
A Tribute to Ze'ev Falk

Marc Gopin

The speed with which Professor Ze'ev Falk came into and left my life is something from which I still have not completely recovered. I met him by accident on a hot Saturday afternoon in July 1998 at a synagogue in Washington, DC, where he was visiting his good friend Nancy Roth and her family. The bond between us started immediately with non-stop communication, and the knowing look that you see in someone's eyes when he wonders why it has taken a lifetime to meet. My wife and I walked away, practically in a daze, asking ourselves why we have suffered so much spiritual isolation only to meet a man like this now, so suddenly, so accidentally.

Next Shabbat Ze'ev would be at our house, sleeping in our bedroom, and we gladly giving our bed to this Torah scholar. He had finally given us the affirmation we needed that, yes, there were still old, brilliant Jews from that original, extraordinary European era of enlightened Orthodoxy, since destroyed by the ravages of the Holocaust and its deleterious effects on Jewish spiritual life. We found a survivor of Germany who cared as passionately about every human life on the planet as he cared about the life of Torah. I was moved to weeping, as one does when one finds a long-lost diamond ring that meant everything to you. Being with him was like walking back in time to Berlin of 1920, to witness the melding of the gifts of intelligence, poetry, song, moral courage, *ehrlichkeit* and *menschlichkeit*, all blended in this refined soul, who was just about to leave this earth.

We sat on a Friday night and discussed some ideas central to a book I was developing: the integration of traditional halakhic values and the

social science of conflict prevention, resolution, and peacemaking. He listened to the lessons learned from the study of world religions, with which he was intimately familiar, and the promise and the difficulty of eliciting from the world's religions pro-social values, values that could heal the rage and anger that motivates so much fundamentalist global activity today, and the social science that confirms the possibility of pursuing this new post-modern path. He offered many new insights that just scratched the surface of his creativity. He took my book manuscript to bed with him. On late Saturday afternoon, he said rather solemnly that he wanted to dedicate the rest of his life to our project, with the proviso that I dedicate myself more to helping the Jewish people emerge from their internecine strife and violence, something that he knew I have been reluctant to do.

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We sang, we told stories, we shared intimate secrets. He left, with his unknown brain tumor growing inside and already beginning to cloud his language retrieval center, which I realized only in retrospect when I sat with his widow and reconstructed the illness' progress. He lost almost everything within a few weeks, and he was dead within a few months. His memorial service took place in Israel on the day that we were scheduled to teach together for the first time a course on peacemaking in Israel.

Ze'ev said many things in his lifetime that would provoke a serious reexamination of traditional values. I have never met any Jewish scholar like him, in terms of intellectual and moral courage, combined with the gentleness of a true *talmid hakham*. His defense of women's rights in halakhah was nothing short of heroic, and he paid a heavy price professionally for it in the conservative context of the legal scholarly circles of Jerusalem, as well as among the establishment rabbis, who feel they must live politically and professionally in the shadow of the fundamentalist fears of nameless followers. He fought hard for the *agunah*, for the divorcee, and for many other victims of legal conservatism.

Ze'ev's relationship to the spirituality inherent in the religious expressions of all other human beings, both intra-Jewishly and globally, was awe-inspiring. He prayed in many places that would shock Jerusalem conservatives. I asked him how he decides where and when it is legitimate to engage in prayer, and when he has been *yotseh* [fulfilled his obligation according to Jewish law]. Ze'ev replied that it depends on whether he feels the presence of *ha-kodosh borukh hu* [the Holy One, blessed be He]. It sounds like a classic New Age answer, and yet it stems, in a fashion typical of Ze'ev's personality and erudition, from a combination of the most intimate intuition of post-modern spirituality, and a careful reading of the biblical, as well as rabbinic and hasidic, evidence on legitimate prayer.

One of the most extraordinary statements in the essay below involves intermarriage. I should point out that Ze'ev was speaking from an Israeli context, where the dominant culture is Jewish, rather than the Diaspora. I believe Ze'ev was interested in a revitalized Judaism that was so deep spiritually and intellectually that it need not be afraid of Jewish interaction, even marital interaction, with others. He wanted Judaism to move away from a parochial construct, terrified of the outside world, and towards a serious spiritual religion on the world scene that not only could hold on to the youth of Israel, but would attract many others.

Over the course of his lifetime, Ze'ev Falk wrote many scholarly works—legal, philosophical, exegetical—that contribute in substantive and productive ways to the present discourse on halakhic development and its implication for our time. Only a fraction of his writing is available in English. I have translated the essay that follows in the hopes that readers will be moved to study more of his writing.

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Implications of Peace for Jewish Thought, Faith, and Law*

Ze'ev Falk

Translated by Marc Gopin

A. The Philosophical Challenge

It seems to me that Jewish thought needs to deal not only with recent changes in the existential status of the Jewish people, but it must also plan for the future, when this existential condition will change once more. There is no doubt that the process of peace between Jews and Arabs will bring about such change, and even if no one knows how matters will unfold, it is appropriate to begin thinking about the implications of this new situation for Jewish thought.

In the future, the weaknesses of national Zionist thought as articulated in the writings of Herzl, Nordau, and Jabotinski will make themselves felt even more acutely. Their way of thinking applied to an era of nationalism, whereas much of the world today, as well as the enlightened community of Israel, is dominated by internationalist thinking. Jewish thought is poised to turn toward universalist questions, questions of law and state, and especially questions of religion and state, as well as questions of cultural and religious identity, and of the religious experience of the individual.

Once Israel enters an age of normalization, and after the Arabs and other nations recognize the right of the Jews to a political identity, we

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will have to turn toward spiritual questions. For quite some time now the Jewish—and even the Israeli—identity of our youth has been on the decline. Certainly, the troubles of the Jewish people in Exile and the conflict between Israel and the Arabs have contributed to a negative definition of Jewish identity. When these factors are eliminated, we will need to search anew for the positive foundations of Jewish and Zionist identity. Among the paths already proposed are the views of Ahad Ha-am and Mordechai Kaplan, on the one hand, and the approach of Rabbi Abraham Isaac Kuk, on the other.

As the basic need for tolerance and pluralism develops between Arabs and Jews, it will also be time for an examination of the relationship between religions and other absolutist claims. This examination will naturally require a change in the relationships among the branches of Judaism.

Peace will bring a search for that which Israel and other peoples share in common. Even the religious Zionist camp will increasingly react negatively to an emphasis on the uniqueness of the Land of Israel and the People of Israel, as expressed in the writings of Judah Halevi, the Kabbalah, and Rabbi Abraham Isaac Kuk. Instead, we can expect more of a following for the intellectual path of Maimonides and his contemporary disciples, such as Rabbi Joseph Soloveitchik and Professor Yeshayahu Leibowitz.

In times of crisis and uncertainty over the future, Jewish thought has tended to emphasize the non-rationality of our existence and the uniqueness of our faith—for example, in the doctrines of *Torah min ha-shamayim* [divine revelation] and Divine Providence—which go beyond the bounds of philosophical knowledge and belong instead to the realm of will. By contrast, in a situation of peace, when there are rational relations between nations and among individuals, there must certainly be another effort to unify reason and faith in order to create a rational Judaism.

The concept of a unity that underlies conflict and of a dialectic of contradictory ideas can be helpful in finding our way to a new approach to the Arabs. Just as secular Jews played a positive role in making Judaism a reality in the Land of Israel, so too the Israeli-Arab conflict can play a creative role in the intellectual refinement of Judaism.

Universalist thinking regarding nature, land, and work also lays a foundation for mutual understanding between Arabs and Jews. Similarly, rationalism and the concept of Judaism as the "religion of reason" point to a

Jewish perspective toward the pursuit of justice with regard to the gentile and the stranger.

The model available to us for peaceful co-existence is the "I-Thou" of Martin Buber, which creates the basis of relationship in the life of the individual as well as internationally. The concept of the Kingdom of Heaven rather than the Kingdom of Earth, and the political criticisms of the prophets—all these are not just "paths to utopia," but actual contributions to the development of understanding between us and our neighbors.

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What we need is a sequel to Franz Rosenzweig's sense of the mutual completion of Christianity and Judaism. (We also need to return to the conversation that Judaism and Islam carried on during the Middle Ages.) Rosenzweig's emphasis on the metahistorical role of Judaism provides a balance to political Zionism, and his recognition of the individual religious rights of the Jew form the basis for our grasping the self-determination of others.

The idea of Abraham Joshua Heschel of a sanctuary in time, in addition to a physical sanctuary in place, also contributes to a philosophy of Judaism in time of peace, for he narrows the importance of territory and generates a theological readiness for new boundaries. The emphasis on the need for modernization and reconstruction of many of the foundations of Judaism, as Mordechai Kaplan taught; the rationalization of the halakhic process that Eliezer Berkovitz sought; the struggle of Isaiah Leibowitz for the depoliticization of religion and for proper relations with Arabs—all these further contribute to Jewish thought as we transition from war to peace.

We still need, however, some new explanation for the hatred of Jews and Judaism by Christianity, Islam, and even cultures of the Far East that have had no significant contact with us. It seems that secular Zionism has exhausted itself, in that it has not succeeded in solving the problem of anti-Semitism. On the contrary, it constitutes an additional challenge to Arab nationalism and Moslem fundamentalism, and it has deprived Jews of immunization from indi-

vidual and national assimilation. Jewish socialism encouraged an excessive empathy with the suffering of the Arabs at the expense of a Jewish feeling of interconnectedness, in so doing undermining the instinct for survival of the people and the state. Jewish liberalism also internalized too much of the moral criticism of the world, lost a sense of balance, and caused some of Israel's defeat in the psychological war against her.

On the other hand, there is a need to take the challenges that the State of Israel has inherited and make them into an intellectual foundation for Jewish thought. The equality of religions in the modern state will influence our self-definition theologically and will open the door to a pluralistic perspective. Debates on human rights and international law will ultimately be incorporated into the religious consciousness of scholars and halakhic authorities. Secularism, which has weakened our position, nevertheless contributes to a sense of proportion and to a lessening of tension between our neighbors and ourselves. The common challenge to Jews and Arabs of fundamentalism is a unifying factor, and may create a readiness for joint action.

B. New Developments in Faith

In every generation Jewish faith has had to confront new existential circumstances. The Babylonian Exile and the destruction of Second Temple, for example, led to a spiritualization of the religion and a greater discernment of God's moral qualities and modes of worship. This same process was evident in more recent generations, and led to different paths for the religion, both by way of adaptation and by way of reaction.

First, the Jewish believer had to acknowledge the conditions of existence after Emancipation, and to delve into the universal foundations of Judaism as a part of the larger human community. There are those who saw in this a Providential step in the spiritual life of the Jewish people, a kind of "beginning of the flourishing of our Redemption" (*reishit ts'mikhat ge'ulateinu*) as individuals. But others saw this as the seductiveness of assimilation, and sought to remain in isolation.

Second, Judaism was called upon to confront modernization. It had to persuade the faithful to abandon their passivity, no longer relying on miracles and no longer postponing the repair of the world (*tikkun olam*) until the coming of the Redeemer. The sophistication of the Jewish faith, as it developed

in the wake of Zionism, for example in the writings of Rabbi Abraham Isaac Kuk, made it possible for Jews to accept responsibility for their own fate and to understand their existence under the normal laws of history and social science.

In this way, faith in Divine Providence was confined to the relationship of the person and God, and to a distant vision of the fate of the Jewish people. But the activities of the individual and of the community in the present were handed over to the rules of causality and rationality. This signaled a departure from the ahistorical perspective of most believers toward a stance that allowed them a shared role in the making of history.

Third, Jewish faith had to confront the meaning of the Holocaust in terms of the idea of a good God, omnipotent and omniscient. In a dialectical fashion, the religious reaction of some believers (such as Eliezer Berkovitz) was to move in the direction of a feeling of closeness to God.

Thus some religious Jews relied increasingly on faith to strengthen the Jewish claim to the Promised Land, and on the steadily improving morale of those who saw themselves as implementing the Messianic plan. Rabbi Tzvi Yehuda Kuk and his disciples, and ultimately, Rabbi Menachem Mendel Schneerson of Lubavitch, worked in this direction.

A situation of peace and the normalization of the nation and the state will present a new challenge to Jewish faith: that of a more sophisticated and discerning approach to the principle of the chosenness of Israel. The new conditions will also lead to the acceptance of the idea that other peoples, and even individuals who are not members of the Jewish covenanted community, can also be chosen people and beloved nations of the Master of the Universe. Then will the belief that every human being is created in the image of God acquire new strength. In this will be found continuity with the ideas of Rabbis Samson Raphael Hirsch and Elijah Benamozegh on the Jew as human being.

It should be stated that the new situation will also impact the belief that God made a covenant with Israel and chose them from all other nations. Rabbi Sa'adia Gaon already wrote against this belief:

It does not make sense that we should say that God acquires one people and not another, or that His acquisition is more for some and less for others. For that which we see in Scriptures when they speak of 'His chosen people,' 'His acquisition,' and 'the bond of His inheritance'...for His people are God's portion, Jacob is the bond of His inheritance (DEUT.

32:9)—this is only said as a way of giving respect and dignity, because according to us the value of every human being and his rightful portion from God are considered precious. (SEFER EMUNOT VE-DEOT 2:11)

Only in the footsteps of peace will such a belief flourish. As Jewish-gentile relations are repaired, the fundamentalist approach to the Torah will turn toward rationalism, selectivity, and even to criticism regarding sacred scriptures and the basic articles of the faith. We will be compelled to continue in the direction already outlined in the writings of Rabbi Hayyim Hirschenson and Abraham Joshua Heschel.

The consciousness of peace as a human creation will, on the one hand, detract from a "quietistic" faith in the coming of the Messiah as the source of peace in the world. On the other hand, this consciousness will cause a new attitude to develop toward the human being, as created in the image of God, who makes peace or creates evil with divine freedom. From here the human being acquires the status of the "crown of Creation," for only in human hands resides the ability to preserve Earth or destroy it. In particular, faith in the moral role of the human being will be strengthened, just as "...a person who is patient is better than the hero, and the one who controls his nature is better than he who conquers an entire city." (PROVERBS 16:32)

Peace will also confirm the freedom of God to direct the world not just according to the expectations of the nation of Israel. Instead of covenantal promises with the Patriarchs, and in place of prophecies of comfort, God will be revealed as a leader who acts with freedom in the universe. And human beings will be revealed as free actors in determining their personal and political futures.

C. New Decrees for the Sake of Peace

In order for the process of peace to become permanent and successful, there will be a need for ongoing education in the direction of peace, brotherhood, and the elimination of hatred, as well as changes in various halakhic decrees.

First of all, we must establish that the halakhic principles of saving a life apply to all human beings, whether they are Jewish or not. Correspondingly, we must relate to every human being as a world unto himself, and not to use the term *goy* or *goyim* but rather *adam* (human being), *ben adam*, or *ben Noah* (a son of Noah). For the same reason, we must consider non-Jews

qualified as witnesses and in terms of basic issues of halakhic trust, assuming that they conduct themselves in a moral fashion. And we must nullify all suspicions and negative assumptions about non-Jews that have been enshrined in Jewish law.

Similarly, we must abolish the prohibition of intermarriage with non-Jews, assuming that they observe the Seven Laws of Noah. And we must not behave toward them according to the prohibition of *lo techanem* [have no pity on them]. This will also apply to attitudes towards the non-Jewish population in the Middle East. Regarding "Ishmael"—that is, the Arab—Rabbi Joel Sirkis, who lived in sixteenth century Poland, wrote that the Arab is a *ger toshav* [resident stranger] who need not formally accept the commandments under Jewish auspices. In contrast, Rabbi Joseph Karo who lived at the same time in Israel among the Arabs, in his Kesef Mishnah commentary on Maimonides' Mishneh Torah, negated the rights of Arabs to be considered as *ger toshav* unless they accepted upon themselves the Seven Laws of Noah. Thus the halakhic authorities have given us room to further define this issue. May it be God's will that peace come soon, and that we will be able to reach the conclusions that are necessary by reason of philosophy, faith, and law.

Dr. Ze'ev Falk, alav ha-shalom, was born in 1923 and was raised in Germany, escaping hours after the Nazis knocked on his family door but miraculously walked away. He migrated to Israel and fought in the 1948 war, narrowly escaping death there as well. He served as legal advisor to the Ministry of Social Welfare and the Ministry of Interior, beginning a lifelong effort to improve the halakhic situation of women in Israel. Dr. Falk spent his later years as a professor at the Hebrew University of Jerusalem and the Seminary of Judaic Studies in Jerusalem. He edited *Siach Mesharim*: a Journal on Judaism, Religion, and State, and spoke around the world on issues of comparative law, religion and ethics. Author of a dozen books and numerous articles, his works include, *Law and Religion*; *Hebrew Law in Biblical Times*; *Jewish Matrimonial Law in the Middle Ages*; *Religious Law: Between Eternity and Change*; *Legal Ethics and Jewish Ethics: Towards a Philosophy of Halakha*; *An Introduction to the Laws of Israel in the Time of the Second Temple*; and *Jewish Law and Practice in the State of Israel*. On his deathbed, he received the first published copies of his last book, *Divre Torah Ad Tumam* (Torah Commentaries To the Very End). He is survived by his wife, two children, and several grandchildren.