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## Traditional Flexibility and Modern Strictness

### *Two Halakhic Positions on Women's Suffrage*

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THE ISSUE OF women's suffrage is undeniably modern, reflecting fundamental changes in the role and place of women in society. An analysis of the rulings and positions on this issue of *posqim* (the interpreters of *halakha*, or rabbinic law) can provide significant indicators of their basic stance regarding the relation of *halakha* to modernity. In this chapter, I present the positions of two important twentieth-century rabbis, Rabbi Kook and Rabbi Uziel, on the issue of women's suffrage and attempt a comparative analysis of their arguments and outlooks.

Rabbi Abraham Yitzhak Ha-Cohen Kook (1865–1935) is well known. Mystic, halakhist, poet, and public figure, he was born and educated in Eastern Europe. Highly respected by leading Orthodox rabbis for his excellence in rabbinic learning, R. Kook was also an outspoken supporter of the Zionist enterprise, which he saw in an eschatological light. Invited in 1904 to fill the post of rabbi of the Ashkenazim of Jaffa, he established close relations with Zionist settlers in nearby agricultural settlements. In 1918 he became Ashkenazi chief rabbi of Jerusalem, and from 1921 until his death filled the newly created post of chief rabbi of Mandatory Palestine. His positive attitude toward Zionism and toward Zionist pioneers, many of whom were not religious, led to his being regarded by many as the ideal type of rabbi, open to modernity and change.

Rabbi Benzion Meir Hai Uziel (1880–1953) is less well known than Rabbi Kook, although perhaps no less worthy of fame. Born in the Old City of Jerusalem to an illustrious Sephardi family and regarded as a brilliant scholar, he was R. Kook's younger contemporary in Jaffa, in the role of *ḥakham bashi*, officially recognized by the Ottoman authorities. Later he served as Sephardi chief rabbi of Tel Aviv, and from 1939 as Rishon Le-Ṣiyyon, the Sephardi chief rabbi of the

Land of Israel. In this capacity, he also became the first Sephardi chief rabbi of the State of Israel, a post he held until his death. He is the author of the six-volume responsa series *Mishpetei Uzziel*<sup>1</sup> and other works in Jewish thought and poetry; however, much of his oeuvre remains in manuscript.

As both rabbis formulated their positions in the same context of place and time—Mandatory Palestine, circa 1920—comparison of their attitudes is especially illuminating. To appreciate the two radically different positions expressed in their responsa, some historical background is in order, beginning with the state of affairs in contemporary Europe and proceeding with a more detailed description of events in the Land of Israel.

When the issue of a representative body for all Jews in the Land of Israel was raised in late 1917, only five countries in Europe accorded women the vote: Finland, Norway, Denmark, Iceland, and Soviet Russia. During the period under discussion in this chapter (1918–21), other countries adopted a similar position, including Britain and Ireland, Luxembourg, and Austria in 1918; Germany, Sweden, and the Netherlands in 1919; Czechoslovakia and Hungary in 1920; and Poland in 1921. The line separating suffrage from nonsuffrage states divided the continent north and south: the entire south of Europe—Portugal, Spain, France, Italy, Albania, Yugoslavia, Greece, Turkey, Bulgaria, and Romania—did not allow women to vote. Similarly, they were not accorded that right anywhere in Africa or Asia (aside from the USSR).<sup>2</sup> Geographically, the Land of Israel was clearly situated within the nonsuffrage bloc; culturally, however, its position was far more complex.<sup>3</sup>

In November 1917, soon after the Balfour Declaration and almost a year before the end of World War I, Zionist activists began trying to organize an elected body which would represent the Yishuv (Jewish community in the Land of Israel) vis-à-vis Great Britain. The question soon arose as to the eligibility of women to vote for, or to be elected to, that body. In June 1918, during the meeting of the Second Constitutive Assembly, a compromise resolution was passed: women were accorded the right to vote, and only one criterion—a minimum age of twenty-five—was stated regarding who might be elected. Half a year later, in December 1918, a third assembly was convened. At this time, the representative of the Ashkenazi Old Yishuv stated that while opposed, the group would not make a point of resisting active suffrage for women but could accept no less than an unequivocal and explicit rejection of passive suffrage (the right of women to be elected). The assembly was not sympathetic; it decided to grant women both forms of suffrage. During the next few months, the issue was hotly debated within the Ashkenazi Old Yishuv, with a hard-line view prevailing. In March 1919, Ashkenazi rabbis and community leaders in Jerusalem proclaimed that both forms of suffrage were forbidden to women.

While a few Sephardi rabbis joined forces with the Ashkenazim on this matter, most did not. Those supporting women's suffrage included both R. Haim Moshe Eliashar, the incumbent Sephardi chief rabbi of Jerusalem, and R. Ya'akov Meir, soon to be elected chief rabbi of the Land of Israel, in addition to R. Uzziel, then Sephardi chief rabbi of Jaffa / Tel-Aviv, whose position will be analyzed in detail.

Within the Mizrahi of the Land of Israel, a Zionist party of Orthodox Jews, opinion was divided.<sup>4</sup> Some members were totally opposed to women's suffrage; others tended to support it in principle but were disinclined to directly contravene the ruling of the Jerusalem rabbis. The Mizrahi proposed that the general elections be postponed, to which the executive committee that had been appointed by the assembly agreed, for several reasons. Eventually the election date was set for 26 October 1919.

In mid-September, the Mizrahi held a national convention in Jerusalem. The out-of-town delegates, who tended to support participation in the elections despite the suffrage granted to women, found themselves up against the solid opposition of the local delegates, whose position tallied with that of the Ashkenazi Old Yishuv. In response, the "moderates" proposed that Rabbi Kook, newly installed under the Mandate as chief rabbi of the Land of Israel, be empowered to decide the matter; the Jerusalemites responded that his support for the moderates' position was a foregone conclusion. Finally it was agreed that a rabbinic forum, which would include Rabbi Kook, should meet and resolve the issue.

Shortly thereafter, the forum convened and, to the shock and dismay of the Mizrahi moderates, Rabbi Kook came out with a strong and unequivocal rejection of women's suffrage, calling for a boycott of the elections if women were allowed to vote. He also published a position paper on the matter, "A Responsum to the Mizrahi." In consequence, the Mizrahi once again obtained a postponement of the elections.

In March 1920, the World Executive of Mizrahi came out in favor of the elections as proposed, that is, on the basis of women's suffrage.<sup>5</sup> In reaction to this move, Rabbi Kook reiterated his own halakhic opposition to women's suffrage. In April, he participated in a general convention of the rabbis of the Land of Israel in which the matter was debated. Two positions were represented. A minority, consisting of some rabbis identified with the Mizrahi and most of the Sephardi rabbis, favored participation in the elections; the majority supported a boycott unless women's suffrage was denied.

While the suffrage issue continued to occupy political attention until late 1925, Rabbi Kook rested his halakhic case after issuing the two responsa of September 1919 and March 1920. At this point, our discussion moves from history to halakha. What were the principles which, according to R. Kook, compelled

denial of women's participation in elections to the representative body of the Yishuv? What were the grounds for R. Uzziel's opposite conclusion? And, finally, what basic differences emerge from a comparison of these two positions?

### Rabbi Kook's Responsa on Women's Suffrage

Rabbi Kook's September *teshuva*, or responsum ("An Open Letter to Mizrahi"), began by declaring that the issue at hand must be considered from three aspects:<sup>6</sup> the halakhic aspect—what is the law?; the national aspect—what is best for the furtherance of the Zionist enterprise?; and the moral aspect.<sup>7</sup> His argument in the responsum relates to these three aspects.

First, halakhically, Judaism is totally opposed to women's suffrage for two complementary reasons. All of Judaic tradition monolithically reflects the norm that roles requiring initiative and action are only for men. This is expressed in the rabbinic aphorism "It is the mode of man to conquer, but it is not the mode of woman to conquer."<sup>8</sup> In consequence, political roles, judicial office, and testifying in court belong to the male domain only, whereas "the honor of a king's daughter is within."<sup>9</sup> In addition, the Torah always seeks to prevent the mixing of the sexes in public gatherings. As the participation of women in politics entails transgressing both of these norms, such an innovation is surely counter-halakhic.

Second, from the national (i.e., Zionist) aspect, all must realize that British policy toward Zionism rests on the Archimedean point that Great Britain—like many other civilized nations—regards the Jews' connection to the Land of Israel as flowing from the Bible and thus as divinely sanctioned. Enemies of Zionism claim that the Jewish people, at present, have severed themselves from their tradition and should not be regarded as heirs to biblical Israel. Certainly it is in the interests of Zionism to foil that claim. According to the Bible, woman's role is that of homemaker, and the extrovert nature of politics is irreconcilable with biblical notions of womanhood. National interest thus requires Zionists to reject women's suffrage, thereby strengthening the world's perception of today's Jews as true to their biblical heritage. In addition, writes Rabbi Kook, it is indeed the case that the national spirit of Israel is one with that of the Bible; thus continuation of biblical attitudes with regard to women's suffrage is not only tactically advantageous but also a bona fide expression of true Jewish nationalism.

Third from the aspect of moral ideals, Rabbi Kook continues, there can be no question that social relations between the sexes, free from immorality, is a noble ideal which, when achieved, will enable women to influence society in a manner commensurate with their nature. However, it is crucial to distinguish

between this ideal and current reality, which is outwardly proper but rotten from within. Attempts to preempt the future by allowing women to become politically involved in the present will, in fact, only delay the unraveling of the ideal future reality. That future, of universal moral import, will develop only through the return of Israel to its land, to its kingdom, to prophecy, and to the Temple. For all this to occur, Israel must preserve its holy way of life, as set out in the Torah. In other words, Rabbi Kook argues that moral ideals concerning women truly can be realized only in a messianic reality—itself contingent upon the observance of Torah. His argument is thus analogous to the one advanced with regard to the national aspect; both morality and nationality, when clearly considered, lead to behavior identical with the norms of halakha.

At the outset of his April Responsum ("A General Responsum"), composed in 1920,<sup>10</sup> Rabbi Kook announces that he continues to stand by the position expressed in his previous responsum: all Judaic sources univocally proclaim that the nation's spirit is opposed to this "modern innovation." Adoption of such "Irish morality"<sup>11</sup> would be no less than treason against Jewish morality and destructive of Jewish national rebirth.

Next, Rabbi Kook begins to develop an argument postulating an essential difference between the centrality of the family in Jewish society and polity and its place in gentile society. For gentiles, the family is not the cornerstone of society; therefore, they are not greatly concerned about the negative effects of suffrage upon the family. For Jews, the family is society's lynchpin: holy and pure. It must remain undefiled by modern notions of morality, for "we believe that our outlook with regard to the life of society is more pure and fine than that of all other historical cultures."

The low regard in which gentiles hold the family, according to Kook, is paralleled by their low regard for women; it is thus understandable that gentile women strive to alleviate their base treatment by men through political action, for which suffrage is a precondition. This attempt to achieve a power base as a prop against their sad reality is what the advocates of suffrage entitle "rights." The real rights of Jewish women, however, are ensured to a degree commensurate with the fine character of their souls, by virtue of the high regard in which they are held as homemakers and wives. Should they be thrust out into the strife of politics, that strife would be reflected within the home, and family harmony would be destroyed. A direct result of intrafamilial discord would be the denigration of Jewish women's status—an outcome no sincere advocate of women's rights seeks.

Finally, Rabbi Kook argues for consideration of the "tens of thousands of our brethren, who are kosher Jews," for whom the participation of women in

elections according to the newfangled Irish style is deeply abhorrent. In this case, writes Rabbi Kook, it is better that "our modern brethren not insist upon their innovative demand" than alienate the adherents of traditional Jewish values.

### Rabbi Uzziel's Responsum on Women's Suffrage

Rabbi Uzziel's responsum was composed in 1920 or 1921; at the time, he was the Sephardi chief rabbi of Jaffa.<sup>12</sup> Although he never refers to Rabbi Kook's two responsa, his opening statement and subsequent discussion reveal that he was well aware of their line of reasoning. As he writes, concerning those opposed to women's suffrage: "Some based their argument on 'Torah law,' some on the need to preserve the boundaries of modesty and morals, and others on the wish to ensure the peace of the family home. All leaned upon the saying 'the New is prohibited by Torah.'"<sup>13</sup>

By identifying his antagonists as motivated by the outlook expressed in that slogan (*he-hadash asur min ha-Torah*), Rabbi Uzziel does not intend to praise them; he does not see himself as an advocate of that arch-conservative posture. The differences between his position and that of Rabbi Kook are manifold; before comparing them, I will outline and summarize Uzziel's arguments.

For the purposes of his halakhic analysis, Rabbi Uzziel divides his responsum into two sections: "active" suffrage (i.e., eligibility to vote) and "passive" suffrage (i.e., eligibility to be elected to public office). By this move, he indicates that from a halakhic point of view, suffrage is a real issue which must be dealt with carefully. A sweeping declaration will not suffice. With regard to the eligibility to vote, Rabbi Uzziel's argument holds that reason leads to the recognition of women's right to vote and that barring unequivocal proof that Torah withholds such a right, halakha subscribes to reason.

He states that "the mind cannot accept that women be denied this personal right." This follows, he argues, from a proper understanding of what elections are all about; elections are nothing but the delegation of authority to representatives, thus enabling them to act in our name in a manner which binds us. Women will be expected to accept as binding upon themselves the actions and decisions of those persons; yet duty to obey follows only from participation in the delegation of authority. How then, asks Uzziel, can one "pull the rope from both ends—see women as bound to obey those elected—yet deny them the right to elect them?"<sup>14</sup>

Uzziel then proceeds to discuss the objections advanced by those who hold that halakhic considerations lead to the denial of active suffrage to women.

Some, he says, claim that women are incapable of wisely determining who is worthy of public office, because (the Talmud says) "women's minds are frivolous."<sup>15</sup> To this, two answers are adduced. First, not a few men are of a frivolous bent; shall they too be excluded from the voting-rollers? Second, reality does not confirm that women are more frivolous than men; women are, and have always been, as clear-headed and intelligent as men, capable of conducting their affairs in a perfectly satisfactory manner. What's more, adds Uzziel, halakha recognizes this, according women full legal independence in matters of civil law. Consequently, rabbinic statements like those cited cannot be taken seriously as limiting women's decision-making capabilities.

Another objection to women's suffrage claims that their involvement in voting will lead to licentiousness. Uzziel writes that to hold such an action as licentious would entail forbidding much more common, everyday activities, such as the mixing of the sexes in shops and public spaces, not to speak of actual commercial negotiations between women and men; such curtailing of everyday interactions "has never been suggested by anyone" and is patently untenable. In addition, the very notion that voting entails immorality is absurd, says Uzziel: "What licentiousness can there be in this, that each person goes to the poll and enters his voting slip?"

Finally, there are those who argue that if women were to be allowed the vote, they would develop personal political positions which, if not identical with their husbands', would lead to a disruption of home tranquillity. Uzziel points out that this consideration should also lead to denying suffrage to all adults still resident in their father's home—as in other cases in which the Talmud sought to prevent familial strife. In truth, however, mature differences of opinion are not out of place in a loving home environment: "Familial love, grounded in joint activities, is sufficiently strong, and will not at all be damaged by such differences in outlook." Similarly, the concern lest suffrage lead women to commit "flattery" by deferring to their husbands and voting for the party of their choice is dismissed by Uzziel as "a completely new invention."<sup>16</sup> Would women in fact so respect their men? If so, this would be an expression of love, not of flattery. All the more reason for women to be allowed the vote, giving them a new opportunity to express love toward their spouse, if they so choose.

Before concluding the section of his responsum dealing with active suffrage, Rabbi Uzziel cites another objection to women's voting, raised by Rabbi Dr. Bernhard Loebel Ritter, based on the fact that women had been accorded no recognized status in the biblical polity; they were regarded neither as *qahal* nor as *‘edah*.<sup>17</sup> Neither were they counted in the census nor included in Israel's genealogical lists. So be it, responds Uzziel: "Let us grant that they are neither

qahal nor 'edah . . . nor anything. But are they not creatures, created in the divine image and endowed with intelligence?" As they are such creatures, who have concerns which the assembly will address and who will be expected to obey its directives, Uzziel finds the conclusion to be inevitable: ". . . having found not the slightest valid grounds for this prohibition, I find that there exists not the slightest right to oppose or to reject this matter, if even a fraction of the public are in favor."

In an obvious allusion to the possibility, raised by certain *haredim* (ultraorthodox), that a referendum be held, which could (due to the numeric preponderance of the Old Yishuv) lead to women being denied the vote, Uzziel maintains that, regarding an analogous situation, it has been said: "Even if ninety-nine request distribution and only one requests free access, that one should be followed, for his demand is right by law."<sup>18</sup> That is to say: women's right to vote—recognized and validated by halakha—cannot be denied, even if opponents of that right are a majority of ninety-nine to one.

### Rabbi Kook and Rabbi Uzziel—Comparative Analysis

The positions of the two figures outlined above present a dramatic contrast. We will now identify and analyze the most salient aspects of that contrast, discussing the relationship between past praxis and current halakha, the interconnection between halakha and reason, the political concepts of the two rabbis, and additional differences between them.

#### *Past Praxis and Current Halakha*

Rabbi Kook's case takes for granted the identity of past praxis and mores with current halakhic norms: what has been done and said in the past is definitive of what should be done in the present. Thus, when one has identified what past custom and attitudes were, guidelines for the present *ipso facto* are set. Within this mind-set, words such as *innovation* and *novelty* carry negative connotations, for any deviation from patterns of behavior sanctioned in the past is a betrayal of Torah.

Rabbi Uzziel does not accept the premise that past praxis has once and for all defined the horizons of halakhically sanctioned norms. This is clear in his response to Ritter, who sought to deny women's suffrage on the basis of their past lack of status in the Israelite polity. Uzziel grants that such may well have been the case but goes on to say that halakha for the present is in no way contingent upon such facts. Rather, it must derive from principle. Uzziel's rejection

of the view that "the New is prohibited by Torah" is thus reflected in his halakhic argumentation.

### *Halakha and Sevarah (Reason)*

Rabbi Kook's strategy of argumentation is to postulate halakha as given and variable. Therefore it remains only to be shown that the course of action determined by inner-halakhic considerations is identical with what is reasonable according to morality and nationalism. Such identity, one realizes, is a foregone conclusion; the only issue is how specifically to construe the "reason" of nationalism and of morality, so as to support halakha.

Rabbi Uzziel, too, postulates certain variables as independently given. These are not halakhic norms, however, but self-evident principles of equity and human dignity. Having recognized these principles—such as the notions that the duty to obey derives only from participation in the delegation of authority and that creation in the divine image entails rights—it is then possible to determine the relevant halakhic norms: halakha follows from principles of sevarah (reason), and not vice versa.

It should be noted that Uzziel's attitude regarding the dependency of halakha upon sevarah is not only substantive but also interpretive; what is transparently reasonable must govern our understanding and interpretation of halakhic texts. Thus, the talmudic statement that "women's minds are frivolous" cannot possibly be correctly interpreted at face-value because reality and experience teach otherwise. It seems, that according to R. Kook, our conception of halakha should color our perception of reality; while R. Uzziel holds that our perception of reality should qualify our understanding of halakha.

### *Political Concepts*

The arguments and claims advanced by Kook and Uzziel also reflect political concepts held by each, whether explicitly or implicitly. Kook has an organic view of the nation;<sup>19</sup> the Jewish people has an ontologically given national character, or spirit. This spirit must dictate the character of the nation's polity. Structurally, the basic unit of the organic, Jewish polity is the family. Whatever processes occur within that unit must be heard univocally in the wider political arena—with the husband/father as its sole spokesman. Conversely, political processes occurring in the societal arena must be structured in a manner that least impinges upon family peace and harmony. In principle, gentile nations might also be organic entities; yet the low regard in which they hold the family

undermines their ability to ensure women's well-being within that unit, leading to the destructive atomization of their societies.

While Kook holds that the true nature of the polity is ontologically determined, he also recognizes that individuals can choose to act in ways which are not consonant with that nature. Those cognizant of the nation's true character should consciously construct its institutions in a manner that will protect it, as far as possible, from potentially destructive courses of action by misguided individuals. Women's suffrage is a case in point; many women, if allowed the vote, might (misguidedly) exercise it in a way that would undermine both their well-being and that of the polity. Therefore, those aware of Israel's true nature must do all they can to prevent women from achieving the vote, whatever women themselves may think they want. Kook's attitude is outrightly paternalistic.

Kook's position regarding the concept of women's political rights is strongly negative. Playing on the dual meaning of the word *zehut* (both "right" and "benefit"), Kook argues<sup>20</sup> that Jewish society, through the character of its family unit, guarantees the true *zehut* (i.e., benefit) of women, whereas the so-called "right" (*zehut*) to vote is nothing but a misnomer. It seems that R. Kook does not at all acknowledge the validity of the concept of "rights."

Rabbi Uzziel's political concepts are radically different from those of R. Kook. The polity he depicts is not organic but functional: "in these elections we raise up leaders upon us, and empower our representatives to speak in our name, to organize the matters of our *Yishuv*, and to levy taxes upon our property." The basic unit of that polity is not the family but the individual: any person who will be held liable to obey the laws and directives of the elected assembly. Men and women or parents and their adult children are each separately and independently eligible to participate in the political process; the family, while important in many ways, should not be seen as a limiting mediative framework between the individual and the polity.

In further counterdistinction to Kook, Uzziel's attitude is decidedly non-paternalistic. He holds that objectively women are no less than "equal to men in knowledge and wisdom"; yet analysis of his argument shows that his support of women's suffrage is not contingent upon factual claims. Rather, he believes in political rights inhering in all individuals "created in the divine image" and which *ipso facto* have halakhic legitimization. The issue is really not of interests but of rights: not whether it is in the best interests of the polity (and/or of women themselves) for women to be granted political rights, but rather whether there exist any serious halakhic grounds for denying them the exercise of those rights, which they inherently possess according to halakha itself. Finding that there are no such grounds, he concludes that Torah unequiv-

cally endorses women's exercise of political rights; that being the case, no human majority may deny women the vote.<sup>21</sup>

### *Additional Differences*

Two additional differences between Kook and Uzziel should be noted before suggesting a plausible explanation for the deep divergence between them. Throughout his two responsa, Kook repeatedly refers to an essential, qualitative gap between the people of Israel and all other nations. Because of this gap, no analogy or argument can be made from gentile to Jewish politics or morality. Rather, the underlying principles which govern gentile behavior are inherently suspect from a Jewish point of view. Uzziel, on the other hand, rests his halakhic case upon basic assumptions characteristic of modern "gentile" democratic political philosophy: legitimate authority can flow only from its delegation by the individuals who comprise the polity, and creation in the divine image entails political rights. Jewish politics, Uzziel obviously believes, must express the finest fundamentals of an equity and morality which are universally valid for all human beings, Jews and gentiles alike.<sup>22</sup>

Kook's underlying, and indeed overt, thrust is apologetic: to provide the rationale and the rhetoric for the defense and justification of what he sees as a religiously "given" normative position which is both internal and eternal. A concomitant of his attitude is that there is no real room for a critique of past praxis; Jewish communities and sages of the past define what Judaism eternally is. By definition, there exists no Archimedean point within the Judaic tradition on which to rest the fulcrum of a critique of past praxis or a call for contemporary behavior not identical with that praxis. "He-hadash asur min ha-Torah" expresses well the implications of this approach.

Uzziel, on the other hand, is not apologetic in either of two possible ways: he does not take past halakhic behavior as definitive or exhaustive of all that Jews can or should regard as religiously normative, and he holds that sevarah can and should function precisely as the Archimedean point on which an internal critical stance toward past halakhic rulings and behaviors can and should rest.

### **Modernity and Halakha: Two Models**

In sum, it appears that Kook advocates a model of halakha which is ideally closed and eternal, independent of historical reality. Uzziel, on the other hand, regards halakha as potentially open to change, as principles of sevarah are ap-

plied to past texts "from within" the realm of halakhic discourse, thereby also reconnecting halakha to current historic-cultural realities. Is it not strange that R. Kook, invited from Europe to serve as rabbi in the Land of Israel because of his renown as a moderate and as an enthusiastic supporter of Zionism (and therefore rejected by the Ashkenazi Old Yishuv of Jerusalem), should adopt such a rigid notion of halakha, while R. Uzziel, born and bred in the Old City of Jerusalem, in the context of the Old Yishuv, should prove to be open to innovation within the halakhic framework?

The assumptions of such a question are, of course, that European modernity should correlate with openness to innovation, while "Oriental" traditionality should correlate with commitment to the "given" religious status quo as halakhically binding. It is precisely that assumption, however, which I believe must be reexamined.<sup>23</sup> For a major segment of European rabbis, modernity entailed an ideological position which, as Jacob Katz and others have shown, was not a natural continuation of premodern Ashkenazi Judaism but a response to specific nineteenth-century developments.<sup>24</sup> Called "Orthodoxy," this ideology, while open to certain institutional changes and even to acquaintance with selective aspects of non-Jewish culture, called for the rigidifying of halakhic norms in response to the perceived threat to "authentic" Jewish praxis posed by Reform innovations. For rabbis identified with Orthodoxy, "innovation" became a negative appellate (with regard to halakha), and they adopted the slogan "He-hadash asur min ha-Torah."

However original he may have been in other areas, such as Jewish thought, or in his attitude toward Zionist pioneers, with regard to halakha R. Kook adhered to a staunch, even right-wing, Orthodox orientation. He was indeed a modernist, but his modernism in halakha was of a reactionary genre.<sup>25</sup>

In Muslim countries, no Jewish reform movement arose; Sephardi rabbis in those countries thus lacked the specific impetus which led many of their Ashkenazi contemporaries to negate, in principle, the possibility of innovation within halakha. These Sephardi rabbis felt free to continue to apply traditional canons of halakhic decision-making processes which enabled, and sometimes even encouraged, intrahalakhic novelty. In other words, their innovativeness was not a sign of modernism but rather of traditionalism; halakhic innovation for them was not an ideology but a possibility. The Sephardi Old Yishuv of Jerusalem was of such a traditional genre; it was in that milieu that R. Uzziel was born and educated. While Uzziel was more incisive and expressive than many other rabbis of that community, he was far from alone among them in holding that halakha permits, indeed advocates, the right of women to vote. As noted, other prominent Sephardi rabbis of Jerusalem held a similar view.<sup>26</sup> Uzziel may be seen, then, not as a unique individual but as an eloquent exponent of the

manner in which traditional Sephardi culture, unhampered by counter-Reformist polemic, could integrate modern notions, such as that of women's rights, within the world of halakha.

## NOTES

1. Benzion Meir Hai Uzziel, *Mishpetei Uzziel* (The laws of Uzziel) (Jerusalem, 1950–64).
2. Gisbert Flanz, *Comparative Women's Rights and Political Participation in Europe* (Dobbs Ferry: Transnational Publishers, 1983).
3. This summary is based on the detailed accounts to be found in Menahem Friedman, *Society and Religion: The Non-Zionist Orthodox in Eretz-Israel, 1918–1936* (in Hebrew) (Jerusalem: Yad Izhak Ben-Zvi, 1977), pp. 146–84, and Zohara Bozich-Hertzig, "Ha-pulmus 'al zekhut habetirah le-nashim le-mosdot ha-yishuv be-reshit tequfat ha-mandal" (The debate on women's suffrage with regard to the institutions of the Yishuv during the Early Mandate Period), master's thesis, Bar-Ilan University, 1990.
4. Mizrahi was founded in Lithuania in 1902. The Old Yishuv, comprised of Ashkenazi Jews who had lived in Ottoman Palestine before the emergence of Zionism, was non-Zionist and sometimes anti-Zionist in orientation.
5. It should be noted that Mizrahi frameworks outside of the Land of Israel, in both Europe and North America, enabled and encouraged women's involvement in politics. Geographically, these frameworks were in tune with their milieu. See n. 2; also see Bozich-Hertzig, "Ha-pulmus," pp. 17–22.
6. The text of the teshuvah was recently republished in Abraham Yitzhak Ha-Cohen Kook, *Ma'amrei ha-RaAY"ah* (The writings of Rabbi A. I. Ha-Cohen) (Jerusalem, 1984), pp. 189–91.
7. The reason for this threefold division, he explains, is that he wishes to relate to the concerns of three classes of people: those loyal to Judaism for whom halakhic determination is paramount; those whose main concern is nationalist; and those whose outlook is shaped mainly by ideals of pure morality. As his letter is explicitly addressed to the Mizrahi, it seems that he believed that movement to include members of each of these classes; in addition, he was aware that his responsum would reach a wider readership.
8. This aphorism is cited in the Babylonian Talmud *Yebamot* 65b in relation to Gen. 1:28. It is taken as supporting an understanding of that verse as applying specifically to men, with the conclusion that it is men, and not women, who are under the positive precept of procreation. Yet careful reading of the text reveals that Kook is using the source for his own purposes: in the Talmud, the aphorism is descriptive, while Kook employs it as prescriptive.
9. Psalms 45:14. See also *Babylonia Talmud Yebamot* 77a and parallels. Additional rabbinic sources employing this verse are cited in Aharon Heimann, *Torah ha-ketuvah ve-ha-mesurah* (The written and oral Torah), vol. 3 (Tel Aviv: Dvir, 1936), p. 35.
10. Also published in Kook, *Ma'amrei*, pp. 191–94. The quotes in the present and the following three paragraphs are from this source.
11. A reference to recent Irish ratification of women's suffrage—and presumably more derogatory than "British morality."
12. This responsum was first printed in Uzziel, *Mishpetei Uzziel*, vol. *Hoshen Mishpat*, no. 6, and again as no. 44 in Benzion Meir Hai Uzziel, *Pisqei Uzziel be-she'elot ha-zeman* (The decisions of Uzziel on the questions of our day) (Jerusalem: Ha-rav Kook Institute, 1977), pp. 228–

34. For reasons he does not explain, R. Uzziel chose to publish this responsum only after the public debate had subsided.

13. Uzziel, *Pisqei Uzziel*, p. 228. R. Kook had, indeed, used the three arguments cited by R. Uzziel. Later I discuss the characterization of Kook's position as expressing an attitude consonant with the counter-Reformist slogan "The New is prohibited by the Torah." This phrase, taken from a Mishnaic rule (*Orlah* 3:9) concerning "new" (the current year's) grain, was rhetorically applied by leaders of Orthodoxy in the nineteenth century in their struggle against current religious change. Some historians claim that the most apt translation of *he-hadash* in this context is not "the new" but "the modern."

14. *Ibid.*, p. 229.

15. Babylonian Talmud, *Shabbat* 33b; *Qiddushin* 80b.

16. An argument first raised by R. Kook in his second responsum.

17. *Qahal* and *'edah* are biblical terms, usually translated "community" or "congregation." Rabbi Dr. Bernhard Loebel Ritter served as chief rabbi of Rotterdam, 1885-1928. He was a leading Orthodox scholar and a determined opponent of Zionism.

18. Mishnah *Pe'ah* chap. 4: 1. The quote refers to the distribution of the "corner" of the field's crop, which belongs, by divine fiat, to the poor. They therefore have the right to take directly from the field rather than to accept from the hand of the landowner.

19. At least, of the Jewish nation.

20. Kook, *Ma'amrei*, p. 192.

21. A second part of Uzziel's responsum is devoted to the right to run for public office and serve if elected. A detailed analysis of Uzziel's position is beyond the scope of the present essay. He concludes that (halakhically) women may serve if elected; *ipso facto*, they may submit their candidacy and run for office. However, it does not seem that he postulates this permission to serve in public office as an incontrovertible right.

22. Compare their *mahaloqet* (dispute) over autopsies, and the "solution" of importing gentile bodies. R. Kook's position on that issue is to be found in his *Da'at Kohen* (The Opinion of Ha-Cohen) (Jerusalem, 1942), section 199. R. Uzziel's position is found in *Pisqei Uzziel*, pp. 172-81.

23. The relatively open response of nineteenth-and twentieth-century Sephardi rabbis to the challenges of modernity has been the focus of several of my articles. See, e.g., Zvi Zohar, "Halakhic Responses of Syrian and Egyptian Rabbinical Authorities to Social and Technological Change," *Studies in Contemporary Judaism* 2 (1986):18-51; "Lowering Barriers of Estrangement: Rabbinate-Karaite Intermarriage in Twentieth Century Egyptian Halakha," in *The Jews of Egypt: A Mediterranean Society in Modern Times*, ed. Shimon Shamir (Boulder: Westview Press, 1987), pp. 143-68; "New Horizons: A Major Nineteenth-Century Baghdadi Posek's Heightened Awareness of Socio-Cultural Variety and Change" (in Hebrew), *Pe'amim* 36 (1988):89-107; and "A Rabbi and Maskil in Aleppo: Rabbi Yitzhak Dayan's 1923 Programmatic Essay on Jewish Education," in *New Horizons in Sephardic Studies*, ed. Yedida Stillman and George Zucker (Albany: State University of New York Press, 1993), pp. 93-107. And see my monograph, *Masoret u-Temurah* (Tradition and change) (Jerusalem: Ben-Zvi Press, 1993).

24. As Katz writes: "The claim of the Orthodox to be no more than the guardians of the pure Judaism of old is a fiction. In fact, Orthodoxy was a method of confronting deviant trends, and of responding to the very same stimuli which produced these trends, albeit with a conscious effort to deny such extrinsic motivations." See Jacob Katz, "Orthodoxy in Historical Perspective," *Studies in Contemporary Jewry* 2 (1986):3-17, esp. pp. 4-5. Or, as Katzburg puts it: "Orthodoxy, as a well defined and separate phenomenon within Jewry, crystallized in response to the challenge of the changes which occurred in Jewish society in Western and Central Europe in the first half of the 19th century: Reform, the Haskala, and trends towards secularization." See Nathaniel Katzburg, "Orthodoxy," *Encyclopaedia Judaica* 16:1486.

25. As this essay was near completion, Michael Nehorai provided me with a copy of his article "Remarks on the Rabbinic Rulings of Rabbi Kook" (in Hebrew), which has since ap-

peared in *Tarbiz* 59 (1990):481–505. Nehorai convincingly demonstrates that Kook consistently adopted nonlenient halakhic positions with regard to quite a few modern halakhic issues. Attempting to account for this, Nehorai suggests that Kook's perception of contemporary reality as nascently messianic led him to reject accommodation and leniency, but rather to apply "ideal" standards of halakha to issues brought before him. In my opinion, however, this explanation—even if correct—cannot suffice. On Nehorai's reading, all R. Kook's messianism does is to lead him to express in real-life rulings what he believes to be ideal halakha. But why should ideal halakha be synonymous with strictness and rejection of change? I argue that his conception of ideal halakha was in fact governed by the modernist-reactionary ideology of "The New is prohibited by Torah," which might suffice to explain the nonleniency of his rulings. Nehorai's thesis might still be helpful, however, in explaining Kook's unusual strictness even within the context of Orthodox halakha.

26. For sources regarding the position of those rabbis, see Bozich-Hertzig, "Ha-pulmus," notes on pp. 80–82.