

Sacred Space in Israel and Palestine

Religion and Politics

**Edited by
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7 The place of religious aspirations for sovereignty¹ over the Temple Mount in religious-Zionist rulings

*Eliav Taub and Aviad Hollander**

Introduction

In recent years, the number of Jews ascending the Temple Mount has increased. In 2008, on the first day of the Succoth festival, hundreds of yeshiva students and their teachers paid an organized visit to the Temple Mount. This, in combination with private visitations, constituted an unprecedented number of visitors in one day since Israel's occupation of the Temple Mount in 1967. Moreover, in the early 1990s, only a few dozen people even promoted the idea of Jewish pilgrimage to the Temple Mount, yet by the end of the twentieth century, the number of visits had grown to approximately 1,000.² Presently, about one decade later, one can say Jewish presence on the Temple Mount has become a matter of routine.

Numerous organizations are involved in advancing pilgrimage to the Mount; many of them backed by significant philanthropic support.³ Since 2009, a portion of the leaflets accompanying the Bible portion of the week (distributed for Sabbath reading in synagogues across Israel to encourage biblical discourse and address current affairs) have begun to indicate times for ascension to the Temple Mount.⁴ Thus, if in the not-too-distant past, ascension to the Temple Mount was the lot of a few individuals—backed by scant economic and rabbinic support and labeled as messianic⁵—today this activity enjoys significant economic support of private bodies comprising many participants.

This new situation continuously tests the policy of the police who are charged with preventing situations “prone to harm freedom of access of religious followers to their holy places.”⁶ It is no surprise that the police, fearing riots and violations of the public peace,⁷ find it difficult to deal with long lines of Jews seeking to enter the Mount.

For the most part, the profile of Jews who have ascended the Temple Mount over the last decade corresponds to a public within the consensus of religious-Zionist society, with some subscribing to moderate center-left positions. This holds true for rabbis as well. Numerous municipal rabbis are encouraging ascension to the Temple Mount, among them: Rabbi Zefania Drori, rabbi of Kiryat Shemona; Rabbi Shlomo Riskin, rabbi of Efrat; Rabbi Haim Druckman, one of the major rabbis of religious Zionism, head of Bnei Akiva Yeshivot and the of the Courts of Conversion to Judaism in the Office of the Prime Minister; Rabbi Yehuda Amital⁸ and Yakov Maidan, heads of the Har Etzion Yeshiva plus other rabbis from this yeshiva characterized by its moderate center-left positions.⁹

In unprecedented fashion, this trend is stimulating Jewish religious discourse concerning a precept of the Chief Rabbinate that calls upon Jews to avoid ascending the Temple Mount for reasons herein discussed. In fact, this new trend comprises a pursuit of *halakhic* innovation which, in the past, was feared. Increasing *halakhic* and public interest in the

Temple Mount on the part of many rabbis might be explained on different levels.¹⁰ First, an idea requires some time until it is fixed in the public consciousness, all the more so a complex religious-political question such as *halakhic* treatment of the Temple Mount issue. Now, about four decades since the reinstatement of Israeli sovereignty in the Old City of Jerusalem and the Western Wall, it is evident that political conditions and the public mood are ripe for dealing with this question. Thus, ascension to the Temple Mount is coming to the attention of *halakhic* decisors more intensely than in the past.

Second, on the political plane, following several political agreements with the Palestinian Authority formulated at the close of the twentieth century, fears have begun to take root within broad public sectors (including rabbis) regarding the loss of Israeli sovereignty over the Temple Mount. In that regard, there can be little doubt that the active pressure to ascend the Mount reflects in some symbolic way a desire to claim the Mount as Jewish 'space', subject to Jewish sovereignty and not subject to Muslim sovereignty. Religious Zionism's attitude to the Temple Mount is an intensified metaphor to the religious Zionist approach to Judea and Samaria.

Against this backdrop, a keen rabbinical polemic has been under way, mainly over the past two decades, concerning the desired *halakhic* attitude to the Temple Mount in particular, and the transfer of sovereignty over parts of Israel to Arab entities in general.

A further impetus driving rabbis to ascend the Temple Mount includes a sociological phenomenon that is expressed by the adoption of Hassidic-mystic characteristics. This sort of approach, which seeks to intensify feelings of closeness to God and thus encourage ascension to the Temple Mount as a means for fulfilling this aim, is characteristic of many religious-national yeshivas that work towards this end.¹¹

The indication is that the factors for ascending the Temple Mount are not uniform, and one cannot necessarily place them under one category. In fact, *halakhic* rulings,¹² including decrees by the Chief Rabbinate, forbidding Jewish ascension to the Temple Mount, made the arrangement possible¹³ by which control of the Mount was handed over to the *Waqf*. What is important to understand therefore are the developments and changes in religious motives and attitudes of *halakhic* adjudication regarding Jewish ascension to the Temple Mount.

The issue of entering the Temple Mount is ancient and controversial. At the background of this question are foundational biblical events that required physical distancing from the place of divine revelation at the time of their occurrence, such as the Lord's revelation to Moses through the burning bush (Exodus 3: 5), the occasion of the Lord's revelation when handing the Torah to the Jewish People at Mount Sinai (Exodus 24: 5–6), and the revelation to Joshua (Josh. 5: 15). Generations of *halakhic* decisors maintain divided opinions concerning the sacred status of the Temple Mount following the destruction of the two Temples (the first in 586 BCE and the second in 70 CE). One school of thought among *halakhic* decisors argues that the Temple Mount continues to carry the identical degree of sanctity as at the time of the founding of the two temples. Accordingly, because of its sanctity, the prohibition to enter the area of the Temple Mount prevails to this very day.¹⁴ Another approach holds that the law that applies to the Temple Mount in Jerusalem is identical to the law concerning other holy places. With regard to other holy places, their sanctity ceased when the revelation ceased. Similarly, the destruction of the Temple marked the end of its sanctity and so there is no interdiction to enter the area of the Temple Mount.¹⁵ Due to the difficulty of arriving at a total and clear-cut decision as to whether sanctity still prevails on the Temple Mount, and if so, where, and in order to satisfy all parties, the majority of *halakhic* decisors have adopted the approach of forbidding Temple Mount entry.¹⁶

It is necessary to emphasize that the prohibition of entering the Temple Mount is not perceived in Jewish *halakha* as the abandonment or waiver of sovereignty over the Mount. In fact, the Torah includes a commandment to maintain a conscious link with the Temple Mount (Deuteronomy 12: 5).¹⁷ The decisors are of the opinion, contrary to the logic guiding other religions,¹⁸ that entering the Mount, even in a pure state, may bring about familiarity and breed contempt. Thus, physical isolation from the Temple Mount symbolizes its sanctity and the longing for it as it was in biblical times.

During most of the twentieth century, and despite the great political interest stimulated by the issue of the Temple Mount, the policy of isolation from the Temple Mount continued as the preferred policy of key rabbinical authorities and the Chief Rabbinate of Israel. Only a handful of people sought to ascend the Mount.¹⁹ Following the liberation of Jerusalem in 1967 and the granting of responsibility for the Mount to the Arabs, the latter sensed that Israel was ready to waive sovereignty over the Temple Mount. The Arabs began a struggle for sovereignty over the Mount by way of “consciousness building,” namely a mixture of arguments asserting that the Jewish People had been absent from the Temple Mount for many years and therefore must not be permitted sovereignty.²⁰ Against this backdrop, the power of the *Waqf* in Jerusalem became greater and more expansive, slowly eroding Israeli sovereignty.²¹

Over the past two decades, relations between the *Waqf* and Israeli authorities have experienced ups and downs, a situation which more than once descended into violence. This reality led to a growing perception among several Jewish rabbinical authorities that isolation from the Mount was doing double damage. First, it was impacting the sanctity of the Mount due to the presence of non-Jews (Num. 3: 38). Second, it was leading to the loss of a conscious link of Jewish proprietorship over the Mount, weakening aspirations for rebuilding the Temple. A portion of rabbinical authorities felt that the first Intifada, followed by the Oslo Agreement between Israel and the PLO in the early 1990s threatened Israel’s sovereignty and demanded attention and action from a *halakhic* aspect.²² This stage marked the appearance of several bodies and figures, some of them political, with a host of solutions for preserving Jewish sovereignty over the Temple Mount, mainly by strengthening the conscious link.²³ Some felt that, despite the danger to Israel’s sovereignty, Jews should still avoid entering the Mount, and suffice themselves with activity for strengthening the conscious psychological and spiritual link to the Mount.²⁴ Given these developments, this chapter will examine the *halakhic* judgments of six religious-Zionist decisors concerning the question of Jewish entry to the Temple Mount, incorporating as well the inculcation of *realpolitik* considerations

In Jewish society, as in the world at large, spiritual leaders, some of them conservative, are coping with the “market”²⁵ of modern-world ideas and ideologies by broadening the boundaries of religious activity. For example, scrutinizing how Jewish Ultra-Orthodoxy²⁶ has confronted modern reality shows that Ultra-Orthodoxy, in its current form, is not an exact continuation of traditional society prior to the outbreak of modernism. Ultra-Orthodoxy did indeed spring from traditional society, however in its confrontation with modernity, it chose the path of secluding itself while introducing a novel and stringent attitude. This activity is saturated with ideological-religious charges carried by rabbis in working to change reality or, alternatively, to preserve it.²⁷

When examining the modes of *halakhic* and ideological conduct of rabbis, it appears that the conduct of rabbis affiliated with Zionist-Orthodox religious ideology²⁸ deserve a separate review. It is no accident that we choose to concentrate on this religious stream. The phenomenon of entering the Temple Mount is occurring mainly within the Zionist-religious

community²⁹ and religious Zionism is generally characterized by its willingness to engage modern and national phenomena.³⁰ By comparison, while Haredi (Ultra-Orthodox) activity led to the establishment of a small movement in 1987 consisting of dozens of members championing physical entry to the Temple Mount, this movement did not gain legitimacy from the Haredi rabbis, who serve as the supreme decisors for that community.³¹

Since we are determining the influence of historical events on the ruling considerations of rabbis, we will consider rabbis from different periods of the twentieth century: Rabbi Haim Hirschenson and Rabbi Abraham Issac Hacoheh Kook, who considered the question of entering the Temple Mount following the San Remo Conference in 1920 where the victorious Allied powers agreed to allocate to Britain the Palestinian mandate; Rabbi Shlomo Goren and Rabbi Zvi Yehuda Kook, who addressed the issue in the years following the Six Day War in which the Israeli army gained control over the Temple Mount; and Rabbi Yisrael Ariel and Rabbi Shlomo Aviner, who dealt intensely with the issue following the Oslo Agreement. Aside from the historical aspect, the choice of these particular rabbis stems from an additional reason. Examining their modes of judgment exposes a broad spectrum of attitudes to a *halakhic* problem cast in the light of historical events and changing *realpolitik* situations, thereby clarifying *halakhic* and ideological aspects of how religious leadership copes with contemporary political challenges, such as the Arab–Israeli conflict.

The assumption at the basis of this chapter is that an examination of the judgmental considerations of these *halakhic* decisors will indicate the complexity of the *halakhic* ruling process. Moreover, it will demonstrate the involvement of *halakhic* decisors in the Israeli political arena. The ruling process also has implications regarding a political-national exchange of ideas founded on religious agreement over the status of the Temple Mount, especially for political parties and political figures who are followers of these decisors.

The different streams of religious Zionism all share the vision of the establishment of the Temple on the Temple Mount. With that, against the backdrop of various political events and their ramifications for Jewish sovereignty over the Mount, two different approaches to the issue can be pointed out amongst the rabbis of religious Zionism. One approach views the aspiration for sovereignty as a dynamic value whose force and intensity changes in light of the *realpolitik* situation. The other approach reflects a philosophy that views the aspiration to achieve and preserve full sovereignty and control over the Temple Mount as a fixed and stable *halakhic* consideration. Thus, despite any change in the *realpolitik* situation, the value of this consideration in religious rulings will hardly change. The first approach permits entry to the Mount as a contribution to control over the Mount, and thus as a realization of sovereignty, even if only a partial sovereignty. On the other hand, the second approach categorically prohibits entry of any Jew or non-Jew to the Temple Mount so long as the Temple is not standing there. This based on the conceptual belief that the reality of sovereignty must achieve full fruition, in accordance with the ideal religious vision.

For our purposes, the distinction made by Martin Seliger³² is important. He distinguished between two dimensions of the function of ideology³³ in the political arena: The first dimension, fundamental principles, comprises the ultimate goals to be achieved. The second dimension, operative ideology, consists of pragmatic political activity that takes into consideration the constraints of the environment on its path to fulfilling ideology.

Based on Seliger, we will examine whether and to what extent rabbis of religious Zionism acted simultaneously within these two dimensions throughout the twentieth century. In the ideological dimension, how they remained faithful to their original principles, i.e., permitting entry to the Temple Mount solely for the purpose of building the Temple, and in

the operative-practical dimension, viewing entry to the Temple Mount as part of the general Israeli claim to sovereignty. Behind this activity is the desire to adapt new elements within the traditional world, out of a sense of preserving traditional continuity rather than out of a sense of crisis.

It is from the above considerations that this chapter draws its significance. Up until now, research has dealt with either the conclusions of *halakhic* decisors or the political events themselves, and these have served as the basis for examining the attitudes of those same decisors.³⁴ Even when the considerations of decisors were addressed, their relative importance was not examined in a comparative way.³⁵ In this chapter, we will methodically examine in an interdisciplinary manner the *halakhic* considerations from which decisors draw their conclusions by analyzing the changing weight given those considerations among the decisors. In our opinion, an in-depth analysis of the *halakhic* discourse in which the *halakhic* decisor acts will enable a precise delineation of the various approaches of decisors, thereby clarifying which of their approaches might constitute a religious basis for a political dialogue in the future (if at all) on the issue of the Temple Mount.

Track A: permitting entry to the Temple Mount due to *realpolitik* changes

Rabbi Haim Hirschenson: sovereignty as an extra-halakhic consideration

On 2 November 1917, British Foreign Secretary Arthur James Balfour sent a letter to Lord Rothschild. According to the letter, which would later be known as the Balfour Declaration,

His Majesty's government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavors to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.³⁶

Balfour requested that Rothschild bring the letter to the attention of the Zionist Federation. The reverberations of the Balfour Declaration were heard around the Jewish world and by *halakhic* writers as well.³⁷ One of the questions to resurface was the question of entering the Temple Mount.

One of the decisors who addressed this question was Rabbi Haim Hirschenson (1857–1935) (hereinafter: “RHH”). RHH enjoys a special status in the rabbinical world. He was born in Palestine to a *Meah Shearim* family. In his adolescence, he formed personal connections with secular Zionists, and, due to his commitment to their efforts to renew the Hebrew tongue as an everyday language, he was ostracized by Jerusalem rabbis. He was forced to leave for Istanbul and later for the United States. He was active in the Mizrachi movement, a movement of religious Zionists who supported a partnership with secular Zionists. He viewed the Balfour Declaration as part of a divine process whose purpose was the complete redemption of the Jewish People. RHH often stressed that this redemption applied to the entire world as well, and not solely to the Jewish People.

RHH's attitude to the question of Jews entering the Temple Mount can be found in the first section of his essay “*Malki ba-Kodesh*.”³⁸ RHH's essay assumes that from a political standpoint, sovereignty over the Temple Mount would eventually be handed to the Jews. The question is, how should Jews address this sovereignty from a *halakhic* viewpoint? Would

they be permitted to ascend the Temple Mount and enter its area, or would the prohibition remain intact?

In the introduction to his essay, before turning to an in-depth treatment of its issues, RHH recalls the nearly thousand-year old dispute over whether the Temple site was sanctified only during the time it stood there, or whether this sanctity applies to other times as well. In the opinion of RHH, during the time when the status of the Temple is “destroyed,” the Mount is not holy; therefore no prohibition exists for entering the area. This authorization, in his opinion, applies to all sections of the Mount, even to the holiest areas.³⁹ Nevertheless, he believed this was not an ideal situation. The process that began with the Balfour Declaration would be considered complete only when a temple was built on the Mount to serve as a house of worship for all nations, as prophesied by Isaiah (56: 7) “mine house shall be called an house of prayer for all Peoples”, Jews and non-Jews as well; only then would the Mount would return to its holy status. Thus, RHH acknowledged the fact that a gap exists between the ideal dimension and the operative-practical dimension. Furthermore, even in a situation in which the Jewish People hold sovereignty over the Mount, it would still, at least initially, be difficult to establish the Temple due to a myriad of *halakhic* problems which have not been addressed over the generations.

For this reason RHH proposed, at the beginning of the 1920s, to establish an international court on the Temple Mount:

It seems that in this house, there will be a Temple of Peace, however not a Temple of Peace as in the Hague, where the emissaries of peace have bowed and prostrated themselves to those who cause dread in the Land of Life, and each intimation of injustice from the rulers of the Land was considered rebellion. Also, it will be more than the League of Nations, proposed by President Wilson, the ‘Moral Father of the Nation,’ in which, at any rate, the desire of its nations is stronger than its legal acumen. Let there only be there a Court of Nations in which nations are judged fairly ...⁴⁰

In the world at large, well before the Balfour Declaration, institutions imbued with international values and international purposes had already begun to develop. At the end of the nineteenth century and the beginning of the twentieth century, two international conferences known as the Hague Conferences were held and attended by more than twenty nations. The purpose of these conferences was to arrange for the disarmament of nations and to codify the laws of warfare. A further international initiative was the construction of a Peace Palace in 1913 by philanthropist Andrew Carnegie to house the Permanent Court of Arbitration. In the wake of World War One, the League of Nations and its judicial organ, the Permanent Court of International Justice, were established in 1919, with the encouragement of President Woodrow Wilson.

Influenced by this visionary international atmosphere, Rabbi Hirschenson sought to establish on the Temple Mount an international and objective court of law that would not be subservient to nations and countries with narrow national interests, perhaps in the hope of fulfilling the peaceful visions of the prophets.⁴¹ He felt that justice must be defined universally and coherently and that the already established new institutions were given to political pressures on the part of the stronger countries and were unable to bring about the justice they stood for. RHH, who was uncomfortable with – and even criticized – the Peace Palace and the League of Nations, foresaw its decline. And indeed, following its failure to prevent the outbreak of World War Two, the League of Nations was disbanded in 1945

and replaced by a new institution, the United Nations.⁴² At the Peace Palace in The Hague, the International Court of Justice was established.

The fulfillment of RHH's concept might have come up against fierce opposition from the decisors of his generation, committed to longstanding *halakhic* tradition by which entry to the Temple Mount was forbidden. Consequently, based on the assessment that Arab refusal to accept partition would lead to the transfer of sovereignty over the Temple Mount to Jewish hands,⁴³ RHH responded with realistic arguments that considered the constraints of political reality:

And what will we do now? Shall we close up this place, or allow foxes to walk there, even when the Lord is come back to Zion? We will be the ridicule of all nations for this! The enlightened kingdoms, by whose permission we return to our land, have left us to close off this place from the rest of the nations of the Bible.⁴⁴

For the first time following the Balfour Declaration, in treating the issue of sovereignty, a decisor attempted to confront—searchingly and with consideration for political conditions—the existing tension between the ideal condition and real conditions that have changed. RHH assumed that Britain would uphold its promise and that the Jewish People would maintain sovereignty over parts of Palestine. He also anticipated that, since the Arabs refused to accept the Balfour Declaration, the reaction of the British and the League of Nations would lead to the transfer of the Temple Mount to Jewish sovereignty.⁴⁵

In his opinion, a situation in which the Temple Mount is turned over to Jewish sovereignty by virtue of a decision by other nations would have two implications. First, the Gentiles would ridicule the Jews, who received permission to return to their land but are prevented from visiting the holiest of their sites. Second, since the nations from which Israel would receive sovereignty over the Temple Mount also have religious feelings towards the Mount, it would thereafter be impossible to prevent them from entering its boundaries.

Between the lines one may discern an ironic note to RHH's statements. A dynamic political situation of impending Jewish sovereignty functioning together with a *halakhic* ruling that suggests the continued prohibition of entry, despite the portentous events.

On his path to permitting entry to the Temple Mount, RHH does not base himself on arguments stemming from the above-described changing reality, since he operates as one for whom the issue of sovereignty is not a part of the *halakhic* discussion but only a catalyst for *halakhic* deliberation. In this respect, a discussion concerning the desired path for realizing the sovereignty of Jews on the Temple Mount, plus the fear of non-fulfillment of sovereignty following the Balfour Declaration, are irrelevant to establishing the *halakhic* permission of entry to the holy site.⁴⁶ In his answer, spread out over dozens of pages, RHH enumerates ten topics organized into chapter headings, all dealing with historical *halakhic* sources, traditional commentators, and sources concerning the sanctity of the Temple and the Land of Israel.⁴⁷ A rigorous perusal of RHH's sources reveals that the treatment of this topic throughout the generations, from the time of the Second Temple's destruction until RHH's time, never addressed questions of sovereignty. RHH also writes at the end of his analytical discourses on the *halakhic* sources, "our question has been favorably solved."⁴⁸ This is to say that the aim of his essay was to find a basis for a *halakhic* ruling that would permit entry to the Temple Mount, and that basis can be found only through an analytical discussion of the *halakhic* sources. There is a gap, which RHH himself was aware of, between the real aim of his writing: political sovereignty and control over the Temple Mount, and the *halakhic* discussion itself, in which this aim receives no attention whatsoever.

Rabbi Yisrael Ariel: retention of sovereignty as a valid, independent, halakhic consideration

Rabbi Yisrael Ariel (hereinafter: “RYA,” 1939–), a contemporary decisor, concurs with RHH in allowing entry to the Temple Mount. In the beginning of the 1970s, RYA, was called upon by then Defense Minister Shimon Peres to establish a yeshiva in the city of Yamit in the Sinai Dessert. Later he served as the city’s chief rabbi. About a decade later, the city was razed by Israel and its territory returned to Egypt as part of the Camp David Accords. In the 1977 elections to the Ninth Knesset, RYA ran together with Rabbi Meir Kahane on the roster of the Kach party. Following the evacuation of Yamit in 1982, RYA established the Temple Institute, whose purpose was to strengthen the conscious link to the Temple Mount. The Institute conducted research on Temple accouterments and actually reconstructed them within the framework of pragmatic activity for the establishment of the Third Temple on the Temple Mount.

While RHH dealt with a theoretical question, when sovereignty over the Temple Mount was not yet in the hands of the Jewish People, RYA’s essay⁴⁹ was written after that sovereignty had been acquired, with the political events of the time generating fears for the loss of this hard-won sovereignty. In the background was the Second Intifada (the Al Aqsa Intifada), which began in October 2000. It erupted one day following then opposition leader Ariel Sharon’s demonstrative ascent of the Temple Mount in the wake of the failure of the Camp David talks between Prime Minister Ehud Barak and Palestinian Authority Chairman Yasser Arafat.

The approach RYA presents accords extremely strong validity to retain Jewish sovereignty over the Temple Mount:

It is no secret that for thirty-five years, many of the rabbis have remained silent concerning ascent to the Temple Mount ... As these words are written, it is clear to us that not all will agree with what is to follow. Thus, this essay is meant to open up the discussion and break the silence. This is especially true in view of the changing reality which obliges a different treatment from a *halakhic* standpoint.⁵⁰

RYA complained about rabbinical silence concerning the Temple Mount issue. Since Israel’s conquest of Jerusalem in 1967, the rabbinic world did not see fit to address the changed reality of sovereignty over the Mount, and remained silent. As this situation was unacceptable to RYA, he attempted to place the issue on the agenda. He hoped that a discussion of the issue would bring about an understanding of what he considered formidable *realpolitik* conditions, along with realistic *halakhic* activity that would supplant metaphysical aspirations for establishing the Temple.

In order to remove any doubt, RYA explicitly pointed out that he did not expect everyone to agree with him. He was seeking to undermine *halakhic* restrictions, thousands of years old, for tangible reasons that troubled him. These reasons included Arab riots that brought about the closure of the Mount to Jews – yet not to Arabs – and the destruction of Jewish archaeological relics from the days of the Temple by Arab builders on the Temple Mount, events that were a consequence of the failure of the various governments of Israel to exercise Jewish political control. A foreseeable consequence of the voluntary relinquishing of day-to-day control by Israel’s governments to the Muslim *Waqf* was a perception – by Jews as well as by Arabs, and by people of other nationalities – that the Jews are also giving up their claim to sovereignty.

A preliminary perusal of the twelve chapter headings RYA presents at the beginning of his essay reveals that virtually all of them reiterate the motif of “the occupation of Judea and Samaria.”⁵¹ Thus it is evident that the issue of physical control constitutes, for RYA, a central pillar of *halakhic* discussion, unlike RHH, for whom the aspiration for sovereignty constitutes a catalyst for discussion only and is not part of the *halakhic* discussion itself.⁵²

Accordingly, RYA unfolds *halakhic* sources according to which the religious *mitzvah* of liberating the Land of Israel in general and Jerusalem in particular is applied to the Jewish People at this time in history. Moreover, following liberation, it is forbidden to surrender the territory to another people. RYA describes the praying of Muslims on the Mount as a “desecration of the holy” and from this he concludes, “It is a commandment for the government, rabbinical institutions, and each person of Israel to do, each according to his ability, what they can to expunge this disgrace from the site of our Temple.”⁵³ Furthermore, in his opinion, the prayer of Jews on the Temple Mount is testimony to “the connection of the Jewish People to the Temple.” This civic testimony is akin to the continuation of military occupation, and as such, constitutes a positive action for strengthening Jewish control over the Temple Mount.⁵⁴

In allowing entry to the Temple Mount, RYA works to remove an additional *halakhic* restriction: the need for ritual purification. RYA bases himself on the fact that following the occupation of the Temple Mount, in a battle in which he and his friends participated, other rabbis also entered the Temple site. These included then Chief Rabbis Isser Yehuda Unterman and Rabbi Yitzhak Nissim as well as Rabbi Zvi Yehuda Kook (discussed *infra* p. 00 and further) and Rabbi David Cohen (the “Nazirite rabbi”). All of them entered without having undergone purification. In RYA’s opinion, the rabbis entered the Temple Mount in a state of impurity “since they viewed their entry to the Mount as a part of assisting the soldiers and part of the act of occupying and holding the Mount.”⁵⁵ In his opinion, we must equate the entry of civilians to the Mount to the entry of IDF soldiers during the conquest of the Mount—both are entitled to enter the Temple Mount, despite being impure, since they are fulfilling the *mitzvah* of occupying the Temple Mount. By this method, a returned Jewish presence on the Mount takes precedence over the *halakhic* requirement for ascending the Mount in a state of ritual purity.⁵⁶

RYA deepens his argument by which the preservation of sovereignty over the Temple Mount permits entry to holy territory, even for the impure. As *halakha* states, if there are no pure builders, then builders who are not pure may build the Temple.⁵⁷ In the opinion of RYA, walking about in the Temple site strengthens sovereignty over it. One must consider this as a first phase in preparing the grounds for building the Temple. And it follows that those engaged in this effort are permitted to be impure.⁵⁸

A further argument raised by RYA connects with the known rule “the Sabbath may be desecrated when life is at stake.” In RYA’s opinion, preserving sovereignty overrides the need for purification, even for security reasons. Arabs unceasingly declare that the ‘Al Aksa War’ shall not end until all of Jerusalem is under Arab control. Such a situation leaves no choice, and it is obligatory to fight for the sake of occupying the Mount. In RYA’s opinion, just as the *mitzvah* of defending the Land and its inhabitants overrides Sabbath prohibitions, it likewise overrides prohibitions of entry to holy places on the Temple Mount and the restrictions that accompany it.⁵⁹

Having concluded that there is an obligation for Jews in general to be present on the Temple Mount and defend their sovereignty over it, RYA turns to establishing the obligation for individuals to take part in this effort:

Perhaps a man will come and claim that if he ascends the Temple Mount as an individual, it does not constitute the ‘law of liberation,’ for indeed, liberation is performed only by an army. Such is not the case! We have already learned in the foregoing about the duty of each Jew to take part in the war effort ...⁶⁰

RYA argues furthermore, that besides the inherent value of the presence of each individual on the Mount, it is a well-known truism that the presence of Jewish civilians in Judea, Samaria, and Gaza leads to a military presence. By this logic, the presence of individuals in the territories of Israel can be regarded as an act of military liberation and thus comprises *ipso facto* a claim of sovereignty over the territory. It follows that “presence on the Temple Mount, and visiting its different sections by means of praying and bowing, constitute an act of possession,” even when done by isolated individuals rather than representatives of the state.⁶¹

From these statements it emerges that RYA views ascent to the Temple Mount as leading to its physical liberation and the preservation of Jewish sovereignty and control over it, activities he perceives as preparing the ground for the rebuilding of the Temple. These considerations tilt the balance for RYA in his decision to permit and oblige entry to the Temple Mount, even in a state of impurity. The fact that RYA’s essay, almost in its entirety, is dedicated to clarifying the validity of the “preservation of sovereignty” consideration in allowing entry to the Mount while bringing proof that this consideration overrides the prohibition of entering the Mount in an impure state underlines the importance of this consideration in RYA’s ruling. This applies, too, to the importance of fulfilling sovereignty within the framework of existing political conditions, without waiting for realization under ideal conditions. Thus RYA’s ruling is different from that of RHH. While for RHH, the sovereignty factor serves only as a motivational accelerator for deliberation, for RYA, it serves as a consideration that, in itself, is of real *halakhic* value; it is a *mitzvah* in and of itself.

Rabbi Shlomo Goren: sovereignty – from an extra-halakhic to an independent halakhic consideration

During the 1967 Six Day War, the IDF conquered the Temple Mount. Rabbi Shlomo Goren (1918–1994) then served as head of the Military Rabbinate of the IDF. In his capacity, he dealt with the question of ascending the Temple Mount, a question he continued to pursue when he was appointed Chief Rabbi of Israel. His *halakhic* writings on the issue unfold over many years, with changing opinions reflecting political occurrences.

Immediately following the conquest of the Temple Mount, Rabbi Goren demanded that the IDF engineering corps take measurements at the Temple Mount. The purpose of this task was to find areas upon which it could be unquestionably determined that the Temple did *not* stand. After defining such a map, Rabbi Goren established a Yeshiva for Jewish studies at the Temple Mount site. On 13 August, 1967, the government decided to let the *Waqf* control the Mount and the *Waqf* forbade Jewish prayer.⁶² The *Waqf* also locked the Mugrabe Gate (providing foot access to the Temple Mount). The IDF then broke through the gate and Jews were once again permitted to ascend the Mount.

This situation, where sovereignty over the Temple Mount was in Israeli hands but actual control was in the hands of the Islamic *Waqf*, led Rabbi Goren to write “The Temple Mount,” an extensive treatise on the sanctity of the Temple Mount and the question of entry to the Mount.⁶³

Rabbi Goren worked on his book, on and off, for about two decades. Although in 1975, his brother-in-law, Rabbi Shaar Yashuv Cohen, chief rabbi of Haifa, announced that the book was finished and that it would soon be printed,⁶⁴ it was only published in 1992.

The book describes key events centering on the Temple Mount and includes various correspondence on the issue. From several statements in the book, it is evident that Rabbi Goren inquires into the issue by basing himself exclusively on traditional *halakhic* sources, without directly referring to real conditions or the issue of sovereignty. For example, Rabbi Goren explains his motivation for writing his extensive treatise, while making it clear that the path to allowing entry is through deliberation based on accepted *halakhic* sources:

... and so that deliverers of the Temple Mount to the hands of the Gentiles will not be able to hang a collar of accusation on rabbis who forbid going up there, I have decided to research, measure, and clarify the laws relevant to the Temple Mount and the site of the Temple. To fix the limits of permissible and forbidden entry ...⁶⁵

Just several hours following Israel's liberation of Jerusalem, the political echelon as well as former Defense Minister Moshe Dayan decided to return responsibility for the Temple Mount to the *Waqf*. This step surprised many⁶⁶ and led to public debate. Rabbi Goren pointed out that each time the issue of entry to the Temple Mount came up for discussion, government ministers claimed it was not their doing but the decision of the rabbis who forbade ascension to the Mount. Rabbi Goren understood that the position of *halakhic* decisors who categorically forbade ascending the Temple Mount was undermining the sense of proprietorship of the Mount among public representatives (and perhaps even the public at large).⁶⁷ It was this situation that led him to write his book.

From what appears in Rabbi Goren's book, it turns out that his judgment is similar to that of Rabbi Hirschenson. He too feels the question of sovereignty over the Temple Mount and its realization does not constitute an independent *halakhic* consideration. Rather, it serves as a catalyst for a *halakhic* inquiry into the issue of entering the Mount. Rabbi Goren feared that decision makers would deny responsibility for transferring control to the *Waqf* and claim the responsibility is of that of the *halakhic* decisors who forbade ascending the Mount. Therefore, he sought to clarify the issue of whether, from a *halakhic* standpoint, it is indeed forbidden to enter the Mount area.

It was clear to Rabbi Goren that the Temple Mount was not a solitary component in terms of the level of its sanctity, and that it should be assumed that particular areas are less holy and, perhaps, have no prohibition for entry.⁶⁸ At any rate, Rabbi Goren promises in his book that he is not following Rabbi Hirschenson, who ruled that entry was allowed throughout the entire Mount. "We do not intend in this book to discuss, or attempt to discover any sort of allowance, for entering the site of the Temple on the Temple Mount."⁶⁹

Nevertheless, despite the above, we find other expressions showing that Rabbi Goren addressed the aspiration for achieving sovereignty as an independent consideration, along the lines of Rabbi Ariel. Thus, at the beginning of 1987, several months before the outbreak of the first Intifada, Rabbi Goren contacted then Speaker of the Knesset, Dov Shilansky⁷⁰ in a letter. He asked that Knesset members ascend the Temple Mount and demonstrate their presence in order to strengthen eroded Jewish sovereignty:

Despite existing *halakhic* barriers concerning entry to the Temple Mount in normal times, in the situation which has formed—where there are fears for losing Jewish sovereignty over the Temple Mount—the presence of Jews on the Temple Mount today will

strengthen our sovereignty there. This is all the more so true in the case of the symbolic visit of Knesset members to the Temple Mount, which will prove to all and sundry that the Temple Mount is under Israeli sovereignty. In this situation and for this purpose it is not only permitted—it is a holy *mitzvah* incumbent upon us, to enter the Temple Mount in order to reinforce our right, our foothold, and sovereignty at the site of the Temple.⁷¹

It appears that the *realpolitik* reality of eroding Israeli sovereignty over the Temple Mount caused a conceptual transformation in Rabbi Goren's *halakhic* approach concerning the issue.⁷² Rabbi Goren indeed took pains to mention that in the past, when no real threat to Israeli sovereignty over the Temple Mount existed, his *halakhic* conclusions towards entering the Mount were of a reserved character. Now that conditions had changed and the character of the discussion had assumed a critical dimension, entry to the Mount became a duty. One may not tolerate any impingement on Israel's sovereignty over the Temple Mount and therefore must not restrict permissibility for ascending it. He felt that public leaders must spearhead and strengthen this sovereignty, not only as an essential political step, but also as a *halakhic* decision, i.e., as an actual *mitzvah*. We also find an explicit statement by Rabbi Goren asserting that the cause for the ruling allowing entry was the start of the first Intifada, and a worsening of the situation to the point of fears over losing sovereignty:

And now, as time goes by, our status on the Temple Mount is weakening, especially since the outbreak of the Intifada. We are losing control over the Temple Mount ... presently, when we are under threat to our lives and our freedom, to our country and our homeland, we are commanded by the Torah and *halakha* to demonstrate a presence in every corner and every area in Israel.⁷³

From the above it appears that as a result of the perceived worsening of the political situation, the sovereignty consideration permeated the *halakhic* judgment of Rabbi Goren, pushing aside other considerations and restrictions that were the lot of *halakhic* adjudication when he first began dealing with the issue. Rabbi Goren moved further away from his initial purpose of researching the Temple Mount, its measurements, historical background and so forth, and from his original conclusions that permitted limited ascent to a particular section of the Mount. He reiterated that ascending the Mount must be permitted immediately and in a sweeping manner when citizens' lives and their homeland are in danger, just as in times of war.

A further expression of Rabbi Goren's position regarding aspiration for sovereignty as an independent *halakhic* consideration dates to the year 1992. This was twenty-five years after the liberation of Jerusalem, one year following the end of the first Intifada, and two years after incidents on the Temple Mount where rocks were thrown at Jewish worshippers at the Western Wall and clashes erupted between security forces and Muslim worshippers on the Mount. Rabbi Goren characterized the status of sovereignty following the Intifada as an emergency situation, like the first hours and first days following the conquest of Jerusalem, when security forces, by their presence, prevented a Muslim takeover of the Mount:

Certainly, it was permissible (in 1967) to enter any place, in order to cleanse it of the danger of booby-traps and hostile forces ... and the status (of the Mount) was as during the conquest itself ... and in the days following the liberation of the Temple Mount, we did not allow entry to the Mosque of Omar, which, according to religious authorities, was the site of the Temple, but we allowed moving about on the Temple Mount to

those charged with its security. This rationale works well in entering the Temple Mount for praying, which comprises a daily demonstration of Jewish presence on the Temple Mount and prevents its surrender to the Islamic *Waqf*. Even now, twenty-five years after the liberation of the Temple Mount it is in the hands of the Israel Defense Forces. This can be leveraged as an aid to allowing entry there.⁷⁴

Attention must be paid to the intricacy of this passage. Here Rabbi Goren views entry to the Temple Mount as a religious imperative stemming from the ambition to preserve Jewish sovereignty over the Mount, a consideration seemingly meant to allow entry to all areas of the Mount, as it was during its occupation. Nevertheless, the division between the different sections of the Temple Mount is firm and abiding. This also is the case for the requirement that only the pure may enter the Mount. It seems that this intricacy expresses the great distance Goren traveled from the time he sought to deeply inquire into the issue of ascending the Temple Mount to the time of the writing of this passage (1992) when he feared the threat of a *Waqf* takeover of the Mount.

Such being the case, it appears that the change in Rabbi Goren's position over the years is identical to the difference between the positions of Rabbi Hirschenson and Rabbi Ariel. Moreover the position of Rabbi Goren is intermediate to the positions of Rabbi Hirschenson and Rabbi Ariel. Similar to Rabbi Hirschenson, Rabbi Goren sought at first to analyze the Temple Mount issue from a purely *halakhic* viewpoint for which the sovereignty consideration served exclusively as a stimulus. But eventually, due to political tremors of the first Intifada and its results, it appears Rabbi Goren alters the status of the sovereignty aspiration, transforming it to the central consideration of the *halakhic* ruling in a manner similar to Rabbi Ariel.

The three rabbis, Hirschenson, Ariel, and Goren, acted in response to the *realpolitik* situation and sought to lend practical expression to the aspiration for Jewish sovereignty over the Temple Mount by allowing entry to it. This despite the fact that such an expression constitutes only a partial realization of the ideal vision – establishing the Temple on the Temple Mount. In this context one sees that when the aspiration for sovereignty constitutes a motivational consideration only, then the *halakhic* discussion is directed at proof that there is no prohibition to entering the Mount. This was the case for Rabbi Hirschenson and Rabbi Goren (who divided the Temple Mount into different areas of holiness, allowing entry to some areas where no prohibition to entry ever existed). On the other hand, when the aspiration for sovereignty constitutes an independent *halakhic* consideration, then the decisor is prepared to assume that entry to the Mount is forbidden, although the existing *realpolitik* situation can nullify the prohibition. This can be seen in striking manner in Rabbi Ariel's judgment as well as by Rabbi Goren following the first Intifada.

Further, Rabbi Hirschenson is driven by clearly universal aspirations that strive for the establishment of an international center on the Temple Mount, whereas Rabbis Goren and Ariel operate out of the religious-political sovereign struggle for exclusive control over the Mount.

Track B: Prohibiting Temple Mount entry, despite Realpolitik

Rabbi Abraham Isaac Hacohen Kook: the sovereignty aspect is not relevant to the Temple Mount.

Rabbi Abraham Isaac Hacohen Kook, (hereinafter: "RAIH") (1865–1935) is considered one of the fathers of religious Zionism and was among the most important rabbis of

Palestine. He was the Chief Rabbi of Jaffa and nearby agricultural settlements and later the Chief Rabbi of Jerusalem. In 1921, he stood at the head of the Chief Rabbinate of Palestine, a nationwide spiritual body. RAIH was known as a fervent Zionist, despite the fact that he expressed reservations over the compromising religious path of the Mizrahi movement to which Rabbi Hirschenson belonged.⁷⁵ These reservations stemmed from the messianic interpretation RAIH ascribed to the historical events of his time. In his opinion, the Mizrahi movement's compromising tendency in its relations with secular Zionism was a stumbling block in the entire messianic process.⁷⁶

Rabbi Hirschenson's innovative and daring essay on the Temple Mount was cause for commotion in Jerusalem during his time, and RAIH engaged in polemics with him.⁷⁷

As mentioned, RHH explained that his motivation to find permissibility for entering the Temple Mount stemmed from the ambition to reinforce Jewish sovereignty over the Mount—expressed in the establishment of an international court, fulfillment of the prophets' vision and building of the Temple. RAIH was opposed to partial realization of sovereignty over the Temple Mount. In analogy to the prohibition of saying the name of God with no justified reason⁷⁸ he explained the significance and importance of maintaining a distance from the site of the Temple as follows:

The basis of fearful respect takes root in our heart, precisely through keeping away and not evoking, for this instructs us that we are not qualified for the supreme merit of evoking the holy name ... and this is more dear than that fear which comes through drawing near when we are not qualified.⁷⁹

RAIH's outlook is discernable in its metaphysical plane. The understanding that the Jewish people are not sufficiently qualified or worthy to enter the Temple Mount is above any other *realpolitik* argument. According to RAIH, the Temple Mount is the site of the Temple and its importance is spiritual at its foundation. The status should not be altered for practical reasons of sovereignty. Thus, physical distancing on account of lack of spiritual preparedness, i.e., prohibition to enter the Temple Mount, is in fact a drawing closer in terms of holiness and fear of the Lord. Moreover, RAIH, carries an additional fear:

That ... in the meantime they will grow used to a license that will be difficult to set aside.⁸⁰

RAIH feels that the prohibition on entering the Temple Mount helps to preserve the religious commandment concerning the Temple Mount. If RHH's idea for the establishment of an international court on the Temple Mount were to materialize, it would transform the Temple Mount into a public location with no special Jewish-religious restrictions. Such a situation would likely implant a false consciousness and comportment among the masses that are incompatible with *halakha* and difficult to change once the Temple is built. And indeed, during his term of office, Rabbi Kook published throughout all Jerusalem, large placards in his name that prohibited ascent to all areas of the Temple Mount.⁸¹ A sign was posted by the Chief Rabbinate at the entrance to the Mount prohibiting entry.⁸² Faithful to his approach, RAIH suggested an alternative to the idea of an international court on the Temple Mount:

... as for the honor of the nation: in my humble opinion, the general honor would be more evident if we made an effort that it be delivered into our hands through

ownership of the courtyards adjacent to the Holy Wall here in the holy city, and in that place we will build, adjacent to the Wall, one great synagogue resplendent in its magnificence and elegance ... and it will be directed, according to agreement by a majority of the rabbis of Israel, for the entire nation—above any division of factional manner or custom. And this House will bear testimony to the strength of our expectation for supreme salvation that the Temple will come and be built, quickly in our time, through the revelation of the Lord's honor and the light of the holy messenger of our salvation.⁸³

Nevertheless, RAIH understood that there was a need to supply a national-practical response to this issue. However, the response he supplies is not the reinforcement of Israeli sovereignty over all areas of the Mount, but something more modest: the establishment of a grand synagogue in the concourse of the Western Wall through which the unity of the Israeli nation would be expressed.⁸⁴ This is a two-faceted solution. On the level of sovereignty, the establishment of a synagogue at the Western Wall would facilitate the transfer of the Wall area to Jewish hands. On a spiritual level, the establishment of a synagogue (known in Judaism as *'mikdash me'at'* or a lesser Temple) of a generally Israeli character would symbolize the expectation for the longed-for future Temple. This solution by RAIH does not include geographical or physical reference to the Temple Mount or the Temple, and thus it is compatible with the dual connection to the Temple Mount: physical distancing while drawing nearer in consciousness. In this context it should be mentioned that Rabbi Kook founded, adjacent to the Western Wall, the Torat Kohanim Yeshiva. The purpose of the yeshiva was to prepare *kohanim* (Jewish priests) for sacrificial work at the Temple when it would be built, through in-depth learning of the *kohanim's* work and the *mitzvoth* that applied to them.⁸⁵ This innovative and surprising move demonstrates the atmosphere of redemption that prevailed at that time in the Jewish world following the Balfour Declaration expressing the messianic expectation for the building of the Temple.

Rabbi Shlomo Haim Aviner: sovereignty to raise consciousness

One of the contemporary followers of RAIH's position is Rabbi Shlomo Haim Aviner [RSHA]. Rabbi Aviner was born in 1943 in Lyons France and made *aliya* to Israel. He enlisted in the IDF and took part in the Six Day War. He studied at the Mercaz Harav yeshiva founded by RAIH and headed by RAIH's son, Rabbi Zvi Yehuda Kook, and was known as one of his outstanding students. In 1983, Rabbi Aviner established the Ateret Kohanim Yeshiva in the Muslim quarter of Jerusalem as part of the fulfillment of the ambition to return Jews to all parts of Jerusalem.⁸⁶ Rabbi Aviner adheres to the messianic position that the State of Israel and its institutions are necessary components in enhancing the coming of the Messiah.⁸⁷

Rabbi Aviner's treatment of the question of ascending the Temple Mount was published in 1989 in an essay called "*Shalhevetya*."⁸⁸ The essay was republished in 2000 under the name "May Your Temple Be Established Quickly."⁸⁹

Rabbi Aviner's position concerning entry to the Temple Mount must be seen as part of his stance vis-à-vis the possibility of building the Third Temple. Rabbi Aviner rejects the theoretical possibility of initiating construction of the Temple on account of two considerations, one *halakhic* and the other theological. As far as *halakha* is concerned, before the Temple can be built, a Jewish kingdom must arise. Rabbi Aviner is indeed of the opinion that the State of Israel, from certain aspects, could be considered the kingdom of Israel, however, because it is secular, it cannot be considered complete. This shortcoming prevents

advancement to the next stages of redemption and, in this regard, the building of the Third Temple.⁹⁰

The second consideration through which Rabbi Aviner rejects the possibility of building the Temple in the present is theological. One of religious Zionism's great innovations in terms of theology is that redemption will not take place in a supernatural manner but in a natural way.⁹¹ Flowing from this conception is the obligation to act in the present in a manner that prepares reality ahead of the perfect reality characteristic of the days of the Messiah. Ostensibly, this conception should apply, too, to the question of the building of the Temple. However Rabbi Aviner displays in his book a negative attitude towards such a notion. He feels the Third Temple will be built when "our will is totally according to G-d's will ... and we will be the sort of people whose will is the will of the Lord. We will not force this on ourselves."⁹² Therefore, when Rabbi Aviner was asked what man could do to promote the building of the Temple, he answered: "By performing His (God's) will as our own we are in fact building the Third Temple. And when we arrive at completion, the house (the Temple) will descend (spiritually speaking) from the sky and we will build around it (a physical structure)."⁹³

From this theological standpoint, redemption as viewed by Rabbi Aviner depends on the comprehension of the masses, of the gap between the current spiritual stage and the desired situation in the future, in the days of the Messiah when the Temple will be built. The aspiration today is not for establishing the Temple, but rather building a consciousness that yearns for the ideal building of the Temple in the future. In basing himself on the previously described words of RAIH, he determines that it is a physical distancing from the Temple Mount that will build this consciousness. He also relies on several Middle Age scholars who explain that distancing oneself from an object impresses on our hearts a reverence for it, as this reverence deepens our affinity. By this way of thinking, entering the Temple Mount is indeed merited, however, "The reverence that comes from the great distance is greater than the reverence that comes from drawing near."⁹⁴ The believer must understand, "Not only do we stand far away geographically speaking, without entering for *halakhic*-scientific clarifications, but, in principle, we stand in awe from afar. This stems from the perception of the conceptual distance between ourselves and the plane of the Third Temple."⁹⁵

Rabbi Aviner also rejects Rabbi Goren's possibility of entering specific, measured areas of the Temple Mount, stating "As for the Temple Mount, we must not seek tactical maneuvers for how to enter it; on the contrary, we should seek ways of placing added layers of caution."⁹⁶

Rabbi Aviner also evaluated the argument of Rabbi Hirschenson concerning the interpretation of non-entry to the Temple Mount as reflecting Jewish disinterest in the site. Rabbi Aviner asserts that it is precisely the avoidance of entering the Mount that nobly expresses the respect Jews feel for the site. The fact that Gentiles enter the Temple Mount cannot serve as a pretext for permitting Jewish access.

He also addresses the question of why rabbis insist on prohibiting ascent to the Temple Mount, even though Gentiles do not interpret such a prohibition as bestowing any special respect. His answer is that *halakha* is not determined according to the understanding of Gentiles, "but rather according to our true understanding."⁹⁷ Rabbi Aviner does support some activity around the Mount, as he initiated tours around the gates of the Temple Mount as a means of reinforcing Jewish consciousness regarding the area.⁹⁸

Thus, Rabbi Aviner is aware that barring entry of Jews onto the Temple Mount leads Gentiles, and perhaps even some Jews, to believe that the Jewish People's connection to the site of the Temple is tenuous. He also understands the implications of barred entry as being perceived by the Palestinians as an increased readiness to give up sovereignty over the

Temple Mount. In his opinion, the response to this should not be entry to the Temple Mount, but rather a long-term information campaign demonstrating to the world that it is precisely physical distancing that attests to a deep Jewish spiritual affinity towards the Temple Mount, along with a monthly information campaign through tours between the gates of the Temple Mount, without actually entering its territory.

Rabbi Zvi Yehuda Hacoen Kook: from opposing sovereignty to proposing symbolic activity

A connecting link between RAIH and Rabbi Aviner is found through Rabbi Zvi Yehuda Hacoen Kook, RZYH (1891 –1982), the son of RAIH Kook and Rabbi Aviner’s teacher. RZYH continued in his father’s path as head of Mercaz Harav and, from the beginning of the 1970s until his death, was considered the spiritual shepherd for many religious Zionists. This was especially true for members of Gush Emunim, the extra-parliamentary movement committed to establishing settlements in the territories conquered during the Six Day War of 1967.

On the day the Temple Mount was conquered, 7 June 1967, RZYH arrived at the Temple Mount with his friend Rabbi David Cohen (the “Nazirite rabbi”). According to the latter’s account, before entering the Mount, they discussed the *halakhic* considerations involved in such a step. The decision to enter the Mount area stemmed from their view that entering together with the fighting soldiers constituted a part of the fighting, and as such was permitted under the “law of settlement.”⁹⁹ It should be emphasized that RZYH and Rabbi Cohen allowed themselves entry specifically with the soldiers as this license applied only for the sake of acquiring sovereignty over the area. Thus, about four months later, RZYH signed a rabbinical proclamation that dissociated him from entering the Temple Mount.¹⁰⁰ RZYH thus continued his father’s position, maintaining that respect for the sanctity of the Temple Mount obliges non-entry to its territory.

RZYH was consistent in his position and despite his hawkish political stance, he “did not view as a major concern”¹⁰¹ the question of the guarding of the gates of the Temple Mount. It was not important to him whether this would be done by the *Waqf* or IDF soldiers.¹⁰² He saw no virtue in the Israeli flag waving atop the Temple Mount for the reason that the Temple Mount was greater than a flag and therefore did not need it.¹⁰³ Moreover, RZYH denied entry even to those areas of the Temple Mount that were held as not having been within holy space prior to the destruction of the Temple. This was because he did not want to be reliant on the measurements conducted by rabbis and researchers. In his opinion, “the Temple Mount is delimited by a wall; we don’t cross it and we have no need for studies.”¹⁰⁴ Neither did he regard favorably the archaeological excavations by Israeli authorities into the depths of the Temple Mount, wondering: “What is this all this for? Why rummage there?”¹⁰⁵

The position of RZYH concerning the Temple Mount was consistent and did not change despite the historical events he witnessed. In this sense, RZYH’s ideological positions shaped his reading of the *realpolitik* situation. In explaining the conflict between this position and the general approach of religious Zionist ideology, which stands for real actions leading up to the fulfillment of ideological goals, RZYH writes:

As for the Return to Zion and the building of Israel, we do not say this. Israel is built, too, out of the sand and by all types of Jews. This teaching is good only up to the Western Wall; from there on, a different lawfulness rules, a supreme internal demeanor.¹⁰⁶

RZYH distinguishes between the territory of the Temple Mount and the remaining territory of the Land of Israel. In the territory of Israel, people work out of *realpolitik* considerations vis-à-vis the need to build the land, populate it, and guard its sovereignty, but not so for the Temple Mount. On the Temple Mount there is no room for practical action that derives from this reality or any other because its character is metaphysical, such that “the Temple Mount is a spiritual matter and we shall conquer it in a spiritual manner.”¹⁰⁷

Initially, and in holding to this approach, RZYH also opposed conducting tours around the Temple Mount. Only when it was explained to him that numerous Jews felt no connection to the Temple Mount and that these tours were meant to strengthen affinity and consciousness of the Temple Mount did he agree to the initiative.¹⁰⁸

Concerning religious authorities who forbid ascending the Temple Mount, no conflict exists between their theological positions and the *halakhic* position concerning entry to the Temple Mount. In their opinion, the aspiration for achieving political sovereignty over the Temple Mount is a future vision wrapped in rectifying the ethical-spiritual status of the Jewish People. Accordingly, achieving intermediate objectives for reinforcing Jewish-political sovereignty over the Mount is perceived by them as an almost unimportant undertaking. For these religious authorities, *halakha* that prohibits entry to the Temple Mount reflects this theological position. From here flows their firm and steady maintenance of the prohibition of entry to the Mount and the almost total lack of expression regarding sovereignty over the Mount.

Conclusions: Is religious-based political dialogue possible?

In this chapter, we sought to examine the weight given to aspirations for Jewish sovereignty over the Temple Mount in the *halakhic* discourse of religious-Zionist *halakhic* decisors. This issue constitutes a test case for understanding the intricacy of *halakhic* judgment and its implications for the formation of a strategy in matters of politics and religion. The issue is especially important due to the tension that exists between the theological positions of the decisors and the conventional *halakha* in their possession.

For hundreds of years, accepted *halakha* among Jewish religious authorities was that entry to the Temple Mount was forbidden to Jews and Gentiles alike. However, in the new age, a new ideology took form—religious-Zionist ideology—founded on the theological assumption that man must act within the *realpolitik* space in order to advance the redemption of Israel and even of all of mankind. It is therefore understandable that the aspiration for achieving sovereignty over the Temple Mount was, and is, a significant component for religious-Zionist rabbis faithful to this ideology, even if it collides with conventional *halakha*.

We have characterized the approaches of the decisors in two tracks: decisors for whom *realpolitik* considerations constitute a significant factor (track A), and decisors who seek to make *halakhic* judgments based on the ideal reality (track B).

According to the view of track A rabbis, the aspiration for sovereignty means that entry of Jews to the Temple Mount must be permitted. This view is shared by Rabbis Hirschenson, Goren, and Ariel. Moreover, over the years, these considerations have gone from being extra-*halakhic* to *halakhic*. Rabbi Hirschenson, who dealt with this issue following the Balfour Declaration, felt the aspiration for sovereignty was not within the *halakhic* power to permit entry to Temple Mount. Rather, the aspiration for sovereignty served to stimulate *halakhic* inquiry and speculation. This was also Rabbi Goren’s way of thinking following the Six Day War. Later, however, upon the outbreak of the first Intifada and the strengthened fear

of losing *de jure* sovereignty over the Mount, the potency of the sovereignty consideration intensified in the judgment of Rabbi Goren, becoming an independent consideration and an important factor. Rabbi Ariel also clung to this position. In the position of both, founded on a consciousness of the political-religious struggle, the sovereignty consideration was strong enough to transform it from a factor external to *halakhic* adjudication to an internal, independent factor of considerable weight.

According to the definitions of Martin Seliger,¹⁰⁹ permission to enter the Temple Mount (be it within an international framework as proposed by Rabbi Hirschenson, or for the sake of demonstrating sovereignty, as suggested by Rabbis Goren and Ariel), constitutes the visible dimension of the decisors' approach. They felt one must face the constraints of political reality and to leave, to a hidden future dimension, the ideal vision—of entering the Mount only upon the establishment of the Third Temple at the time of redemption and the coming of the Messiah.

Still, there is an interesting division among track A rabbis. Contrary to Rabbis Goren and Ariel, for whom the visible dimension (permission to enter the Mount) is saturated in the latent dimension (the ideal vision of building the Temple), it seems that Rabbi Hirschenson, in his universal solution, almost totally pushed aside the latent dimension. He instructed that the Temple Mount be turned into a neutral location with unrestricted entry, to Jews and Gentiles alike. An approach such as Rabbi Hirschenson's constitutes a good basis for dialogue over a future political solution, not only because of the operative conclusion it offers, but also due to the theological ground upon which it stands.

Track B rabbis deny entry to the Temple Mount. RAIH disagreed with Rabbi Hirschenson and ruled that it is forbidden to enter the Temple Mount. He was also of the opinion that outlawing entry did not constitute any sort of flaw in the Jewish People's sovereignty over the Temple Mount. On the contrary, entry to the Mount, based on considerations of expressing sovereignty, contradicts the metaphysical essence of the Mount's sanctity and even offends it. RAIH's son, Rabbi Zvi Yehuda Kook, one of the influential religious-Zionist rabbis in Israel, also adheres to this position, even following the conquest of Jerusalem and the growing tendency amid the political leadership for concessions vis-à-vis Jerusalem. If so, the rabbis of track B (the prohibiting track) affiliated with the religious-Zionist stream, make no distinction between the visible, operative dimension and the latent dimension. Actually, they operate in the arena of the ideal vision, which includes the establishment of the Temple and the coming of the messiah. Therefore, it seems that as far as the Temple Mount is concerned, it will be hard to converse with these rabbis on a political solution that takes political reality into consideration.

Still, similar to the rabbis of track A (the permitting track), track B rabbis also have tended towards public information activity aimed at strengthening the consciousness of sovereignty over the Mount. In the past, the accepted approach in the prohibiting camp was to express the sovereign connection of the Jewish People to the Temple Mount within the boundaries of the Western Wall site only. Their latest outlook views proactive activity as a duty for expressing sovereignty, indicated by actions like tours around the gates of the Temple Mount.

The phenomenon of Jewish Temple Mount entry is limited to permissible areas based on specific measurements pursuant to the initial position of Rabbi Goren. Most of those who prohibit entry to the Mount are closer to Rabbi Abraham Isaac Kook, his son Rabbi Zvi Yehuda Kook, and Rabbi Shlomo Aviner. The positions of Rabbi Haim Hirschenson and Rabbi Yisrael Ariel, who allowed entry, have been forsaken and are not afforded legitimacy on the part of those who enter the Temple Mount.¹¹⁰

Table 7.1 A summary of the different approaches in confronting the plane of *realpolitik*

	<i>Track A</i>			<i>Track B</i>		
	<i>Rabbi Hirshenson</i>	<i>Rabbi Goren</i>	<i>Rabbi Ariel</i>	<i>RAIH Kook</i>	<i>RZYH Kook</i>	<i>Rabbi Aviner</i>
Solution considerate of the issue of sovereignty	Establishing an international court	At first, allows entry to limited areas only following purification arrangements; over the years, also allows entry to Knesse members without limitations	Allows entry to the Mount while clarifying that in principle, there are no limitations			
Solution not considerate of sovereignty but rather of a minimal conscious plane				Establishing a synagogue on the concourse of the Western Wall	At first opposed even to tours around the Temple Mount, and eventually agreeing to these	Supports and participates in tours around the Temple Mount
Aspiration for sovereignty as an extra- <i>halakhic</i> consideration	This consideration constitutes a stimulus for discussion only	At first, this consideration constituted a stimulus only; but with the passing of years and changes in real conditions, it became a consideration in <i>halakhic</i> analysis itself		The Temple is postponed for the future; at present, a totally different reality exists in comparison with that at the time of the realization of the future vision		

Table 7.1 (continued)

	<i>Track A</i>			<i>Track B</i>		
	<i>Rabbi Hirshenson</i>	<i>Rabbi Goren</i>	<i>Rabbi Ariel</i>	<i>RAIH Kook</i>	<i>RZ'YH Kook</i>	<i>Rabbi Aviner</i>
The aspiration for sovereignty as a <i>halakhic</i> consideration		The <i>halakhic</i> discussion stresses this consideration as a prime consideration in ruling				
Distinction between the visible and latent dimensions	The Temple is postponed for the future; at present, a totally different reality exists in comparison with that at the time of the realization of the future vision					
Harmony between the visible and latent dimensions				The current demeanor is compatible with the future demeanor (following the construction of the Temple)		
Particular positions		Entry to the Mount is permitted for the sake of achieving sovereignty and removing the <i>Waqf</i> and Muslims from the Mount		Entry to the Mount for Jews only	The dynamics of the Mount's sanctity is expressed only in relation to Jews	
Universal positions	The aspiration for international redemption is expressed in the present – through the establishment of an international court on the Temple Mount					

How are we to understand this? As for Rabbi Hirschenson, the answer apparently lies in the fact that he wrote his *halakhic* verdict in the far-off United States. The public in Israel was not familiar with his general doctrine and it was not viewed as *halakhically* authoritative. As for Rabbi Ariel, who is recognized in Israel, it seems that his position is novel from a *halakhic* standpoint, expressing an internalization of the political consideration within *halakhic* discourse. Perhaps the fact that his position was not accepted is instructive; demonstrating that although those who enter the Mount are driven by political motivations, they act out of conservative *halakhic* positions.

This conclusion is important in the matter of assessing the degree of extremism among those who enter the Mount and evaluating their future steps. Most of those who ascend the Temple Mount today are authorized by a *halakhic* approach that concentrates on measurements as they are driven by a *halakhic* consideration expressed near the time the Temple Mount was occupied. This was before the worsening of the inter-religious conflict and the strengthening of the political-sovereignty consideration and its integration into *halakha*. On the other hand, a ruling such as Rabbi Ariel's is greatly influenced by perceptions of Israel's eroding sovereignty over the Temple Mount, particularly following the Oslo agreement and the outbreak of the al-Aqsa Intifada. Its non-adoption by those who visit the Mount heralds the separation between the political discourse and the *halakhic* discourse. And, in contrast with what might be thought,¹¹¹ it also heralds a position that is indeed influenced by *real-politik* considerations yet is restrained by conservative *halakhic* positions that reinforce the central approach while being indisposed to extremism.

Finally, we refer to a further consideration that reinforces the universal position of Rabbi Hirschenson, a position with the greatest potential for serving as a basis for a religious solution to the conflict over Temple Mount sovereignty, with an emphasis on practical political solutions.¹¹² There is an attempt to exert long-term historical influence on formative processes for top priority issues such as sovereignty. Rabbi Hirschenson's call to transform the Temple Mount from a place of Jewish national importance to one of universal importance is actually a demand from the Jewish *halakhic* world¹¹³ to progress from a *particular* discourse in which the Temple Mount without the Temple is a national, intra-religious conflict that must be dealt with, to a *universal* discourse by which it is possible to reshape reality along the lines of pragmatic, political, attempts from the past.¹¹⁴ This call has the power to constitute a firm and stable basis for inter-religious dialogue concerning the issue of sovereignty over the Temple Mount and its eventual political solution.

Notes

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- 1 The definition of sovereignty used in this article is the classic definition of Jean Bodin in his *Six Livres de la Republique* [1576]: "la puissance absolute et perpetuelle," as translated and elaborated by Ruth Lapidot, "Sovereignty in Transition," *Journal of International Affairs*, 1992, vol. 45, no. 2, p. 325: "the totality of legislative power and the lack of a higher earthly authority; the sovereign is subject to the laws of God and nature, as well as to certain human laws common to all peoples." The religious community we are discussing considers these "human laws common to all peoples" to be the seven Noahide Laws incumbent on all humanity [Maimonides, Kings, ch. 9 para. 1]. It is to be emphasized here that this definition does not include day-to-day control. In this article, we relate to issues of control, using this term explicitly.
- 2 A. Ramon, "Beyond the Western Wall: Attitude to the Temple Mount on the Part of Israel and the Diverse Jewish Public (1967–1999)," in Y. Reiter (ed.) *Sovereignty of God and Man: Sanctity and*

- Political Centrality of the Temple Mount*, Jerusalem: The Jerusalem Institute for Israel Studies, 2001, pp. 113–42 [in Hebrew].
- 3 See e.g., the reports and announcements calling for action in: “Let the Temple Be Built,” *Journal of the Movement for Establishing the Temple*, 2008, vol. 257, pp. 2–3, and 15–16. Available online at: <<http://lamikdash.blogspot.com/2009/02/257.html>> (accessed 9 Nov. 2009).
 - 4 See e.g., the pamphlet “Sovereignty” and the youth bulletin “Small World” on the Balevavot (Hebrew: Settling from the Heart) website: Available online at: <<http://balevavot.ios.st/Front/NewsNet/reports.asp?reportId=222778>> (accessed 5 Oct. 2009).
 - 5 Here the term “messianic” refers to Jewish messianics; individuals acting to enhance the coming of the Jewish messiah.
 - 6 Law for the Protection of Holy Places 1967: Protection of Holy Places Law 1967, trans. in R. Lapidot and M. Hirsch, *The Jerusalem Question and Its Resolution: Selected Documents*, The Hague: Kluwer, 1994, p. 169.
 - 7 N. Shragai, “The Poor Man’s Lamb on the Temple Mount,” *Ha’aretz*, 11 Mar. 2009 [in Hebrew]. Available online at: <<http://www.haaretz.com/hasite/spages/1070212.html>> (accessed 20 Oct. 2009).
 - 8 Rabbi Yehuda Amital, head of the Har Etzion yeshiva, founded the Meimad political movement, which, in the past decade, has integrated with the Labor Party and whose representative, Rabbi Melchior, served as a member of Knesset.
 - 9 Ramon, *supra* n. 2; see also, “Let the Temple Be Built,” *supra* n. 3.
 - 10 An interview conducted on 17 Feb. 2009 with the researcher Dr Menahem Ben-Yashar at his home dealt with the sharp increase in ascension of the Temple Mount. Dr Ben-Yashar was among the first to survey and map the boundaries of the Temple Mount from a *halakhic* perspective several days after the Six Day War. His conclusions were published in M. Ben-Yashar, “Entrance to the Temple Mount in Light of Archaeological and Geological Findings,” *Torah and Science*, 1971, vol. 1, pp. 21–33. Several years later, Ben-Yashar initiated ascents of the Temple Mount and he is among the most active individuals in this pursuit to this day. For further details on Ben-Yashar, see N. Shragai, *Mount of Dispute*, Jerusalem, Keter, 1995, pp. 35, 51, 54, 56, 68, 81, 156 [in Hebrew].
 - 11 Concerning the adoption of this Hassidic-mystic approach in Zionist-religious yeshivas, see S. Gershon Rosenberg, *Broken Vessels: on Religious Zionism and Post Modernism*, Efrat: Yeshivat Siach, 2003 [in Hebrew]. Rabbi Rosenberg was among the prominent Zionist-religious rabbis who led this Hassidic approach in the past two decades and instilled it in his students; indeed there is the example of Ataniel Yeshiva, headed by Rabbi Benny Klemenson, a student of Rabbi Rosenberg, which possesses a Zionist-religious Hassidic hue and today actively participates in ascents of the Temple Mount. See “Let the Temple Be Built,” *supra* n.3.
 - 12 Ramon, *supra* n. 2.
 - 13 Between the then *Qadi* of Jerusalem, Abdul Hamid al-Zaach and Israeli Defense Minister Moshe Dayan.
 - 14 Rambam (acronym of Rabbi Moshe Ben-Maimon) *Mishne Torah*, Sacrificial Act 19: 15.
 - 15 Sacrificial Act, 19: 15, commentary by RA’BAD (Rabbi Avraham Ben-David).
 - 16 For an exhaustive *halakhic* survey, see Rabbi Y. Cherlow, “An Introduction to the Question of Entering the Temple Mount at this Time,” in Rabbi N. Arye (ed.) *Binyan Ariel Yair: Matters of the Temple and its Sanctity*, Hispin: Golan Yeshiva, 2006, pp. 307–47 [in Hebrew].
 - 17 *Ibid.*
 - 18 Concerning the Christian-Catholic position regarding freedom of access to the Temple Mount, see S. Berkovitz, *The Battle for the Holy Places: The Struggle over Jerusalem and the Holy Sites in Israel, Judea, Samaria and the Gaza District*, Or Yehuda, Israel: Hed Arzi, 2000, pp. 336–37 [in Hebrew]. Concerning the *mitzvah* of visiting and praying at al-Aqsa incumbent on the believer, see Y. Reiter, *From Jerusalem to Mecca and Back, The Islamic Consolidation of Jerusalem*. Jerusalem: The Jerusalem Institute for Israel Studies, 2005, p. 27 [in Hebrew].
 - 19 Y. Cohen, “The Political Role of the Israeli Chief Rabbinate in the Temple Mount Question,” *Jewish Political Studies Review*, 1999, vol. 11, no.s 1–2. Available online at: <<http://www.jcpa.org/jpsr/s99-yc.htm>> (accessed 20 Oct. 2009); Shragai, *supra* n. 10, pp. 161–70, 96–112, 287–99.
 - 20 Reiter, *From Jerusalem to Mecca and Back*, *supra* n. 18, pp. 49–110.
 - 21 See Y. Reiter, *The Waqf in Jerusalem 1948–1990*, Jerusalem: Jerusalem Institute for Israel Studies, 1991 [in Hebrew].

- 22 Shragai, *supra* n. 10, p. 52.
- 23 Z. Koren, "Proposal for Areas of Worship on the Temple Mount at This Time," *Tehumin*, 1982, vol. 3, pp. 413–23 [in Hebrew] (including a response from Rabbi Mordechai Eliahu).
- 24 Available online at: <<http://www.hamikdash.com/SivuvShearim.html>> (accessed 20 Oct. 2009).
- 25 P. L. Berger, "A Market Model for the Analysis of Ecumenicity," *Social Research*, 1963, vol. 30, pp. 77–93.
- 26 Ultra-Orthodoxy should not be confused with Modern Orthodoxy or with Zionist Orthodoxy, which is the main subject of this paper.
- 27 M. S. Samet, "Orthodoxy," *Directions*, 1987, vol. 36, pp. 99–114.
- 28 For lack of space, we will deal in this paper with the Orthodox stream, which is the official and central stream in Israel. Within the framework of the Orthodox stream, we will focus on religious Zionism but not the Haredi (Ultra-Orthodox) stream nor the ruling of the Chief Rabbinate. Of course, Orthodoxy, in all its streams, is undergoing changes influenced by modern reality. See A. Sagi, *The Jewish-Israeli Voyage: Culture and Identity*, Jerusalem: Shalom Hartman Inst., 2006, pp. 90–1 [in Hebrew]. Sagi in chapter 4 criticizes the approach that divides, in a dichotomous manner, between tradition and modernism and, consequently, arrives at the mandatory conclusion that Orthodoxy is supposed to create a fictitious consciousness in order to bridge the gap between itself and modernism. See also, J. Katz, "Orthodoxy in Historical Perspective," *Studies in Contemporary Jewry*, 1986, vol. 2, pp. 3–17.
- 29 N. Shragai, "Revolution in the Religious-Zionist Position: Dozens of Rabbis Ascend the Temple Mount," *Ha'aretz*, 14 May 2007. Available online at: <<http://www.haaretz.co.il/hasite/pages/ShArtPE.jhtml?itemNo=860247> [in Hebrew]> (accessed 20 Oct. 2009); M. Inbari, *Jewish Fundamentalism and the Temple Mount: Who Will Build the Third Temple?* Albany, NY: SUNY Press, 2009, p. 97.
- 30 Sagi, *ibid.*, pp. 44–45 and 52–53.
- 31 See M. Inbari, *Jewish Fundamentalism and the Temple Mount*, Jerusalem: Magnes Press 2008, pp. 126–56 [in Hebrew].
- 32 M. Seliger, *Ideology and Politics*, London: Allen and Unwin, 1976; *idem*, "Fundamental and Operative Ideology: The Two Principle Dimensions of Political Argumentation," *Policy Sciences*, 1970, vol. 1, pp. 325–38.
- 33 In Israeli politics, the *halakhic* plane is expressed mainly in rulings concerning questions of fulfilling *mitzvot*. Added to these questions (aside from the *halakhic* aspect) is the ideological aspect, which usually concerns the public component of those *mitzvot*. Ideology in this case is evoked as a weighty consideration that must be reckoned with. Still, since these *mitzvot* have indeed been discussed for generations and have not been neglected, even in the religious authoritative literature of the Middle Ages (*Mishneh Torah* by Maimonides and *Shulkhan Aruch* by Rabbi Yosef Karo), no significant religious split on their account is evident. This contrasts with ideological questions that lack *halakhic* mooring, whose resultant splits are passed from generation to generation.
- 34 For instance, M. Inbari, "Religious Zionism and the Temple Mount Dilemma – Key Trends," *Israel Studies*, 2007, vol. 12, no. 2, pp. 29–47.
- 35 See e.g., S. Berkovitz, "How Dreadful is this Place!" *Holiness, Politics and Justice in Jerusalem and The Holy Places in Israel*, Jerusalem: Carta, 2006, pp. 110–24 [in Hebrew]. See also, Ramon, *supra* n. 2, pp. 113–42.
- 36 Available online at: <http://avalon.law.yale.edu/20th_century/balfour.asp> (accessed 20 Oct. 2009).
- 37 The non-Zionist Haredim and some religious Zionists tried to suppress the nationalist enthusiasm following the Balfour Declaration. On the teacher and rabbi of Munkatch and his attack on the Agudat Israel party, see I. Kraus, "Judaism and Zionism – An Irreconcilable Pair: The Radical Doctrine of R. Yoel Teitelbaum – The Rebbe of Satmar," *Zionism*, 2000, vol. 23, p. 41 [in Hebrew].
- 38 Rabbi H. Hirschenson, *Malki ba-Kodesh: A Discussion of Questions Regarding the Conduct of a Jewish Government in Palestine from the Standpoint of the Halacha*, vol. 1, St. Louis: Monieshter Printing, 1919, pp. 41–89 [annotated edn edited by D. Zohar, Jerusalem and Bar-Ilan: The Schechter Institute of Jewish Studies, the Hartman Peace Institute and Bar-Ilan University, 2006, pp. 68–139] [hereinafter Zohar edn]. RHH corresponded on this issue with Rabbi Abraham Isaac Haohen Kook and other rabbis, see *Malki ba-Kodesh*, vol. 2, St. Louis: Moinester Printing, 1921, pp. 47–8; vol. 4, St. Louis: Moinester Printing, 1923, p. 61; vol. 6, Seiny: Vider, 1928, p. 219 [all in

- Hebrew]; *ibid.*, pp. 265–7. In all of these references, RHH does not argue that entry should be permitted to the Mount area by virtue of the aspiration for sovereignty over the Temple Mount, but rather reiterates his perusal of *halakhic* sources that deal with the question of the Temple Mount's sanctity at the time of the destruction of the Temple.
- 39 RHH refers to the story of Montefiore's pilgrimage to the Temple Mount and the consequent ban imposed on him by the Jerusalem rabbis. In the opinion of RHH, both the ban and Montefiore's apology were pointless. For references for this entire issue, see Zohar edn, p. 72, annotation 15.
- 40 *Malki ba-Kodesh*, vol. 1, *supra* n. 38, p. 12.
- 41 It is probable he was influenced by Herzl's vision, see E. Ben-Eliyahu, "To Build a New Sanctuary?": Rabbi Kook, Rabbi Hirschenson, and Theodor Herzl on the Rebuilding of the Temple and Renewal of Sacrifices," *Kathedra*, 2008, vol. 128, pp. 101–12 [in Hebrew].
- 42 Rabbi Hirschenson's vision also included references to the establishment of an International Criminal Court, which was established in 1998.
- 43 See *Malki ba-Kodesh*, vol. 6, *supra* n. 38, p. 97:

And finally, the Arabs, with the help of inciters from Christians in Palestine and England, openly rebelled against the English government ... and by this they will lose all of their political privilege, and England and their own allies will banish them from Palestine; or they will subdue them, like vanquished rebels who have lost all entitlement, and with the agreement of all nations, the Temple Mount will finally return to us, and our right to it will be accepted by all inhabitants of the earth.

RHH goes on to stress that a further obstacle to fulfilling the aspiration for sovereignty can in fact be found in the rabbinic world: "Otherwise those among us 'whose eye is opened' will come to fallaciously destroy our hopes ... and invent a prohibition of entry." *Ibid.* Here RHH employs an extremely severe term, "whose eye is opened." This term is taken from the Torah (Numbers 24: 3 and 24: 15) and refers to a non-Jewish oracle who sought to curse Israel. It seems that in this way, RHH is hinting that the rabbis who prohibit the ascending of the Mount fail in their understanding of divine intention.

- 44 *Malki ba-Kodesh*, vol. 1, *supra* n. 38, p. 12. The reference to foxes hints at a passage that describes the situation of the Temple Mount when the Temple was destroyed: "Because of the mountain of Zion, which is desolate, the foxes walk upon it ..." *Book of Lamentations*, 5: 18.
- 45 See *supra* n. 43.
- 46 Seemingly, his following statements are exceptional:

And it is not proper that until that time the site should remain closed; that our capital city (Jerusalem) be open, but the capital of our Lord (the site of the Temple) be closed; that goats will dance there and Israel cannot succeed without it. For this is the place the Lord chose; we will go into his tabernacle, we will worship at his footstool, and our spirit shall bow before him. *Malaki ba-Kodesh*, vol. 1, *supra* n. 38, p. 43 [Zohar edn, p. 71]. However one must note that this passage does not constitute a rationale for his ruling allowing entry to the Temple Mount, but instead is an attempt to find meaning for the ancient ruling by which (according to RHH's understanding) the sanctity of the Temple Mount is nullified upon the destruction of the Temple and that entry to the Mount is permissible since that time. In other words, the validity of the ruling exists even without the explanation of RHH, and therefore, one must view the role of the sovereignty consideration as an interpretive one rather than as a consideration of *halakhic* ruling. It is interesting to note here that RHH does not fear the practical results of the Mount's closure to Jewish ascent, but rather views the closure of the Temple's site as an act that degrades the Lord's honor.

- 47 *Malaki ba-Kodesh*, vol. 1, *supra* n. 38. Chapter headings detailed in Zohar edn, p. 13.
- 48 *Malaki ba-Kodesh*, vol. 1, *supra* n. 38, p. 80 [Zohar edn, p. 127]. In the first edn, these words were printed in extra large letters.
- 49 Rabbi Y. Ariel, "Ascending the Temple Mount and the *Mitzvah* of Occupation," in Rabbi N. Arye (ed.) *Binyan Ariel Yair: Matters of the Temple and its Sanctity*, Hispin: Golan Yeshiva, 2006, pp. 288–307 [in Hebrew].

- 50 Ibid., p. 289.
- 51 The political term “occupation” in the language of the decisors has the context of achieving sovereignty over territories in the Land of Israel without reference to the question of one nation occupying the land of another. (The main source for this *halakhic* concept is Nachmanides in his additions to the Book of Commandments, Assin 4). Therefore we will use the term “liberation”, to avoid the connotation of rule over other people.
- 52 For comparison’s sake, in the ten chapter headings in RHH’s essay, the Hebrew linguistic root connoting “occupation” does not appear even once.
- 53 Ibid., p. 298.
- 54 Ibid., p. 299.
- 55 Ibid., p. 305.
- 56 Ibid., p. 289.
- 57 Maimonides or Rabbi Moshe ben Maimon, *Mishneh Torah: Laws Concerning the Temple*, 7: 23 [in Hebrew].
- 58 In the understanding of Rabbi Cherlow, *supra* n. 16, p. 344–5, the conclusion to this consideration is that it is permissible to enter the entire territory of the Mount in an impure state. All the same, in the summary of the essay, RYA limits entry to the Temple court, and apparently not to the holier places like the holy of holies. In a clarification we sought from those close to the Rabbi, the claim arose that this wording was meant to placate the more moderate rabbis and that RYA himself thought it truly permissible to ascend the entire area of the Mount.
- 59 Ibid, p. 299.
- 60 Ibid., p. 302.
- 61 Ibid., p. 303.
- 62 On the activity of Rabbi Goren towards a Jewish presence on the Temple Mount and the tension over this between him and Defense Minister Moshe Dayan, see S. Freedman, *Rabbi Shlomo Goren: Torah Sage and General*, Jerusalem and NY: Urim Publ., 2006, pp. 69–73.
- 63 Rabbi S. Goren, *Meshiv Milhamah (“Responding to war”), Part D – The Temple Mount: An Extensive Halakhic and Historical Study of Mount Moriah and the Temple Site, with up-to-date maps*, Jerusalem: Ha’idra, 1992 [in Hebrew].
- 64 Rabbi S.Y. Cohen, ““We Will Go Up There and See,”” in Y. Gliss (ed.) *The Temple Mount – Its Location and Borders – Lectures Delivered 3–4 April 1975*, Jerusalem: City of Jerusalem and the Institute for Judaism Studies by the Torah Academy 1975, p. 11 [in Hebrew].
- 65 Goren, *supra* n. 63, p. 31.
- 66 Shragai, *supra* n. 10, p. 22.
- 67 Goren, *supra* n. 63, p. 22.
- 68 A fundamental assumption in Judaism is that the fact that a particular place is holy creates special conditions of behavior. For example, when the Lord speaks to Moses from the burning bush, he commands him to remove his shoes. The reason for this command: “ ... for the place whereon thou standest is holy ground” (Exodus 3: 5).
- 69 Goren, *supra* n. 63, p. 114.
- 70 On the visit of Knesset members, including Dov Shilansky, to the Temple Mount, see Berkovitz, *The Battle for the Holy Places*, *supra* n. 18, pp. 90–1. Berkovitz also indicates that Rabbi Goren organized rabbinical petitions including a call to bring Jews up to the Temple Mount.
- 71 Goren, *supra* n. 63, p. 447–8.
- 72 Apparently one could suggest that the contradictions in the book stem from the fact that it comprises two types of considerations: those that Rabbi Goren himself felt were valid and those meant to persuade others who were not ready to accept the gamut of his arguments. In this way we find the aspiration for sovereignty to be an independent consideration and the expression of Rabbi Goren’s personal position – this alongside a complete set of other considerations, these intended for other rabbis who were unready to view the aspiration for sovereignty as an independent *halakhic* consideration. As the body of this paper mentions, we feel the contradiction should not be ascribed to apologetic writing, but rather to changes that occurred in Rabbi Goren’s position over the years. This judgment stems from the fact Rabbi Goren himself dated several of these expressions to the 1980s and later; moreover he himself mentions in his writing the *realpolitik* changes.
- 73 Goren, *supra* n. 63, pp. 33–4.
- 74 Goren, *ibid.*, pp. 446–7.

- 75 On the relations of Rabbi Kook with the Mizrahi movement, see Y. Ayneri, “Rabbi Abraham Isaac Hacoheh Kook and his Relation to Religious Zionism,” in A. Sagi and D. Schwartz (eds) *A Hundred Years of Religious Zionism*, Ramat-Gan: Bar-Ilan University, 2003, vol. 1, pp. 41–77 [in Hebrew].
- 76 Numerous studies have been written on the complex path of RAIH’s *halakhic* judgment. For three recent extensive studies, see H. Ben-Artzi, *Rabbi A.I. Hakoheh Kook as Decisor: Innovative Elements in Rabbi Kook’s Halakhic Decision-Making*, PhD dissertation, Jerusalem: Hebrew University, 2003 [in Hebrew]; N. Guttel, *The New and the Old in the Paths of the Halakhic-Contemplative Doctrine of Rabbi Kook*, Jerusalem: Magnes Press, 2005 [in Hebrew]; A. Rusnak, *Prophetic Halacha: Philosophy of Halacha in RAIH Kook’s Doctrine*, Jerusalem: Magnes Press, 2007 [in Hebrew].
- 77 In this matter, see Rabbi S.Y. Cohen, *supra* n. 64, p. 8, fn. 13. The private letters to Rabbi Hirschenson written by RAIH were printed in *Malaki ba-Kodesh*, vol. 4, *supra* n. 37. Here we relate mainly to RAIH’s extensive article printed as rabbinical responsa, *Mishpat Cohen (Land of Israel Matters)*, Jerusalem: The Society for Publishing Books of the Late RAIH Kook, 1937, pp. 182–227. It is difficult to ascertain exactly when this article was written, for it was not published in RAIH’s lifetime but only in 1937, as part of the book *Mishpat Cohen* in which *halakhic* articles of RAIH were gathered. RAIH’s son, Rabbi Zvi Yehuda Hacoheh Kook (“RZYH”) who is analyzed later in this chapter, was responsible for editing the documents. The article’s date of writing was not handwritten by the author and RZYH estimates that it was written in 1921. It appears this article was written in response to Rabbi Hirschenson’s article on which RAIH wrote: “Since we didn’t expect that there should be those who boast to decide as in the opinion of Rabbi Avraham Ben David of Posquières ... if it should be decided that again it is allowed for any uncircumcised or impure person to enter the site of the Temple without impediment, according to the law of our holy Torah we must meticulously clarify the different sides of all possible realities in this grievous *halakhic* decision.” This is the assumption of Rabbi S.Y. Cohen, *supra* n. 64, p. 8, fn. 13; this assumption was reiterated in M. Inbari, “Religious Zionism,” *supra* n. 34, p. 34.
- 78 Talmud Bavli Temura 4: a, Pesachim 50: a, Sanhedrin 101: b.
- 79 Kook, *supra* n. 77, p. 203.
- 80 Ibid.
- 81 This was the wording of the announcement:

A warning to the many from our great rabbi, *Gaon* [rabbinical authority] of Israel, Abraham Isaac Hacoheh Kook, may he live long and happily, head rabbi of Palestine: “Dear brothers who approach our holy city of Jerusalem, may it be built and established, from near and far; please observe the strict prohibition on entering the site of the Temple and the Temple Mount; the Lord will build it, firmly and exalted, the Rock of Israel will reveal His salvation through the righteous redeemer, may it quickly come to pass in our time, amen.”

Taken from Rabbi S.H. Aviner, *Lemikdashech tuv: Jerusalem and the Temple*, Jerusalem: Hava Library, 2000, p. 199 [in Hebrew].

- 82 A warning from the Chief Rabbinate of Israel that according to Torah law, it is forbidden for any person to enter the area of the Temple Mount due to its sanctity.
- 83 *Malki ba-Kodesh*, vol. 4, *supra* n. 38, p. 4.
- 84 For Rabbi Kook’s endeavors for realizing this vision, see A. Rosenak, *Rabbi A.I. Kook*, Jerusalem: Zalman Shazar Center, 2006, pp. 258–66 [in Hebrew].
- 85 Regarding the establishment of the yeshiva, see Shragai, *The Mount of Dispute*, *supra* n. 10, p. 48.
- 86 Rabbi S. H. Aviner, *Shalhevetya: Chapters of Holiness and the Temple*, Jerusalem: Hava Library, 1989, p. 148 [in Hebrew]. RSHA explains the aspiration that after students are well-versed in the sections of the Talmud and *Halacha* being studied at all yeshivas, a small group of students will form and engage in the religious laws of the Temple and the works being performed there. Ibid.
- 87 For a clarification of the term “messianic” and the inclusion of RSHA as a holder of this theological position, see A. Ravitzky, *Messianism, Zionism, and Jewish Religious Radicalism*, Tel Aviv: Am Oved, 1993, pp. 113–15 [in Hebrew].
- 88 Rabbi Aviner, *Chapters of Holiness*, *supra* n. 86.
- 89 Rabbi Aviner, *Lemikdashech tuv*, *supra* n. 81. The meaning of the main title of the book comes from a request from an invocation of G-d to return to his Temple and is taken from a hymn

- customarily sung on Shabbat. It appears this title reflects the position of Rabbi Aviner that building the Temple is dependent on the will of G-d and not the *realpolitik* activity of fulfillers of his *mitzvot*. This will is not evident in the present and the believer is praying it will assume real expression in the future.
- 90 *Ibid.*, pp. 128–31.
- 91 This is the source, too, of messianic interpretations of current events. See e.g., D. Schwartz, *Religious Zionism – Between Logic and Messianism*, Tel Aviv: Am Oved, 1999, p. 131, fn. 73 ff. (Schwartz reconsiders the distinction he used previously between the messianic and the non-messianic streams and religious-Zionist thinkers).
- 92 Rabbi Aviner, *Lemikdashech tuv*, *supra* n. 81, p. 88.
- 93 *Ibid.*, p. 93.
- 94 *Ibid.*, p. 95.
- 95 *Ibid.*
- 96 *Ibid.*, p. 155.
- 97 *Ibid.*, p. 155.
- 98 N. Shragai, “Soon in our Time,” *Ha’aretz*, 8 Apr. 2008. Available online at: <<http://www.haaretz.co.il/hasite/pages/ShArtPE.jhtml?itemNo=520782&contrassID=2&subContrassID=13&sbSubContrassID=0>> [in Hebrew].
- 99 Y. Toledano (ed.) *Notes and Passages from Letters of G-d’s Disciple Rabbi David Cohen of Blessed Memory to his Venerable Teacher Rabbi Abraham Isaac Hacohen Kook of Blessed Memory*, Jerusalem: Harry Fischel Institute, 1973, p. 127.
- 100 The proclamation was published in Elul, 5727. Shragai, *The Mount of Dispute*, *supra* n. 10, p. 61. On the proclamation itself, see S.H. Weingarten, “The Temple Mount and its Sanctity,” *Torah She-ba’al Pe*, Jerusalem: Mosad Harav Kook, 1969, vol. 11, pp. 185–6 [in Hebrew]. A photograph of the proclamation was published by Y. Cohen, “The Chief Rabbinate and the Question of the Temple Mount,” in I. Warhaftig and Rabbi S. Katz (eds) *The Chief Rabbinate of Israel: 70 Years Since its Founding*, Jerusalem: Heychal Shlomo, 2002, vol.2, p. 782 [in Hebrew].
- 101 Rabbi Aviner, *Lemikdashech tuv*, *supra* n. 81, p. 11.
- 102 This review of RZYH’s position is based on quotes in his name given by Rabbi Aviner. We too are adopting Rabbi Aviner’s interpretation. Another interpretation of these same passages, without undermining the credibility of their transmission, was proposed by Rabbi A. Wasserman, “Attitude of Rabbi Zvi Yehuda Kook to the Temple Mount,” in Rabbi Y. Shaviv and Rabbi I. Rosen (eds) *Rise and We Will Ascend: Collection of Articles and Statements Concerning the Temple Mount in our Times* Alon Shvut: Zomet Inst., 2003, pp. 130–9 [in Hebrew].
- 103 Rabbi Aviner, *Lemikdashech tuv*, *supra* n. 81, pp. 11–12.
- 104 *Ibid.*, p. 12.
- 105 *Ibid.*, p. 13. On the historical connections under which excavations were carried out in the Old City and their political implications, see Berkovitz, *The Battle for the Holy Places*, *supra* n. 18, pp. 64–81, and, regarding the Temple Mount excavations, see *ibid.*, pp. 86–8. RZYH’s reaction to the excavations is very different from that of Rabbi Goren, which, according to Berkovitz, at *ibid.* p. 87, determined: “it is obvious that the sanctity of the [Western Wall] tunnel is much greater in terms of *Halakha* than the sanctity of the Western Wall.” Additionally, it is interesting to compare the attitude of RZYH to that of Rabbi S.Y. Cohen, “We Will Go Up There and See,” *supra* n. 62, p. 19 where the latter stated that: “As is known, in these days we are witness to a marvelous phenomenon, which is also one of the most conspicuous signs of the **dawn of redemption** [bold in the original]. I refer to the great enterprise of in-depth excavations being done from all sides of the Temple Mount, and which are even continuing at a distance beneath the entire city. Visiting these excavations, being conducted under the supervision of the rabbis, may they live long and happily, is an *experience of transcendence and holiness abundant in mysterious glory*.” [emphasis added].
- 106 Rabbi Aviner, *Lemikdashech tuv*, *supra* n. 81, pp. 156–7.
- 107 *Ibid.*, p. 197.
- 108 *Ibid.*, p. 13. Rabbi Wasserman, *supra* n. 102, p. 137, fn. 5, also addresses RZYH’s change of opinion regarding the question of circling the Temple Mount. Rabbi Wasserman focuses on the fact that in RZYH’s directive the alteration occurred following a change in his perception of the consciousness of Jews vis-à-vis the relationship between them and the Temple Mount. In his opinion, “this is a wonderful example of a different possible response in a changed situation.”

From this, Rabbi Wasserman concludes that as the undermining of the Jewish People's connection to the Temple Mount increases, RZYH will agree to even more far-reaching changes. Thus, Rabbi Wasserman argues that in the political situation which arose following the Oslo agreement, even RZYH would agree that one may enter the Temple Mount. In our opinion, even if Rabbi Wasserman is correct in his analysis of RZYH's position, the latter shared the outlook of Rabbis Goren and Ariel insofar as his motivation for allowing entry to the Mount stems from the consciousness of a struggle. However RZYH holds a more stable position than they did, i.e., only in critical situations would he permit entry to the Mount. Therefore, even in light of Rabbi Wasserman's analysis, there is a division between Rabbis Goren and Ariel and RZYH, and one must classify them within different tracks.

- 109 See Seliger, *supra* n. 32.
- 110 Interview with Dr Menachem Ben-Yashar, *supra* n. 9. During the interview Ben-Yashar exhibited impressive erudition, especially concerning the various approaches of religious rulings and the attitude of ascenders to the Temple Mount over the years. The background for this was the endeavor in the 1970s of Dr Ben-Yashar and Dr Yoel Elitzur, well-known in the area of biblical geography, to recruit broad rabbinical support for an initiative to ascend the Temple Mount. They approached dozens of prominent rabbis from the religious-Zionist and Haredi streams. According to Ben-Yashar, responsiveness among the rabbis was meager. Nevertheless, he pointed out that many of the rabbis did not oppose the initiative in principle, but had concerns over supporting the idea publicly.
- 111 See Inbari, *Jewish Fundamentalism*, *supra* n. 31, pp. 27–8. Contrary to our analysis in this paper, Inbari does not separate the contemporary ruling that calls for ascending the Temple Mount in the name of preserving sovereignty and the ruling that called for ascending the Mount immediately following its occupation subject to measurements. Inbari brings as an example the ruling of Rabbi Haim David Halevy. For further elaboration, see Rabbi H.D. Halevy, "Is the Entry to the Temple Mount Allowed?" *Morasha*, 1977, vol. 11, pp. 53–5 [in Hebrew]. Rabbi Haim David Halevy's statements suggest the need to distinguish between the *halakhic* ruling that permits ascending the Mount, subject to measurements, and the ruling that permits ascending of the Mount for *halakhic* reasons that involve political-sovereignty questions.
- 112 One could call it "intervention in micro-history" in the words of Israel Prize Laureate for research into governance Yehezkel Dror. See Y. Dror, *Letter to a Jewish-Zionist-Israeli Leader*, Jerusalem: Carmel, 2005, pp. 90–3 [in Hebrew].
- 113 And not just a leniency. See A. Ackerman, "Judging the Sinner Favorably: R. Hayyim Hirschensohn on the Need for Leniency in Halakhic Decision-Making," *Modern Judaism*, 2002, vol. 22, p. 262.
- 114 For example, more than a decade ago, Jordan proposed a solution that appeared universal in its approach. The political solution that was proposed in the Israel-Jordan Peace Accord (in the Washington declaration signed by Rabin and Hussein on 25 July 1994) politically neutralized holy places, including the Temple Mount, having them jointly overseen by the two religions – Judaism and Islam. *Israel-Jordan Peace Treaty* (26 Oct. 1994), 34 *ILM*, 1995, pp. 43–66. Available online at: <<http://www.mfa.gov.il/mfa>> (accessed 20 Oct. 2009). However the conference of Islamic nations rejected this idea. M. Klein, *The Jerusalem Question in the Arab-Israeli Peace Negotiations: Arab Stands*, Jerusalem: Jerusalem Institute for Israel Studies, 1995, pp. 43, 88–9 [in Hebrew].