example: A. Malkhiel, “*Idi'ologiyah ve-Halakhah be-Heter ha-Mekhirah shel Rav Kook*,” *Shenaton ha-Mishpat ha-Ivri*, 20 (1997): 169–211; H. Ben-Artzi, “*Idi'ologiyah u-Pesikat Halakhah: Darkho shel ha-Ra'ayah Kook ke-Posek*,” in ed., A. Berholz, *Masa el ha-Halakhah* (Tel Aviv, 2003), 177–195; idem, “*Ha-Ra'ayah Kook ke-Posek: Yesodot Hadshaniyyim be-Pesikato shel ha-Rav Kook ve-Zikatam le-Olam ha-Haguti*,” doctoral dissertation, Jerusalem: Hebrew University, 2003; Rabbi N. Gutel, *Hadashim gam Yeshanim – be-Netivei Mishnato ha-Hilkhatit-Hagutit shel ha-Rav Kook* (Jerusalem, 2005); idem, “*Ha-Dor be-Hilkhot ha-Ra'ayah: Ma'amado he-Haguti-Histori shel 'Ha-Dor' be-Et ha-Hadashah ke-Shikkul Hilkhati be-Mishnato shel ha-Rav Kook*,” *Sidra*, 17 (2001): 23–61. Regarding the place of Halakhah in Rabbi Kook's thought, see: Rabbi H.Y. Hadari, “*Ha-Halakhah be-Haguto shel ha-Rav Kook*,” in ed., Y. Eisner, *Hagut ve-Halakhah* (Jerusalem, 1973): 57–71.
10. Rabbi H.D. Halevi devoted an entire book, *Dat u-Medinah* (1969), to a clarification of issues – halakhic and ideological – that stand at the heart of Religious Zionism. On his work, see: M. Hellinger, “*Dat u-Medinah be-Hagut ha-Tziyyonut-Datit ha-Sefaradit: Bein Zikah Me'ahedet le-Vein Middur – Ha-R.M.H. Uziel ve-ha-R.H.D. Halevi*,” in *Dat u-Medinah be-Hagut ha-Yehudit be-Me'ah ha-Esrin* (2005): 219–265; Z. Zohar, “*Arakhim Politiyyim Universaliiyyim ve-Tziyyonut Datit: Kavim le-Mishnato shel ha-Rav Hayyim David Halevi*,” in eds., A. Sagi and Y. Stern, *Yahadut Penim ve-Hutz* (Tel Aviv, 2000): 111–123; M. Fluch, “*Mishnato ha-Hilkhatit ve-he-Hagutit shel ha-Rav Hayyim David Halevi*,” *Pe'amim*, 81 (2000): 108–119.
  11. In this context, mention should be made of the halakhic authorities of the religious kibbutz movement in its early years, Rabbi E.Sh. Rosenthal (see below, note 17), and Rabbi Elimelech Bar-Shaul (Shaulsohn), who also headed the Rabbinical Court in Rehovot. Eventually, a stratum of rabbinic leadership was created in the religious kibbutzim, this being a relatively new phenomenon in the Religious Zionist world, which requires separate study. Regarding this phenomenon, see: Sh. Emmanuel, ed., *Ha-Kibbutz be-Halakhah* (Sha'alvim, 1984).
  12. Regarding his approach to Halakhah and Zionism, see: M.B. Shapiro, *Between the*

*Yeshiva World and Modern Orthodoxy: The Life and Works of Rabbi Jehiel Jacob Weinberg* (Oxford, 1999).

13. Regarding his approach to Halakhah, see. A. Hacoen, “‘Mah Nishtanah’ – Kavim le-Heker Shitato ha-Lamdant shel ha-Rav Soloveitchik,” to appear in *Sefer ha-Rav Soloveitchik*, Van Leer Institute, Jerusalem, and the sources cited therein. Another Torah scholar who should be mentioned in this context is Rabbi Y. Gershuni, who was born in Europe, studied in the Grodno yeshiva, moved to Eretz Israel, where he studied in Yeshivat Merkaz Ha-Rav, but lived most of his life in the United States, only in his later years establishing a permanent residence in Jerusalem. In his various articles, which were later collected in *Kol Tzofayikh* (Jerusalem, 1980) and *Kol Yehudah* (Jerusalem, 1990), there is extensive discussion of “Religious Zionist” issues. It is not surprising that Rabbi Gershuni also composed a work on Maimonides’ *Hilkhot Melakhim*, which was first published by his father-in-law, Rabbi Eliezer Silver, one of the leaders of Ultra-Orthodoxy in the United States (!), only two years after the establishment of the State of Israel (New York, 1950), and that he headed the “*Shitah Mekubetzet*” project to the tractate Peshachim.
14. Needless to say, many colors and shades of colors are found in haredi society as well. Alongside the “traditional” division between Ashkenazi haredim and Sefardi haredim, and the accepted sub-categories, e.g., Lithuanian haredim and Hassidic haredim, there are tens of sub-divisions to each sub-category. For the purpose of this article, we have used the all-embracing term “haredim,” despite the fact that like any generalization, in specific cases it is liable to be misleading. For a characterization of haredi society, see: M. Friedman, *Ha-Hevrah ha-Haredit: Mekorot, Megamot, ve-Tahalikhim* (Jerusalem, 1991).
15. In the heart of the period under discussion, it was Yeshivat Merkaz Ha-Rav, which, both during the life of Rabbi A.Y. Kook, and that of his son, Rabbi Z.Y. Kook, that produced halakhic authorities, such as Rabbis Y. Kafih, Y. Gershuni, E.Sh. Rosenthal, Sh. Sterlitz, D. Lior, and others. On the history of the yeshiva, see: Y. Rudik, *Hayyim shel Yetzirah* (Jerusalem, 1998). On the other hand, a not insubstantial number of “Religious Zionist” halakhic authorities were trained in yeshivot identified with the haredi community – the most outstanding of which in Eretz Israel being the Hevron Yeshiva – including Rabbis Sh. Goren, E. Bar-Shaul, A. Shapiro, and others. Among the halakhic authorities of the third generation, mention may be made of Rabbis Sh. Daichovsky and A. Sherman, graduates of Yeshivat “Ha-Yishuv he-Hadash,” and eventually members of the Supreme Rabbinical Court.
16. On his life, see: Sh. Avidor-Hacoen, *Yahid be-Doro* (Jerusalem, 1990). In his doctoral dissertation, “The Dyeing of Purple in Ancient Israel” (Haifa, 1981), on *tekhelet* in *tzitzit*, Rabbi Herzog integrated his Torah knowledge with his knowledge of the physical sciences. Alongside his unqualified support of the state and its institutions, he came out sharply – together with his colleague Rabbi B.Z. Uziel – against compulsory military service for women in the IDF and lamented the judicial system’s failure to adopt Jewish law as law of the land.

17. Rabbi Prof. Eliezer Shimshon Rosenthal was born in Germany in 1915. In 1934, he moved to Eretz Israel and studied in Yeshivat Merkaz Ha-Rav. Four years later he received rabbinic ordination from Rabbis Y.M. Harlap and I.Z. Meltzer. In 1938 he joined Kibbutz Yavneh and served as kibbutz rabbi. Rabbi Rosenthal served in the army, and from 1947 when he began to study at the Hebrew University in Jerusalem and until his death, he was intensively involved in talmudic research. See: M. Kahana, “*Eliezer Shimshon Rosenthal, z”l*,” *Mehkarei Talmud*, 2 (1993): 9–11. On the influence of his life on his halakhic approach, see: Rabbi B. Lau, “*Babu’a shel Emet – Rabbanut ve-Akademyah be-Kitvei ha-R.E.Sh. Rosenthal al Hatzalat Goy be-Shabbat*,” *Akdamos*, 13 (2003), 7–32.
18. Clearly, however, regarding this issue as well, it is necessary to appreciate the complexity of a halakhic authority’s attitude toward the integration of Torah and science, or Torah and *derekh erez*. See, for example: Rabbi A. Lichtenstein, “*Tovah Hokhmah im Nahalah*,” in ed., Rabbi Y. Shaviv, *Mamleket Kohanim ve-Goy Kadosh* (Jerusalem, 1989 [2nd ed., 1996]): 25. And compare to Rabbi Lichtenstein’s article, “*Hinukh Yehudi u-Mada’ei ha-Yahadut – Hayelkhu Sheneihem Yahdav*,” *Alon Shevut le-Bogerei Yeshivat Har Etzion*, 11 (1998): 149–161. On this issue, see also: Rabbi H. Navon, “*Talmud Torah be-Haguto shel ha-Rav Aharon Lichtenstein*,” *Akdamos*, 17 (2006): 153–170.
19. Rabbi M. Tandler, son-in-law of Rabbi Moshe Feinstein, is regarded as an authority in the area of medical Halakhah. He is a professor of biology and rosh yeshiva at Yeshiva University.
20. For example, Rabbi Nachum Rabinowitz, Rosh Yeshiva of Yeshivat Birkat Moshe in Ma’alei Adumim, who has a doctorate in mathematics, and Rabbi She’ar Yashuv Cohen, chief rabbi of Haifa and head of its rabbinical court, who earned a degree in law at the Hebrew University in Jerusalem.
21. See his introduction to *Meishiv Milhamah*, vol. 1 (Tel Aviv, 1983).
22. Most of the halakhic authorities who are generally included in the “generation of the future,” the “third generation” of the Religious Zionist school, studied in Yeshiva High Schools and Yeshivot Hesder.
23. The composition of this list reflects one way through which the State of Israel “rewards,” as it were, “Zionist” halakhic authorities. Two exceptions on this list are Rabbis M.Y. Ha-Levi Epstein and Y. Abramski, who are more strongly identified with the haredi community.
24. As with any rule, this rule also has its exceptions, e.g., Rabbi Joseph B. Soloveitchik, who lived his entire life in the Diaspora, but whose rulings nevertheless clearly display the markers of Religious Zionist Halakhah. It is unnecessary to point out that much of haredi Halakhah in the last generation was written in Eretz Israel, but this does not turn it into Religious Zionist Halakhah.
25. Rabbi Meshulam Rath (1875–1963) grew up in Galicia, and in addition to his Torah knowledge, had a broad familiarity with “external wisdom” (including philosophy and the German language). Rabbi Rath was counted among the heads of the Mizrachi movement in Galicia and in 1921 he participated in the Zionist

Congress held in Carlsbad. During the Holocaust period, he miraculously escaped and reached Eretz Israel in 1944 (see his introduction to *Responsa Kol Mevasser*, part 1). Some of his rulings are influenced by his Religious Zionist position, e.g., those concerning the allowance that he issued to work on the Sabbath for defense purposes, the establishment of monuments in memory of those who fell in the War of Independence, the translation of the *ketubah* into Hebrew, the celebration of a *bat mitzvah*, and the like. He stands out in his ruling to recite *Hallel* on Israel Independence Day: “There is no doubt that on this day [the 5th of Iyyar] that was established by the government, the members of the Knesset (who are the elected representatives of the majority of the population), and most of the leading Torah authorities to be celebrated throughout the country in commemoration of our deliverance and freedom, there is a *mitzvah* to make it a festive day of rejoicing and to recite *Hallel*... We have been redeemed from slavery to freedom, for we have been redeemed from subjugation to the nations, becoming free men, and achieving national independence. We are therefore certainly obligated to fix it as a holiday. Whoever wishes to recite the *Sheheheyanu* blessing may do so, and there is no concern whatsoever about a blessing recited in vain” (*Responsa Kol Mevasser*, I, no. 21). Nevertheless, Rabbi Rath did not hesitate to voice his criticism of government bodies when he thought that they were acting against Halakhah. See, for example, his sharp responsum against the establishment of monuments to perpetuate the memory of those who fell in the War of Independence, published in *Responsa Kol Mevasser*, I, no. 14. At the beginning of the responsum, he writes: “I was astonished and shocked to read about this strange plan, which involves a trace of idolatry and a severe prohibition of the laws of the Torah and Halakhah.” And at the end, he concludes: “A great obligation falls upon the Chief Rabbinate, on the representatives of religious Jewry in the government and in the Knesset, on the Jerusalem municipality, on the *Hevra Kadisha*, and on the army rabbinate to prevent execution of this plan which strikes at the foundations of Judaism and profanes the sanctity of the nation, the sanctity of the land and the dignity of the holy fallen among our Jewish brothers. May God who dwells in Zion send His assistance from the holy city to impose the laws of the Torah in our land and plant His love and fear in the hearts of all of us, and bring about our full redemption, speedily and in our days.”

26. Rabbi Sh.Y. Zevin was ordained by the author of the *Arukh ha-Shulhan*, Rabbi Y.M. Epstein, and Rabbi Y. Rozin, the “Rogotchover.” After arriving in Eretz Israel in 1934, he studied at the Teachers College of the Mizrahi, and later served as a member of the Chief Rabbinate Council and established the “Talmudic Encyclopedia” project. Rabbi Zevin was one of the first to call for the mobilization of yeshiva students during the War of Independence, by way of a pamphlet that he wrote under a pseudonym, “one of the rabbis.” On his work, see: Rabbi Y. Hutner, “*Ha-G.R.Sh. Y. Zevin ke-Pote’ah shel Tekufah be-Sifrut ha-Halakhah*” (Jerusalem, 1942) [and in condensed form: *Encyclopedia Talmudit*, vol. 16 (1980): 11–22.
27. In some of these yeshivot, some of the rabbinic figures were and continue to be

- closer to the haredi world than to the world of Religious Zionism, e.g., Rabbi H.Y. Goldvicht, founder and Rosh Yeshiva of Yeshivat Kerem be-Yavneh, and Rabbis Nebentzahl and Dzimitrovski of Yeshivat ha-Kotel.
28. On the one hand, Rabbi Nissim called for support of the “*Hinukh Atzma’i*” educational system of Agudath Israel. On the other hand, while he served as Rishon le-Zion and chief rabbi, he was involved in many issues, regarding which he presented a clearly “state-oriented” approach, e.g., allowing the immigration and recognizing the Jewishness of the Bene Israel community from India. See: *Bene Israel – Piskei Halakhah u-Mekorot u-Birur Dinim* (Jerusalem, 1962). In 1964, he composed a prayer on behalf of Soviet Jewry, and in 1967 he issued a proclamation forbidding entry into the Temple Mount. On his life, see: Sh. Meisles, *Min ha-Har el ha-Am* (Tel Aviv, 1993). In his volume of responsa, *Responsa Yein ha-Tov*, there are many passages which reflect his “state-oriented” position.
  29. I have discussed the unique position of Rabbi Toledano in various areas in a lecture delivered at Tel Aviv University, entitled, “*Kol ha-Nehalim Holkhim el ha-Yam – Ha-Rav Ya’akov Moshe Toledano: Rav, Hoker, Sar,*” soon to be published.
  30. See for example, Rabbi A. Lichtenstein, *Tokh u-Kelipah be-Tarbut ha-Ma’aravit* (Alon Shevut, 1996); idem, “*Aseh Retzono, Batel Retzonkha – Hirhurim al Mifgash bein Halakhah u-Modernityut,*” *Alon Shevut le-Bogerei Yeshivat Har Etzion*, 13 (1999): 123–133; and his articles mentioned above, note 18. In this matter as well, a great change has transpired over the past decade, with the growth of various sub-groups, e.g., the “*hardalim,*” – the *haredim-le’umiyim*, a continuously expanding group among members of the third generation of Religious Zionism that has not yet been adequately studied.
  31. It seems that it was not by chance that the daughter of Rabbi Goren, chief rabbi of the IDF, and the daughter of Rabbi Sh.Y. Cohen, rabbi of Haifa (who had fallen into Jordanian captivity during the War of Independence, and later served as rabbi of the Air Force during the early years of the state), served full service in the army.
  32. On this matter, see: Rabbi Y. Amital, “*Al Ma’amado shel ha-Yehudi ha-Hiloni be-Yameinu mi-Behinah Toranit-Hilkhatit,*” in ed., Rabbi Y. Shaviv, *Mamlekheth Kohanim ve-Goy Kadosh* (Jerusalem, 1989): 333.
  33. The recognition of this day which falls on the 27th of Nissan has special significance. Over and beyond the theological problem regarding the religious confrontation with the Holocaust (about which much has been written), this day falls in Nissan, during which “eulogies are not delivered.” It was not for naught that the Chief Rabbinate established the Tenth of Tevet as “*Yom ha-Kaddish ha-Kelali.*” On this issue, see for now: R. Stauber, “*Ha-Viku’ah be-Shenot ha-Hamishim bein ha-Tziyyonut ha-Datit le-vein ha-Semol ha-Tziyyoni al Mo’ed Yom ha-Zikkaron le-Sho’ah,*” in *Medina be-Derekh* (2001): 189–203; Rabbi Y. Shaviv, “*Zikkaron le-Sho’ah: Yom ha-Zikkaron/Yom ha-Kaddish ha-Kelali,*” in ed., Sh. Katz, *Ha-Rabbanut ha-Roshit le-Yisra’el*, vol. 2 (Jerusalem, 2002): 470; Rabbi Y. Steinberger, “*Asarah be-Tevet Yom ha-Sho’ah she-Hafakh le-Yom ha-Kaddish ha-Kelali,*” in *Ishei Mo’ed* (Jerusalem, 1998): 433–446.

34. Regarding this matter as well, the picture is obviously far more complex than may be imagined on first glance. Thus, for example, Rabbi Joseph B. Soloveitchik, who without a doubt was counted among the great spokesmen for Religious Zionism, refrained – for purely halakhic reasons – from reciting *Hallel* on Israel Independence Day, and for this reason, there were those who cast doubts about his Zionism. Regarding this, see: *Kol Dodi Dofek*, in P. Peli, ed., *Be-Sod ha-Yahid ve-ha-Yahad* (Jerusalem, 1976): 394–400; and Rabbi Soloveitchik’s attempt to “defend” his uncle, Rabbi Yitzhak Ze’ev (Velvel) Soloveitchik, from his followers who saw him as an outright anti-Zionist: “They said about him [Rabbi Y.Z. Soloveitchik] that he opposed the State of Israel. This statement is incorrect... My uncle was entirely detached from all socio-political thinking and response. What may be said about him is that the state did not find a place in his halakhic world of thought or on his halakhic scale of values. He was unable to translate the idea of secular political sovereignty into halakhic ideas and values” (in: “*Mah Dodekh mi-Dod*,” *Be-Sod ha-Yahid ve-ha-Yahad*, p. 241). On Rabbi Soloveitchik’s Zionist attitude, see also: Rabbi A. Lichtenstein, “*Al Yahaso shel ha-G.R.Y.D Soloveitchik, z”l, la-Tziyyonut*,” *Alon Shevut le-Bogerei Yeshivat Har Etzion*, 17 (2003): 157–171; and the sources cited by A. and H. Turkel, *Mekorot ha-Rav* (Jerusalem, 2001): 194. This complex picture follows also from the collection of Rabbi Soloveitchik’s letters which were recently published: N. Helfgot, *Community, Covenant, and Commitment* (New York, 2005).
35. Needless to say, there are haredim who enlist in the Israeli army, but their numbers are miniscule in relation to the numbers of haredim who are fit to serve in the army. And furthermore, most haredi soldiers do not serve in combat positions. An exception is the haredi Nahal unit, “*Netzah Yehudah*,” which was established in recent years. See: Z. Derori, *Bein Emunah le-Tzava: Gedud ha-Nahal ha-Haredi – Sikkuyyim ve-Sikkunim* (Jerusalem, 2005).
36. On this matter, see D. Schwartz, *Ha-Tziyyonut ha-Datit bein Higayon le-Meshihiyut* (see above, note 7), p. 16, note 2.
37. See: Rabbi Sh. Goren, “*Medinat Yisra’el ke-Shelav be-Hazon Nevi’ei Yisra’el*,” *Torat ha-Medinah* (Jerusalem, 1996): 465–475.
38. On the other hand, there is the famous proclamation with the heading, “*Da’at Torah*,” from the 20th of Tevet, 5709 (1949), put out by the “United Religious Front,” in anticipation of the Knesset elections, containing thanksgiving to God “who in His great compassion and lovingkindness allowed us to see the first blossoms of the beginning of the redemption with the establishment of the State of Israel.” This proclamation bears the signatures of, among others, many of the leaders of the haredi community, e.g., Rabbis Y. Sarna, Rosh Yeshivat “Hevron”; Y.H. Sankavitz, Rosh Yeshivat “Sefat Emet”; Z. Sorotzkin, Rosh “Va’ad ha-Yeshivot”; Ya’akov Adas; Y.M. Tykocinzki, Rosh Yeshivat “Etz Hayyim”; Sh.Z. Auerbach; and others. The proclamation was published in Rabbi M.M. Kasher’s book, *Ha-Tekufah ha-Gedolah*, p. 374.
39. This is attested to by many documents found today in the Israeli State Archives,

- which echo the struggles that for many years Rabbi Goren fought against the political leaders of Religious Zionism about filling positions of power in the army rabbinate. While the latter wished to fill the positions with “their own people” who identified with the National-Religious party, Rabbi Goren filled many positions with people coming from the haredi world, some of whom (e.g., Lt. Colonel Yitzhak Meir, who would remove his army uniform as soon as he left the “*Kiriyah*” in Tel Aviv, and don the garb of a Gur hassid) demonstrably dissociated themselves from Religious Zionism. On Rabbi Goren’s fundamental approach on this matter, see: Rabbi M.H. Hacohen, “*Meishiv Milhamah: Piskei ha-Halakhah shel ha-Rav Shlomo Goren, ztz”l, be-Inyanei Dat ve-Tzava,*” *Milin Havivin* 1 (2005): 3–11.
40. More extreme examples are provided by Rabbis Betzalel Zolti, Shlomo Shimshon Karlitz, Shlomo Tene, Yoel Kloft, Ya’akov Nissan Rosenthal, Yitzhak Kolitz, Eliezer Goldschmidt, Rabbi Y.S. Elyashiv, and others. These rabbis served as judges in the official State Rabbinical Courts of the State of Israel, which had been established by secular state law, proclaimed their loyalty to the state (but not to its laws!) in the residence of the President, and sat in a court where the state emblem was displayed in all its majesty over their heads. It was only in their later years, after having retired from their posts, that some of them were first included among the most prominent flagbearers of the world of Lithuanian-haredi rabbis, rulings and scholarship.
  41. On this point, it is fascinating to follow the changes in his position between the period prior to his presiding as chief rabbi of Tel Aviv and later of Israel, and afterwards. See his articles: “*Mavo le-Hilkhot Shevi’it,*” *Kol Sinai*, 4 (1965): 394–400; vol. 5 (1966): 29–32; 102–108; 200–206; 222–227; 241–244; “*Be-Inyan Heter Mekhirah,*” *Torah She-be-al Peh*, 15 (1973): 15–49.
  42. The Shas movement itself stands on the border between Zionism and haredism. Almost all of its representatives in the Knesset served in the Israeli army, but their lifestyles and dress is much closer to the haredi world. Most of their children receive a haredi education. On this issue, see: N. Horowitz, “*Shas ve-ha-Tziyyonut: Nitu’ah Histori,*” *Kivunim Hadashim*, 2 (2000): 30–60; D. Schwartz, “*He’arot al ha-Tziyyonut ha-Datit ve-Shas: Shenei Modelim shel Hitgabrut al Mashber,*” in A. Ravitzky (ed.), *Shas – Hebbetim Tarbutiyyim ve-Ra’ayoniyyim* (Tel Aviv, 2006): 386–404.
  43. Rabbi M.M. Kasher was a hassid of Gur, and one of the most prolific writers of Torah literature. His monumental project, *Torah Sheleimah*, and dozens of additional books, which he co-authored or edited (e.g., the Torah journal, *No’am*), combine traditional scholarship with modern research methods, including examination of variant readings and intensive use of manuscripts. Relating to the question of reciting *Hallel* on Israel Independence Day, he wrote that “certainly all those who recite *Hallel* in accordance with the enactment of the Rabbis are acting properly, and they will be blessed, and God forbid, that anyone should treat this lightly.” At the same time, however, he explained why “many Haredim who are happy about the establishment of the state do not recite *Hallel* on Israel Independence Day.”

- Content-wise, his book, *Ha-Tekufah ha-Gedolah – Kol ha-Tor* (Jerusalem, 1969), constitutes a Religious Zionist document of the finest quality, despite its antiquated “rabbinic” style. Among other things, he cites the call put out by the rabbis of Israel to support the United Religious Front list, which included Mizrachi and Ha-Po’el Mizrachi, as well as Agudath Israel and Po’alei Agudath Israel, in their bid for election to the first Knesset. This call opens with the declaration: “We thank God who in His great compassion and lovingkindness allowed us to see the first blossoms of the beginning of the redemption with the establishment of the State of Israel.” See his aforementioned book, chap. 18.
44. Rabbi Z.P. Frank served as rabbi of Jerusalem and member of the Chief Rabbinate Council. His admiration for the Religious Zionist project found expression already in 1919, when he republished the work of Rabbi Z.H. Kalischer, *Derishat Tziyyon*, together with his additions.
  45. Rabbi Ovadyah Hadayah was a Jerusalem Rabbi, kabbalist and son of a kabbalist, and member of the Supreme Rabbinical Council and Chief Rabbinate Council. In his most important work, *Responsa Yaskil Avdi*, there are many responsa that reveal an independent halakhic approach. Among other things, he related positively to the recitation of *Hallel* (without a blessing) on Jerusalem Day. See also: N. Rakover, *Hilkhot Yom ha-Atzma’ut ve-Yom Yerushalayim* (Jerusalem, 1985), 66–70. Nevertheless, he occasionally ruled in a manner “not expected” from a Religious Zionist halakhic authority. Thus, for example, he asserted that despite the rule that “all go up to Eretz Israel,” a boy must not be separated from his father living in Beirut, and sent with his divorced mother who wishes to emigrate to Eretz Israel. See *Responsa Yaskil Avdi*, 11, *Even ha-Ezer*, no. 9.
  46. External testimony to this can be found in the lengthy eulogies written in his memory in haredi newspapers upon his death.
  47. At first, in articles that he wrote (e.g., “*Shofetim ve-Shoterim be-Medinah ha-Yehudit le-Or ha-Torah*,” *Sinai* 22 (1948), 155–178), and then later in his pioneering work, *Hilkhot Medinah* (Jerusalem, 1954).
  48. See, for example, his ruling regarding territories captured during the Six-Day War (*Responsa Tzitz Eli’ezer*, x, no. 1), which sees their conquest by the IDF as similar to a conquest by a king. He refers to his book, *Hilkhot Medinah*, 1, part 3, chapter 5, where he adopts the position of Rabbi Kook (which was written prior to the establishment of the state!) regarding a secular regime, which he sees as standing “in place of a king.” He writes as follows: “If so, today as well, the President, the government and the Knesset (despite all their shortcomings in the area of religion, and whose decisions regarding religion clearly have no validity whatsoever), who were elected by a majority of the Jews living in their land, numbering more than 600,000 souls, stand in the place of a king in all that relates to the general situation of the people, in accordance with the words of *Mishpat Cohen* there, and especially regarding the conquering army and their officers, who act on behalf of all the residents of the land (to the exclusion of an insignificant minority that is nullified by the vast majority), and whose ranks include tens of thousands of God-fearing

soldiers, who have conquered the territories together with all the soldiers, of all types, and their heads. And see Ya'avetz, in *Kuntrus Yishuv Eretz Yisra'el*, ad loc., to whom it was obvious that the law of public conquest applies to all the territories conquered by Yarov'am ben Yo'ash, even though we find that Scripture testifies about him (11 Kings 14) that he did that which was evil in the eyes of the Lord and departed not from all the sins of Yarov'am the son of Nevat, who made Israel to sin.”

49. Beyond the biographical element, which demonstrates the strong connection between Rabbi Shlomo Zalman Auerbach and many Religious Zionist rabbis [see, for example, Rabbi Aharon Lichtenstein, “‘U-le-Yishrei Lev Simhah’ – Divrei Misped al ha-Rav Shlomo Zalman Auerbach, ztz”l], *Alon Shevut le-Bogerei Har Etzion*, 7 (1995): 193–208; Y. Eliyahu. *Ha-Torah ha-Mesamahat* (Bet-El, 1998). His rulings also reveal that on many issues he was closer to their world than to the world of the haredi Halakhic authorities (see for example, note 52 below, regarding his attitude toward secular Jews). A very unique phenomenon was the way certain halakhic authorities who were close to Religious Zionism were, in their later years and sometimes even after their deaths, taken over by haredi society. The clearest example of this is Rabbi Yehiel Yaakov Weinberg, author of the *Seridei Esh*. See above, note 12. The same was done in an earlier period, though in other ways, to certain German rabbis, e.g., Rabbi Samson Raphael Hirsch or Rabbi Isaac Breuer.
50. Thus, for example, Rabbi Kahaneman’s well-known insistence on flying the Israeli flag over the Ponevezh Yeshiva every year on Israel Independence Day. In the early days of the state, uniformed IDF soldiers were favored guests in the yeshiva. Some of the Torah authorities connected to Religious Zionism, e.g., Rabbi Sh. Goren and Rabbi H.Y. Goldvicht, Rosh Yeshiva of the first Yeshivat Hesder “Kerem be-Yavneh,” were frequent visitors in the home of the *Hazon Ish*, and he himself – in contrast to some Hasidic *admorim* – hosted in his home the Prime Minister of Israel, David Ben Gurion, and supported participation in Knesset elections (as opposed to the position of certain haredi halakhic authorities). See: B. Braun, “*Ha-’Hazon Ish’: Halakhah, Emunah, ve-Hevrah be-Pesakav ha-Boletim be-Eretz Yisra’el (1933–1954)*,” doctoral dissertation (Jerusalem, 2003): 214–219. He is also known for his lenient ruling which sees the secular community as *tinokot she-nishbu* (children who were taken captive), and allows him to display leniency in their regard in many halakhic matters. See: Braun, ad loc.
51. It goes without saying that every group of people is marked by a certain heterogeneity, for people by their very nature are different – one from the other, but some groups are more homogeneous than others.
52. For purely illustrative purposes, one may examine the sociological make-up of the circle that corresponded with Rabbi Kook. Even though most of them did not correspond about halakhic matters, this has much to teach us about the potential addressees of Rabbi Kook. See N. Gutel, *Mi-Kotevei Ra’ayah* (Jerusalem, 2000). On this matter as well, Rabbi Ovadyah Yosef’s rulings are closer to the Religious Zionist school than to the halakhic decision-making emanating from the haredi

- camp. See on this: Rabbi B. Lau, "Petihat She'arim le-Yehudim 'Mesoratiyyim': Iyyun be-Pesikotav shel ha-Rav Ovadyah Yosef," in: Y. Blidstein, ed., *Shabbat – Ra'ayon, Historiyah, Metz'ut* (Be'er-Sheva, 2004), pp. 83–97; idem, "Al Zokhrei Shabbat ve-Einam Shomerehah: Iyyun be-Pesikotav shel Ha-Rav Ovadyah Yosef," *Geranot* 2 (2002), 31–44; A. Pikar, "Pesikato shel ha-Rav Ovadyah Yosef le-Nokhah Temurot ha-Zeman," doctoral dissertation (Ramat-Gan, 2004). Regarding this issue, as regarding other issues, attention should be paid to the relatively tolerant attitude of Rabbi Shlomo Zalman Auerbach; see *Responsa Minhat Shlomo*, vol. 1, no. 35; and A. Mashiach, "The Halakhic World of R. S.Z. Auerbach," unpublished Ph. D. Thesis, Ramat Gan, 2008.
53. For example, the rabbis of the city of Haifa – as opposed to their Religious Zionist colleagues from other cities – bitterly opposed the legislation of a national "Sabbath Law" that would prohibit public transportation on the Sabbath throughout the country, except for Haifa, where public transportation on the Sabbath was already permitted in the British Mandatory period. On this matter, see A. Hacohen, "Medinat Yisra'el, Kan Makom Kadosh! – Itzuv 'Reshut Rabbim Yehudit' bi-Medinat Yisra'el," in M. Bar-On and Z. Zameret (eds.), *Shenei Evrei ha-Gesher – Dat u-Medinah be-Reishit Darkhah shel Yisra'el* (Yad Yitzhak ben Zvi, Jerusalem, 2002), pp. 144–172; Y.A. Polovnik, *Hukkat Shabbat Ketu'ah le-Or ha-Halakhah* (Haifa, 1963); see also: Y. Vilian, *Dat ve-Hinukh Dati be-Haifa be-Shanim 1932–1948*, master's thesis (Ramat-Gan, 1991).
  54. Regarding the considerations which guide a halakhic authority towards stringency or leniency, see: B. Braun, "Hakhmei ha-Mizrah ve-ha-Kana'ut ha-Datit: Nekudah Likrat Behinah Mehudeshet," *Akdamos* 10 (2001), pp. 289–324; idem, "Hahmarah – Hamishah Tipusim min ha-Et ha-Hadashah," *Dinei Israel*, 20–21 (2000–2001), pp. 123–287; A. Hacohen, "Humrot ve-Kulot be-Olaman shel Halakhah," *Mahanayyim* 5 (1993), 90–103.
  55. On the important role of such considerations in halakhic decision-making, see: A. Hacohen, "Shikkulim Meta-Hilkhatiyim" (above, note 2).
  56. Regarding this consideration for halakhic decision-making, see: A. Hacohen, "Shelo Levayesh – Zeh Kelal Gadol ba-Torah," *Be-Ma'agalei Zedek*, 12 (Tevet, 2007), 22–27.
  57. Regarding this issue, see at length: M. Elon, *Ma'amad ha-Ishah* (Jerusalem, 2005); A. Shapiro and Y. Cohen, *Ha-Ishah be-Temurot ha-Zeman* (Tel Aviv, 1984); Y. Cohen, *Ha-Ishah be-Hanhagat ha-Tzibbur* (Tel Aviv, 1991).
  58. On this point, see the aforementioned article of Waxman (above, note 6); and the classic article of H. Soloveitchik, "Rupture and Reconstruction: the Transformation of Contemporary Orthodoxy," *Tradition*, 24[4] (1994), 64–130.
  59. On the great challenges in this area, see at length: D. Hacohen, *Olim bi-Se'arah, ha-Aliyah ha-Gedolah u-Kelitatah be-Yisra'el* (Jerusalem, 1994); *Tokhnit ha-Milyon* (Tel Aviv, 1999); *Ha-Gar'in ve-ha-Reihayyim: Hityashvut ha-Olim ba-Negev be-Esrot ha-Rishon le-Medinah* (Tel Aviv, 1999).
  60. E.g., Rambam's *Hilkhot Melakhim u-Milhamoteihem*. Regarding the novelty of

- Rambam's work in this area, see: I. Twersky, *Introduction to the Code of Maimonides (Mishneh Torah)* (New Haven, 1980); Y. Blidstein, *Ekrnot Mediniyyim be-Mishnat ha-Rambam* (Ramat-Gan, 2001).
61. On the uniqueness of this halakhic realm, see: Rabbi H. Navon, “*Hilkhot Medinah ke-Tehum Hilkhatai Atzma'i*,” *Alon Shevut le-Bogerei Yeshivat Har Etzion* 20 (2005), 221–233.
  62. See his article, “*Hiddush ha-Sanhedrin bi-Medinateinu ha-Mithadeshet*,” which was originally published in *Sinai* 36 (1955), and later appeared as a book under the same title (Jerusalem, 1957), and the biography written by his daughter, G. Bat Yehuda, *Ha-Rav Maimon be-Dorotav* (Jerusalem, 1979).
  63. See Z. Zohar, *He'iru Penei ha-Mizrah* (Tel Aviv, 2001), pp. 237–250; M. Elon, *Ma'amad ha-Ishah – Mishpat ve-Shippit* (Tel Aviv, 2005), pp. 51–101.
  64. See Hacoen (above, note 39); A. Edri, “Divine Spirit and Physical Power: Rabbi Shlomo Goren and the Military Ethics of the Israel Defense Forces,” *Theoretical Inquiries in Law*, 7 (2006); idem, “Interpretation and Ideology: the Renewal of the Jewish Laws of War in the State of Israel,” *Cardozo Law Review*, 8 (2006), 187. On the novel elements of Rabbi Goren's approach to Halakhah, see also: Dunash (Shabtai Don Yehiya), “*Ha-Rav Rabbi Shlomo Goren*,” *Shanah be-Shanah*, 1974, pp. 267–279; M. Meir, “*Ha-Pulmus al Hatza'at ha-Rav Goren Leshanot et ha-Bittui 'Ve-Eini Yakhol Lingo'a Bakh'*,” *be-Ikvot ha-Nehitah al ha-Yare'ah*,” *Derekh Aggadah*, 9 (2006), 213–221.
  65. Rabbi Shaul Yisraeli left Russia for Eretz Israel and studied with Rabbi Avraham Yitzhak Kook in Yeshivat Merkaz Ha-Rav. He served as the first rabbi of Kefar Haro'eh, and was also one of the pioneers of teaching Jewish thought in Midrashyat No'am. He was later appointed to serve on the Supreme Rabbinical Court and on the Chief Rabbinate Council. At the end of his life, he served as Rosh Yeshiva of Yeshivat Merkaz Ha-Rav and headed Kollel Eretz Hemdah. On his life, see: Rabbi A.Y. Sharir, *Ga'on be-Hanhagah u-be-Midot* (Jerusalem, 1999). On his attitude toward Eretz Israel, see: Y. Blidstein, “*Torat ha-Medinah be-Mishnat ha-Rav Shaul Yisraeli*,” in: M. Bar-On and Z. Zameret, eds., *Shenei Evrei ha-Gesher* (Jerusalem, 2002), pp. 350–365; H. Burganski, “*Kehilah u-Mamlakhah: Yahasam ha-Hilkhatai shel ha-R.I.E.H. Herzog ve-ha-Rav Yisraeli le-Medinat Yisra'el*,” in *Dat u-Medinah be-Hagut ha-Medinah be-Me'ah ha-Esrin* (2005), pp. 267–294.
  66. See Rabbi Sh.T. Rubenstein, “*Admat ha-Keren ha-Kayemet u-Karka Yerushalayim – le-Dinei Shevi'it*,” *Torah She-be-al Peh*, 8 (1966), 46–50. See also: N. Gutel, “*Hilkhot ve-Halikhhot haKaKaL ve-ha-Hug ha-Hityashvuti be-Ma'arekhet Hitkatvuyotav shel ha-Rav Kook*,” *Sinai* 121 (1998), 103–117.
  67. See Rabbi I. Herzog, “*Al Darkhei Shemirat ha-Bitahon ha-Penimi ba-Medinah be-Shabbat u-be-Yom Tov*,” *Ha-Torah ve-ha-Medinah* 5–6 (1953–1954), 25–33. See also Rabbi E. Bar-Shaul, “*Ba'ayat ha-Mishtarah lefi ha-Halakhah*,” *Da'at*, 9 (Pesah, 1959), 91.
  68. See, for example, the responsum of Rabbi Y.Y. Weinberg, author of *Responsa Seridei Esh*, “*Teshuvah al Mifkad ha-Am be-Eretz Yisra'el*,” *Ha-Pardes*, 35, issue 10 (Tammuz,

- 1961), 7–9; Rabbi Sh. Yisraeli, “*Bi-Devar Mifkad ha-Akhlusin*,” *Shanah be-Shanah*, 1962, pp. 166–182 (*Amud ha-Yemini*, no. 13, pp. 138–147); Rabbi M.Y.L. Sachs, “*Mifkad Benei Yisra’el*,” *Ha-Torah ve-ha-Medinah*, 11–13 (1960–1962), 432–435; Rabbi N.Z. Friedman, “*Mispar u-Minyan Toshavei, ha-Medinah – le-Or ha-Halakhah*,” *No’am*, 16 (1973), 84–89. For a fascinating discussion of this issue from the theoretical perspective, see: Z. Horowitz, “*Hilufe Teshuvot bein ha-Chatam Sofer ve-Rabbi Yisra’el mi-Shklov*,” in: *Sefer ha-Yovel le-Binyamin Menasheh Levin* (Jerusalem, 1940), pp. 321–334.
69. See: Rabbi Sh. Daichovsky, “*Ha-Internet ba-Halakhah*,” *Tehumin*, 22 (2002), 325–333; Rabbi Y. Bin Nun, *Me-Hevyon Oz* (Ein Tzurim, 2006), pp. 19–36.
70. Thus, for example, the issue of the status of women and their right to vote and be elected to public office also engaged the halakhic authorities living in eastern and central Europe, and belonging to traditional haredi society. See, for example, Rabbi E.M. Preil, “*She’eilat ha-Behirah le-Nashim*,” *Yagdil Torah*, 11 (1920), 157–165; idem, “*Al Devar She’eilat Zekhut ha-Behirah le-Nashim*,” *Ha-Pardes*, 2, 8 (Heshvan, 1929), 15–17; Rabbi Sh.M. Fein, “*Minnui Nashim be-Misrot ha-Medinah*,” *Tevunah*, 1 (1932), no. 13, pp. 2–3; no. 14, pp. 2–3; Rabbi A.Sh.B. Spitzer, “*Ke-Torah Ya’aseh Beirur Din be-Inyan Zekhut Behirah le-Nashim*,” *Sefer ha-Yovel le-Rabbi Yaakov Rosenheim* (Frankfurt, 1932) [Heb. Section], pp. 1–43. In this context, note should be made of the various responsa of Rabbi Moshe Feinstein regarding the status of women, for example, his responsum regarding the appointment of a woman to serve as a kashrut supervisor, which first appeared in the rabbinical journal *Ha-Pardes*, 35 [1] (1961), pp. 11–13, and then later in his *Igrot Moshe*. His years in the United States certainly influenced his halakhic rulings, and it is doubtful whether he would have issued such rulings had he remained in eastern Europe.
71. This, of course, can be connected to the constant and intensive contact, both their own and of their community – far greater than that in haredi society – with modern phenomenon, such as technological innovations (e.g., television, computers, Internet) and the like.
72. See: Rabbi Sh. Daichovsky, “*Kefiyat Bedikah ve-Tippul – Hebbetim Hilkhatiyyim al Mahalat ha-Aids*,” *Assia*, 45–46 (1989), pp. 28–33.
73. Their categorization as “halakhic rulings” must be examined in each individual case, for in many instances they are void of any halakhic argumentation, and in some cases not a single halakhic source is even cited.
74. This question engaged many Religious Zionist halakhic authorities, but is almost not discussed at all in the writings of the halakhic authorities of the haredi community (to the exclusion of Rabbi Ovadyah Yosef and certain Habad figures, who, as stated above, are exceptional in that community). On this issue, see: H. Burganski, “*Yahaso ha-Hilkhati shel ha-Rav Yisraeli le-Sugyat Hahzarat ha-Shetahim*,” *Dinei Israel*, 22 (2003), 241–267; see also: idem, “*Lo Tehanem’ – le-Gilgulo shel Tzivui*,” in *Tarbut Yehudit be-Ein ha-Se’arah* (Tel Aviv, 2002), pp. 537–568.
75. Rabbi Y. Ariel, “*Haganah Atzmit – ha-Intifadah ba-Halakhah*,” *Tehumin*, 10 (1989), 62–75. The laws themselves, of course, are not new, and deal with the law of “*rodef*.”

- They are, however, clothed in modern garb, which was clearly influenced by political ideas as well. See also: Rabbi Sh. Aviner, *Responsa Intifadah* (Bet-El, 1990).
76. *Supreme Court vs. Rabbi Shlomo Goren*.
  77. Rabbi Y.M. Ehrenberg, *Pa'amei Ya'akov*, 35 (1996), pp. 31–39. Rabbi Ehrenberg was a *dayan* in a Tel Aviv rabbinical court, and his responsa, *Responsa Devar Yehoshua*, and his various articles, deal extensively with “laws of the state.”
  78. See Rabbi Yehuda Amital, “*Lo ha-Kol Halakhah*,” *Alon Shevut le-Bogerei Yeshivat Etzion*, 13 (1999), 95–98; Y.Z. Stern, *Pesikat Halakhah be-Sugyot Mediniyot* (Ramat-Gan, 2000); H. Burganski, “*Od al Pesikat Halakhah be-Sugyot Mediniyot*,” *Tarbut Demokratit*, 7 (2003), 49–72.
  79. As in other matters, regarding this issue as well, Rabbi Ovadyah Yosef’s famous ruling regarding the permissibility of giving back territories and the halakhic rulings emanating from the school of Habad stand out as exceptions against the general picture of haredi Halakhah authorities. See: Y. Englard, “*Ha-Ba'ayah ha-Hilkhatit shel Mesirat Shetahim me-Eretz Yisra'el: Mishpat ve-Idi'ologiyah*,” *Ha-Peraklit*, 41 (1993), 13–34.
  80. On this point, see for now: E. Shochetman, “*Kohah de-Hetera Adif*,” *Mahanayyim*, 5 (1993), 72–89. On the importance of this principle in the rulings of Rashi, see: A. Hacohen, “*Teshuvot Rashi*,” to appear in: A. Grossman and Sh. Yefet, eds., *Sefer Rashi* (Merkaz Zalman Shazar) (in press).
  81. Needless to say, here too the picture is not uniform, and in certain cases we find a clear inclination toward stringency among Religious Zionist halakhic authorities as well. This tendency toward stringency may possibly be influenced – directly or indirectly – by the wider phenomenon of the influence of global fundamentalism. Regarding the place of fundamentalism in the Jewish world, see: C. Waxman, “*Is Fundamentalism Inherent to Jewish Traditionalism?*” *Shofar: An Interdisciplinary Journal of Jewish Studies*, vol. 13 [no. 3] (Spring 1995).
  82. It is unnecessary to note that regarding this matter as well, the picture is not uniform. One of the great halakhic authorities who made the argument of *tinokot she-nishbu* into the cornerstone of his lenient approach to the non-observant community was the *Hazon Ish*, leader and spokesman of haredi Jewry. Despite his image that was in great measure created after his death, the *Hazon Ish* – like Rabbi Sh.Z. Auerbach – maintained strong connections with many halakhic authorities identified with Religious Zionism. For his halakhic approach, see at length, B. Braun, “*Ha-'Hazon Ish: Halakhah, Emunah, ve-Hevrah be-Pesakav ha-Boletim be-Eretz Yisra'el (1933–1954)*,” doctoral dissertation (Jerusalem, 2003).
  83. For the development and application of this principle, see: Y. Ahituv, *Al Gevul ha-Temurah* (Jerusalem, 1995).
  84. This was also the goal underlying the foundation of “the Movement for Torah Judaism” which among other things established a Halakhah committee headed by Rabbi E.Sh. Rosenthal, the aim of which was to provide halakhic solutions based on a state-oriented approach. See: Rabbi B. Lau, “*Iyyun be-Darkhah shel*

- 'Ha-Tenu'ah le-Yahadut shel Torah,*" in *Sefer ha-Zikaron le-Ze'ev Falk* (Jerusalem, 2005), pp. 371–383.
85. Regarding this point, the unique contribution of the Rishon le-Zion, Rabbi B.Z.M.H. Uziel, stands out in particular. See: Rabbi B. Lau, "*Ha-Rav B.Z. Uziel: Ahdut ha-Umah bi-Sedeh ha-Halakhah,*" in M. Bar-On and Z. Zameret, eds., *Shenei Evrei ha-Gesher* (Jerusalem, 2002), pp. 297–319.
  86. This is a fascinating instance of history repeating itself. We find a similar phenomenon among the Sages of the sixteenth century who had been expelled from Spain, many of whom made their way to Eretz Israel where they revived the study and use of the Jerusalem Talmud. Regarding this phenomenon, see at length: A. Hacohen, "*Ha-Talmud ha-Yerushalmi be-Dor Geirush Sefarad u-le-Aharav,*" in M. Abitbul, G. Chazan-Rokem, Y.T. Assis, eds., *Hevrah ve-Tarbut* (Jerusalem, 1997), pp. 139–163; idem, "*Al Midat Shimusho shel R. Yosef Karo be-Talmud ha-Yerushalmi,*" *Proceedings of the Tenth International Congress of Jewish Studies*, III, 1 (1993), 209–216.
  87. Regarding Rabbi Kook's attitude toward and use of the Jerusalem Talmud, see: A. Hacohen, "*Eretz Israel in the Beit Midrash of Rabbi Kook,*" *Alon Shevut Bogrim* (1995), pp. 113–132; R.N.M. Gottel, "*Torat Eretz Yisra'el: Ha-Talmud ha-Yerushalmi be-Mishnat ha-Rav Kook,*" in: A. Warhaftig, ed., *Yeshu'ot Uzo* (Jerusalem, 1996), pp. 390–412; Rabbi Y. Cherlow, *Torat Eretz Yisra'el le-Or Mishnat ha-Ra'ayah* (Hispin, 1998). Rabbi Goren refers to the Jerusalem Talmud in almost every one of his responsa, and even began publishing his commentary, "*Ha-Yerushalmi ha-Mefurash*" (Jerusalem, 1961), for which he was awarded the Israel Prize. Later, he even wrote a book on the Jerusalem Talmud and the Vilna Gaon (Jerusalem, 1991). According to various testimonies, Rabbi M. Rath also wrote a commentary, "*Raglei Mevasser,*" on the Jerusalem Talmud, but it was never published.
  88. Needless to say, this too is not a new phenomenon, but rather an old debate regarding philosophy and the permissibility of using non-Jewish writings. Regarding this point, see: A. Hacohen, "*U-Shema ha-Emet mi-Mi she-Amrah' – Ze Kelal Gadol be-Torat Nechama Leibowitz, a"h,*" *Alon Shevut Bogrim*, 13 (Shevat 1999), 71–92, and the sources cited therein.
  89. The same applies to the United States of manuscripts, so popular among academic scholars of the Talmud. It is very rare to find in the writings of a haredi halakhic authority that he based a halakhic ruling on manuscript evidence. Sometimes, there is even expression of fundamental objection to such an approach (the *Hazon Ish's* opposition to deciding Halakhah on the basis of newly-discovered manuscripts is well-known). On this matter, see: Y.Sh. Spiegel, *Amudim be-Toledot ha-Sefer ha-Ivri* (Ramat-Gan, 1996), pp. 488–514, and note 33 for additional bibliography. In contrast, personalities like Rabbi M.M. Kasher and Rabbi Shlomo Goren (who in his halakhic rulings made frequent use of the Leiden and Vatican manuscripts of the Jerusalem Talmud) and Rabbi Nahum Rabinowitz (who uses manuscripts of Rambam's *Mishneh Torah*) see nothing wrong in this. Regarding Rabbi Ovadyah Yosef's interesting approach in this matter, which expresses once again his borderline status between haredi rabbis and Religious Zionist rabbis, see: Rabbi B. Lau,

“*Arba'ah Iyyunim Metodologiyyim be-Pesikato shel ha-Rav Ovadyah Yosef*,” *Netu'im*, 9 (2002), 95–117. On Rabbi Prof. E.Sh. Rosenthal's use of scientific tools to decide Halakhah, see Rabbi Lau's article, cited in note 17, above.

90. It goes without saying that the style of writing found among Religious Zionist halakhic authorities, especially of the second generation, was influenced by their “mother tongue” which they imbibed in their homes and in the institutions where they studied. As for the younger rabbis, their army service and integration in society at large, impacted on their language and style, for better or worse, in both their written and oral expression.
91. Particular influence in this regard may be attributed to one of the main journals of Religious-Zionist Halakhah, *Tehumin*. Over the twenty-seven years that it has appeared, and beginning already in the first volume, its editors were meticulous about dividing the articles and responsa into clear sections accompanied by their own sub-headings.
92. Regarding the price paid for this stylistic change, see the observation of my revered teacher Rabbi Aharon Lichtenstein, Rosh Yeshivat Har Etzion: “There are those who ignore, and even strive to ignore, the development of the [Hebrew], language, and continue to write Torah novellae in traditional ‘rabbinic Hebrew.’ The advantages of this approach – primarily, the continuity with the tradition of generations and the connection to the source of the sanctified words – are clear; but so, too, the disadvantages. Not everybody is capable of so doing, and not everybody desires to do so. Besides the aversion to a florid style, one senses among many of them an element of artificiality in the erection of barriers between the language through which I relate to words of Torah and that which I use in every other realm. Beyond the personal plane, the connection to the past is acquired, in a certain measure, through a certain detachment from the present and the future – for the penetration of the general language into the world of halakhic literature... is a process that is growing stronger before our eyes; go out and see what the people are doing. On the other hand, there are those who have been carried away – whether unawares or by choice – by the general verbal current, and have adopted modern Hebrew, in its entirety, as an instrument to express words of Torah. This approach has clear advantages as well – both the connection to the readers of the generation, and certain features of this style: clarity, order, precision, and the like. This approach, however, also extracts a price that is clear – and even dangerous. The orderly and sometimes even ‘embellished’ style; the clear and refined expression; the partly scientific and legal terminology – all these tend to draw from and inspire an academic atmosphere. They characterize a world in which intellectual objectivity that requires a certain keeping of distance is venerated as a supreme value; and they suffice to weaken the burning ardor of the *bet midrash* and the fear of the holy that must be felt when approaching the word of God.” See: Rabbi A. Lichtenstein, “*Aharit Davar*,” *Madrikh li-Ketivat Hibbur Torani* (Jerusalem, 1992), p. 84. And in another place, he writes: “In the Yeshiva world today, and to a certain degree in the Torah world in general, it is customary to write and publish Torah novellae in

an idiom called the 'language of the Rabbis.' This idiom does not correspond to the spoken language in any contemporary *bet midrash*, in Israel or abroad, but it is anchored in an age-old literary tradition, which itself, in its various stages was usually detached from a living social and cultural environment, and which fashioned and perpetuated a linguistic island of holiness (sometimes, only a peninsula), in the midst of a verbal sea of the mundane. The nature of this tradition is two-faced. On the one hand, it is artificial to a significant degree, and perhaps even intentionally so, and one senses the element of dryness that follows from that. On the other hand, its objective and uniqueness bestow upon it an elevated, and perhaps even festive, character. This aspect finds expression, first and foremost, in the spicing of Hebrew and Aramaic that defines its very identity, but is also reflected in various fundamental characteristics: a select and defined vocabulary, florid and even colorful expression, awkward sentences and lengthy paragraphs, penetration of the personal element in the direct address of the author to the reader, emphasis upon the process of confronting the issues and its development, alongside the presentation of the conclusions. All these join together to create a picturesque and unique style, that bestows significant freedom for the personal involvement of the author... [In contrast, the advantage of the modern Hebrew language lies] in the fact that it is connected to the lives of the hearers and readers; it is that to which they are exposed in their immediate and distant surroundings, that in which they conduct their affairs, that in which they talk and dream, learn with their study partners, communicate or quarrel with colleagues or opponents. As such, it is spiced with less Aramaic, but woven into it are no few expressions drawn from modern foreign languages, which have become permanent fixtures, to the displeasure of many, and the satisfaction of others, in the Israeli language of culture, and which deplete the component of the Holy Tongue, but not infrequently raise the level of precision. Along with this, the language is influenced in no small measure by the prevailing nature of modern expression. Whoever is familiar with the transition from the Renaissance style to that of modern times feels the extent to which, in general, and in comparison to its predecessor, modern language achieves naturalness at the expense of loftiness. It is more lively, but less vital, more alive, but also paler, glorifying caution, but forfeiting color and ardor... Our 'language of the Rabbis' as well, relative to the demonstrative coolness of modern Torah literature, preserves the burning coal which sometimes breaks out into a flame, which is so detached in one sense, but so deeply planted in another sense" (introduction to *Shi'urei Dina Harav Aharon Lichtenstein al Dina de-Garmi* [Alon Shevut, 2000], p. 7).

93. See *Respona Be-Mar'eh ha-Bazak*, published by the Eretz Hemdah Institute in Jerusalem, of which six volumes have thus far appeared between the years 2000–2006. The title of the books emphasizes the use of a modern medium – the fax machine (and later E-mail) – as a tool for the transfer of halakhic information.
94. See for now: A. Hacoheh, "Ha-Rav ha-Virtu'ali – al She'ilot u-Teshuvot Internet u-Sefihav," *Meimad*, 27 (2004), 21–23; Rabbi B. Lau, "Aseh Oznekha ke-Afarkeset:

- Aharayut, Tzenzurah, ve-Limmud ha-Torah be-Idan Ma'agarei ha-Meida*,” *Akdamot*, 14 (2004), 155–174.
95. As for use of the Internet, a contributing factor is certainly the aversion felt by many haredi halakhic authorities to using the medium and allowing it to enter one’s home. Using it for the dissemination of halakhic rulings is liable to give it legitimacy, something that many haredim fear. Regarding this matter, see for now: N. Horowitz, “*Ha-Haredim ve-ha-Internet*,” *Kivunim Hadashim*, 3 (2001), 7–30.
  96. On this point, see M. Elon, *Ha-Mishpat ha-Ivri*, p. 1215–1221; idem, *Mavo le-Mafte'ah shel Hakhmei Sefarad u-Tzefon Afrikah* (Jerusalem, 1981).
  97. This is not true regarding works of Jewish thought and biblical exegesis, where Religious Zionist authors are clearly in the majority. This phenomenon also leaves its mark on the Religious Zionist Yeshivot – high school and post high school – and in the distancing from the traditional world of Torah scholarship which rested primarily on intensive Talmud study.
  98. The most important and famous works of responsa include: the responsa of Rabbi A.Y. Kook, *Da'at Kohen, Ezrat Kohen, Mishpat Kohen*; *Responsa Mishpatei Uziel*, by Rabbi B.Z.M.H. Uziel; *Responsa Heikhal Yitzhak*, by Rabbi I. Herzog; *Responsa Shevet mi-Yehudah*, by Rabbi A.Y. Unterman; *Responsa Yayin ha-Tov*, by Rabbi Y. Nissim; and *Responsa Meishiv Milhamah*, by Rabbi Sh. Goren. The extensive and prolific writings of Rabbi E.Y. Waldenberg, author of *Responsa Tzitz Eli'ezer*, and Rabbi Ovadyah Yosef, author of *Responsa Yabi'a Omer* and *Yehaveh Da'at*, are exceptional, but as stated above, these sages are unusual, and straddle the border between the haredi world and the world of Religious Zionism.
  99. It would seem that it is not by chance that a substantial portion of the responsa of Rabbis Herzog, Goren and others appeared only at the end of their lives, or even posthumously.
  100. In lesser measure, fascinating discussions of burning halakhic issues occasionally appeared, though in a less pure halakhic style, in the periodical *Amudim*, published by the religious kibbutz movement, and in the periodical *De'ot*, of the Association of Religious Academics. The many parallel journals that issue from the haredi school (e.g., *Moriyah*) deal, for the most part, with the clarification of talmudic passages and issues, rather than with practical Halakhah. Even when they deal with halakhic issues, they are usually classic halakhic topics, and not “laws of the state.” An exception to this rule is the periodical *No'am*, edited by Rabbi M.M. Kasher (see above, note 43); *Ha-Pardes*, published in the United States and edited by Rabbi Simcha Elberg (though relatively speaking, deals little with “laws of the state,” in light of its audience and authors); *Ha-Ma'or*, edited by Rabbi M. Amsel; *Ha-Ma'ayan*, of the Isaac Breuer Institute of Po'alei Agudath Israel, a movement which straddles the border between Religious Zionism (in great measure owing to its youth movement, Ezra, and its settlement movement); and *Kol Torah*, a periodical to which many Sefardic haredi rabbis (but not only them) contributed, and which served as the primary vehicle for the dissemination of the rulings of Rabbi Ovadyah Yosef, who, as stated above, is a unique figure in the context of

- the issue under discussion, and stands on the border between Religious Zionism and the haredi community on issues of halakhic decision-making. On this matter, see the articles of Rabbi B. Lau (above, note 52) and Rabbi A. Pikar (above, note 52). See also: Z. Zohar, *He'iru Penei ha-Mizrah* (Tel Aviv, 2001), 312–352.
101. In this context, consideration should be given to the paucity of halakhic writing – as distinguished from ideological and philosophical writing – emanating from Yeshivat Merkaz Ha-Rav in Jerusalem. This phenomenon is connected to a wider phenomenon relating to the path adopted by the Yeshiva and its crystallization from the years immediately following the establishment of the state until our day, but this is not the forum to discuss the matter at greater length. For now, see: Y. Rudik, (above, note 15); Y. Rozen-Zvi, “*Metafizikah be-Hithavutah: ha-Pulmus be-Yeshivat Merkaz ha-Rav – Iyyun Bikorti*,” in A. Sagi and D. Schwartz, eds., *Me'ah Shenot Tziyyonut Datit* (Ramat-Gan, 2003); Y. Ahitov, “*Ha-Rav Tau al ha-Umah ha-Palistinii*,” *Akdamot*, 17 (2006): 137–152.
  102. A conference on “Halakhah and Ideology” was conducted in Jerusalem under the auspices of the Department of Jewish Thought of the Hebrew University and the Van Leer Institute, and most of the papers presented there will be published in the near future.
  103. See Rabbi Y. Amital, “*Mashma'utah ha-Datit shel Medinat Yisra'el*,” *Alon Shevut le-Bogerei Yeshivat Har Etzion*, 11 (1998): 109–117; compare to the words of Rabbi Goren, cited above.
  104. See below, note 115.
  105. See: Rabbi A. Sherman, “*Hovat ha-Hakikah ha-Datit al pi ha-Halakhah*,” *Tehumin*, 5 (1984): 366–377; idem, “*Mishpetei ha-Torah – Hakikatam ve-Yissumam be-Hukkei ha-Medinah*,” *Torah She-be-al Peh*, 30 (1989): 66–80. To understand the matter, one ought to listen to the music issuing from the words of Rabbi Israel Rosen, head of the Tzomet Institute in Alon Shevut and editor of *Tehumin*: “From a theological perspective, the Law of Return rises to the level of holiness and kingdom (!), and it constitutes a cornerstone of our clinging to the framework called the State of Israel” (Rabbi Israel Rosen, “*Yekutzatz Hok ha-Shevut*,” *Nekudah*, 216 [Tammuz 1998]: 40.) A similar expression was used by Knesset member Michael Hazzani, in the course of the discussion preceding the first reading of Basic Law: Israel Lands: “We are happy that the fundamental law...and I am not afraid to say the **sanctified** law, the source of which is in the Torah...” (cited by A. Rubinstein, *Netivei Memshal u-Mishpat* (Tel Aviv, 2003), 144. Needless to say, there is no necessary correlation between a Religious Zionist world outlook and a positive view of religious legislation. For a position that negates such legislation, see: Rabbi M.Z. Nehorai, “*Ha-Im Efshar Likhpot al Ma'aseh Dati?*” *Da'at*, 14 (1985): 21–34; see also: Y. Leibowitz, *Yahadut, Am Yehudi, u-Medinat Yisra'el* (Tel Aviv, 1975), 121; Y. Levinger, *Bein Shigrah le-Hiddush* (Jerusalem, 1973), 91; and compare: E. Shochetman, “*Hakikah Datit be-Hevrah Hilonit*,” *Mahanayyim*, 13 (1996): 270; N. Bar-Ilan, “*Ha-Im Bet Din Kofeh Kofer be-Ikhar le-Kiyyum Mitzvot Aseh*,” *Or ha-Mizrah* (1989): 224; A. Goldman, “*Ha-Yitakhen Viku'ah Takhliti al Kefiyah Datit?*” *Amudim*, 222 (Heshvan, 1965); M. Elon, *Hakikah Datit* (Jerusalem, 1968).

106. Regarding this matter, see at length: A. Hacohen, “*She-Atah ve-Avikha Hayyavim bi-Khevodi’ – Kibbud Av va-Em Mul Arakhim Aherim*,” in Y. Shaviv, ed., *Devarim she-Yesh Lahem Shi’ur*, (Alon Shevut, 2005), 383–415, and the sources cited therein.
107. See, for example: Rabbi Sh. Aviner, “*Nesi’ah le-Hutz la-Aretz*,” *Itturei Kohanim*, 54 (1989): 24; Rabbi Sh. Yisraeli, “*Yetzi’ah le-Hul le-Shem Matarah Limmudit*,” *Shema’atin*, 10 (1966): 33; Rabbi H. Sabbato, “*Yetzi’ah le-Hutz la-Aretz*,” *Tehumin*, 9 (1988): 258; Rabbi Ovadyah Yosef, *Responsa Yehaveh Da’at*, v, no. 57. On this matter, there are also some haredi halakhic authorities who have issued stringent rulings. See: Rabbi M.D. Walner, *Responsa Hemdat Tzvi*, 1, no. 1; Rabbi M. Sternbuch, *Responsa Teshuvot ve-Hanhagot*, 1, no. 900. Compare to the responsum of Rabbi Sh. Wasner, *Responsa Shevet ha-Levi*, v, no. 173. Characteristic is the comment of Rabbi M. Stern, *Responsa Be’er Moshe*, VII, p. 325: “For a pleasure trip, there is **almost** no allowance, and it is certainly forbidden to say that all those residents of Eretz Israel who leave Eretz Israel to go abroad for a pleasure trip act improperly, for surely they asked the opinion of a rabbinic court in Eretz Israel and found an allowance.” His view is cited by A. Arnakh, “*Tiyyul le-Hul – Akh Yatzo Yetze*,” *Alon Shevut Bogerim*, 4 (1995): 107, and see there additional sources.
108. The issue of drafting women into the army, or at the very least, into national service, is far more complex and sensitive. See: Y. Cohen, *Giyyus Banot ve-Sherut Le’umi* (Tel Aviv, 1982).
109. Regarding this point, see: Rabbi A. Lichtenstein, “*Ha-Rabbanut ha-Roshit le-Yisra’el – Mabat Torani Akhshavi*,” *Alon Shevut le-Bogerei Yeshivat Har Etzion*, 13 (1999): 107–124 [*Tradition* 26 (1992): 26–38]. On the tension created in the wake of this issue, see: A. Hacohen, “*Ha-Rabbanut ha-Roshit le-Yisra’el: Hebbetim Mishpatiyyim*,” in A. Warhaftig, ed., *Ha-Rabbanut ha-Roshit le-Yisra’el: Shiv’im Shanah le-Yissudah* (Jerusalem, 2000), 159–219.
110. See, for example: Rabbi Sh. Daichovsky, “*Battei Din Rabbaniyyim-Mamlakhtiyyim: Ba’ayoteihem ve-Hesegeihem*,” *Dinei Israel*, 13–14 (1988): 7–19; idem, “*Battei Din Mamlakhtiyyim be-Medinat Yisra’el*,” *Mada’ei ha-Yahadut*, 39 (1999): 115–119. Rabbi Daichovsky studied in the “*Shevet mi-Yehudah*” *kollel* headed by Rabbi Unterman, and serves as a *dayan* on the Supreme Rabbinical Court. At the same time, he serves as a congregational rabbi in Tel Aviv. Rabbi Daichovsky integrates in his halakhic rulings – in contrast to most of his colleagues – references to rulings issued by civil courts, and his name has been mentioned as a candidate for the Israel Supreme Court after having been proposed for the position by its chief justice, Aharon Barak. See also: Rabbi A. Sherman, “*Samkhuyot Battei ha-Din ha-Rabbaniyyim Ladun be-Inyanei Mammon ve-Yerushah*,” *Mishpatei Eretz*, 1 (2002): 85–96.
111. See, for example: Rabbi Sh. Meron, “*Ma’amadam shel Battei ha-Din ha-Rabbaniyyim be-Yisra’el al Pi ha-Halakhah*,” *Torah She-be-al Peh*, 22 (1981): 94–106.
112. On this point, see Rabbi Sh. Daichovsky, “*Dina de-Malkhuta ve-Din Torah: Hilkhata ha-Shittuf’ be-Re’i ha-Halakhah*,” *Torah She-be-al Peh*, 39 (1998): 50–65; and compare to the position of his colleague, Rabbi A. Sherman, “*Hilkhata ha-Shittuf le-Or Mishpetei ha-Torah*,” *Tehumin*, 18 (1998): 32–40. Rabbi Sherman learned in a yeshiva high school, Yeshivat “Ha-Yishuv he-Hadash,” in Tel Aviv, and also served as an

- army rabbi. Since he was appointed as a *dayyan*, first on a Regional Rabbinical Court and later on the Supreme Rabbinical Court (similar to Rabbi Y. Efrati, loyal follower of Rabbi Elyashiv who learned in the Sha'alvim Yeshiva high school, and then in Yeshivat "Kerem be-Yavneh"), he became a devotee of Rabbi Y. Sh. Elyashiv, who has been designated as "the *posek* of the generation," of the haredi community. Rabbi Sherman deals extensively with laws of the state. See, for example, his article: "*Hukkei Yesod Zekhuyot ha-Adam le-Or Torat Yisra'el u-Mishpatehah, Torah She-be-al Peh*, 36 (1995): 79–93. See also: E. Shochetman, "*Rubo mi-Tokh Kulo – Tokefam shel Hukkim ha-Mitkabelim bi-Mele'at Keneset she-Einah Mele'ah, Tehumin*, 9 (1988): 82–102.
113. This despite the traditional ruling that "a court that follows another court is not exacting," and therefore there are many doubts regarding the authority of appellate courts. Regarding the struggle over recognition of this court, see: E. Radziner, "*Ha-Rav Uziel, Rabbanut Tel-Aviv-Yafo, u-Bet Din ha-Gadol le-Ir'urim: Mahazeh be-Arba Ma'arakhot*," *Mehkarei Mishpat*, 21 (2004): 129–243.
  114. Thus, for example, some haredi halakhic authorities refer to Israel's Independence Day by the derogatory term, "*yom haga*," an expression used in reference to the holidays of idol worshippers, and not only do they recite *Tahanun*, but they observe other mourning rites as well.
  115. See, for example: Rabbi A. Lichtenstein, "*Im ke-Banim im ka-Avdim – Zekhuyot ha-Perat le-Or ha-Halakhah*," *Alon Shevut Bogerim*, 12 (1998): 103–112; idem, "*Rav Tarbutiyut be-Hevrah ha-Yisra'elit*," *Alon Shevut Bogerim*, 10 (Nissan 1997): 123–138; idem, "*Mah bein Yahadut le-Demokratyah?*" *Alon Shevut Bogerim*, 21 (2005): 63–72. And see: Rabbi A. Sherman, "*Demokratyah ve-Shilton ha-Kahal be-Mekorot ha-Halakhah*," *Shanah be-Shanah*, (1998): 215–222.
  116. Here too Rabbi Ovadyah Yosef's approach stands out in its uniqueness, for in various places in his writings he speaks of "the spirit of freedom and liberty," as a component in the considerations underlying his halakhic rulings. On this matter, see: A. Pikar, "*Ha-Rav Ovadyah Yosef be-Hitmodeduto im 'Dor ha-Hofesh ve-ha-Deror*," in A. Ravitzky, ed., *Shas – Hebbetim Tarbutiyyim ve-Ra'ayoniyyim* (Tel Aviv, 2006): 228–283; 284–326; Rabbi B. Lau, "*Ha-Yahas le-Medinat Yisra'el u-le-Ezrahehah be-Kitvei ha-Rav Ovadyah Yosef*."
  117. Both considerations of state in light of the fact that the State of Israel might itself seek the extradition of criminals in the future, and the considerations of "what will people say" and the desecration of God's name. On the importance of the latter factors, see at length: A. Hacohen, "*Lamah Yomeru ba-Goyyim' – Tadmit Yisra'el be-Einei ha-Amim ke-Shikkul be-Hakhra'at ha-Halakhah ve-ha-Din be-Mishpat ha-Ivri*," in Rabbi B. Lau, ed., *Am Levadad* (Jerusalem, 2006): 88–123.
  118. See, for example, Rabbi B. Lau's article regarding saving a non-Jew on the Sabbath, cited above, note 17; Y. Ahitov, "*Ha-Rav Tzvi Tau al ha-Umah ha-Palistinit*," *Akdamot*, 17 (2006): 137–152.
  119. See: Rabbi H.D. Halevi, "*Hashtalat Eivarim min ha-Hai u-min ha-Met ba-Halakhah*," *Assia*, 27–28 (1981): 5–13; Rabbi O. Yosef, "*Teshuvah be-Heter Hashtalat Keliyah*,"

- Dinei Israel*, 7 (1977): 25–44; Rabbi Sh. Goren, “*Hagdarat ha-Mavet ba-Halakhah*,” *Shanah be-Shanah*, (1934): 125–130; idem, “*Limmud Anatomiyah be-Battei ha-Sefer le-Refu’ah le-Or ha-Halakhah*,” *Shevilinear*, 31–32 (1979): 16–27; and his articles in *Kovetz Me’orot*, 2 (1980) regarding the determination of the time of death, and removing life support systems from a dying patient. Compare: Rabbi M. Eliyahu, “*Hashtalat Eivarim al Pi ha-Halakhah*,” *Barkai*, 4 (1987): 18–31. See also: Rabbi A. Pikar, *Terumat Eivarim* (Jerusalem, 2003).
120. Regarding *agunot*, see what I wrote in my book: A. Hacohen, *The Tears of the Oppressed – An Examination of the Background and Halakhic Sources About the Agunah Problem and its Solutions* (New York, 2004). This phenomenon is connected to the far more general inclination towards stringency in our generation, but this is not the forum in which to expand on the issue.
121. Concerning this issue, see, for example, the position of Rabbi Ovadyah Yosef, *Responsa Yabi’a Omer*, VIII, *Even ha-Ezer*, no. 11; Rabbi M. Waldman, “*Ha-Rav Herzog, ztz”l, al Yehudei Eti’opiyah*,” *Tehumin*, 8, p. 121; idem, “*Da’at Hakhmei Yisra’el al Yehudei Eti’opiyah*,” *Tehumin*, 4, p. 314; M. Corinaldi. *Yahadut Eti’opiyah: Zehut u-Masoret* (Jerusalem, 1989); Rabbi A. Pikar, *Ha-Pesikah ha-Hilkhatit Bat Yameinu ve-ha-Hitmodedut im Ba’ayat ha-Hitbolelut* (Ramat-Gan, 2003).
122. Regarding this ruling, see at length: A. Pikar, “*Loveshot Bigdei Peritzut ve-Shokedot al ha-Moderniyut Lishmor Orhot Pariz (Paritz): Pesikato shel ha-Rav Ovadyah Yosef le-Nokhah ha-Shinuyyim be-Orhot ha-Levush*,” in *Tarbut Yehudit be-Ein ha-Se’arah* (2002): 592–622.
123. For purely convenience’s sake, we shall note the rainbow of colors between the right wing – religious and political (though there is no necessary identification between the two) of the “*hardalim*” (*haredim le-umiyyim*), through the “hilltop youths” and the “*Habakooks*” (*Habad-Breslav-Kook*), to the “left” wing (such as the strange mutations of *datlashim* [*datiyyim le-she’avar*, formerly religious], *datlamim* [*datiyyim le-mehtzah*, partly religious], *datlapim* [*datiyyim le-fa-amim*, sometimes religious], many of whom see themselves – but are not necessarily seen as such by many of the members of the group to which they wish to belong – as still belonging to the family of “Religious Zionism”), or institutions such as the religious kibbutzim, “*Ne’emanei Torah ve-Avodah*,” the Hartman Institute, Meimad, *Kolekh*, the *Shirah Hadashah* community, and others. Needless to say, each one of these has its own complex character, and one should not describe them with a single simplistic label. Each of these streams has its own leadership – official or unofficial – literature and press. This is not the forum to discuss the matter at greater length.
124. One of the exceptions, and perhaps the last of the great decisors, whose breadth of rulings and influence go well beyond their narrow confines, is Rabbi Ovadyah Yosef. In contrast, the identification of Rabbi Y.Sh. Elyashiv among many in the haredi community as “decisor of the generation” finds hardly any expression in a written work. The exception is the volume, “*Kovetz Teshuvot*,” published by his students in 2000. Even this collection, however, reflects an exceedingly narrow scope of ruling, and it is difficult to guess what will be its long-term impact. For

our purposes, Rabbi Elyashiv's rulings reflect a very stringent approach. See, for example, no. 20, regarding offering food to someone who does not recite a blessing; no. 44, regarding demonstrations against the desecration of the Sabbath; no. 124, regarding use of a "purity calculator"; no. 104, regarding halakhically-valid conversion; and others.

125. Perhaps as a counter-response, and perhaps for apologetic reasons, more and more prominent figures in Religious Zionism have been voicing their opposition to religious legislation on the fundamental level. See, for example, the statement of Rabbi Mordechai Elon, Rosh Yeshivat ha-Kotel: "I was not angry at those youths who ate and drank on Tish'a be-Av; in a convoluted way, I, in fact, rejoiced. Perhaps this will finally liberate us from our fixed way of thinking, that the Jewish character of the state will be established through municipal by-laws achieved through the party. After two hundred years, the time has come that we free ourselves from [such thinking]" (*Makor Rishon*, September 21, 2001). A similar and courageous opinion was voiced about fifty years earlier by Rabbi H.D. Halevi in his book, *Bein Yisra'el la-Amim* (Jerusalem, 1954), 82–85: "This is the reason for our failure, the failure of religious Jewry. We are unknowingly being carried away by the political stream drawn for us by others. Our politics are not at all identical with the way of the Torah. We have a strong desire to give our state a religious character where the Torah of Israel will be its law (though none of us believe that we will succeed, at least not in this generation). But does anybody think that we will achieve this by way of party tactics and parliamentary politics, based on coalition promises, having the nature of 'Watch out for me, and I will watch out for you, give me, and I will give you'? Obviously, this approach as well should not be totally rejected, but this is not the way of the Torah, and this is not the way we will succeed... Even coalition promises have certain limits, and we will never be able to force our views and beliefs on the entire country by way of the law. We will certainly succeed in passing a larger number of laws that will guarantee the Jewish nature of the state, but will this suffice to guarantee their fulfillment? How can we impact upon beliefs and opinions through the help of statutes? Moreover, besides the nice impression that a religious law makes on the book of statutes, what is the concrete benefit as long as it is not implanted in the conscience and belief of the heart? There are many laws and municipal by-laws in the country which are almost not carried out at all, because the public does not understand their value. What good are laws regarding the Sabbath, family purity and kosher food when the community upon which we come to bestow the Torah of life, sees them merely as coercion, since they are so far removed from these eternal values? Precisely as Hoshea prophesied, 'Though I write for him the great things of my Torah, they are reckoned a strange thing' (Hoshea 8:12). Therefore, even statutes and punishments will not help very much to improve the poor religious and spiritual situation. It is our obligation then to embark on a grand and comprehensive campaign to fortify Israel's belief in God and his Torah, by teaching Torah and disseminating it among the masses of the house of Israel."

126. A striking example of non-enforcement is the Hours of Work and Rest Law and the local by-laws that forbid the conducting of business and opening of stores on the Sabbath. So too the Rabbinical Courts Jurisdiction Law, the “flagship” of religious legislation (since the “status quo” letter of 1947 and on), which states that the marriage and divorce of Jews in Israel will be conducted according to Torah law, has lost much of its magic and power. Practically speaking, there are thousands of couples living in Israel not in conformity with the objective of this law, whether without formal marriage, but with state recognition of their “common-law marriage,” which allows them to enjoy all the civil benefits of marriage, or by way of circumventing the law, by way of civil marriage outside of Israel, the numbers of which grow from year to year.
127. To help understand the matter, compare the degree of influence of Rabbis Herzog, Goren, and Yosef (and to a far lesser degree: Rabbis Unterman and Nissim) who filled the office of chief rabbi during the first thirty years of the State, to that of their heirs, Rabbis Shapira, Eliyahu, Lau, Bakshi-Doron, Metzger and Amar.
128. Almost all of the extensive halakhic literature regarding the army that has been written in recent years (e.g., Rabbi A. Krim’s *Melumadei Milhamah* and Rabbi A. Rontzki’s [chief rabbi of the IDF] *Ke-Hitzim be-Yad Gibbor*) is merely a supplement to the principles set by Rabbi Sh. Goren decades ago.
129. As part of the change, note should be taken of the tendency toward heightened use of terms that have always characterized haredi discussion of halakhic decision-making, e.g., “*da’at Torah*” (“the Torah view”). On this matter, see: Rabbi Y. Amital, “*Da’at Torah’ min ha-Torah – Minayin?*” *Alon Shevut le-Bogerei Yeshivat Har Etzion*, 12 (1998): 97–101. Needless to say, this sector is also not all cut from the same cloth, but rather made up of different colors and shades. This sector has not as yet been subject to a fitting scholarly analysis.