

BAR-ILAN UNIVERSITY

**Religion, Society and the State in the
Halakhic Writings of R. Tzvi Pesach Frank**

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Abstract

Rabbi Tzvi Pesach Frank (Kovno 1873; Jerusalem 1960) served as the Chief Rabbi of Jerusalem from 1936 until his death in 1960. These were important years for the Jewish Yishuv; initially living under the British Mandate, and culminating with the establishment of the State of Israel.

During these years in which the spiritual character of the State of Israel was defined, Rabbi Frank's was a clear and distinct voice regarding many issues that concerned the public.

At first glance, it appears that his approach was complex, and at times even contradictory.

For example, he defined Israel's wars as *Milchemet Mitzvah* (a holy war), but refrained from allowing Yeshiva boys to be drafted to the IDF. Additionally, he considered the Balfour Declaration and the establishment of the State of Israel to be part of the redemption process, yet he was very active in preventing the secular-Zionist establishment from gaining control over Jews' lives in Israel. Finally, while he was close to Rabbi Abraham Isaac Kook and supported his halachic and ideological principles, he was also recognized as one of the leading Torah scholars of the anti-Zionist Old Yishuv, and was considered the top halachic authority among the Ultra Orthodox Eda Haredit rabbis.

The goal of this research is to outline and analyze Rabbi Frank's approach to the central factors that created the state's character upon its formation. This includes his approach to the agricultural workers, his approach to Israel's society during the ingathering of exiles, his approach to the ruling establishment, and more.

An attempt will be made to characterize his approach to these issues by examining specific test cases; seeing the various trends and comparing them to his opinions and to those of his generation.

The research method is primarily theoretical – studying Rabbi Frank's halachic rulings in order to understand if there is a theoretical layer that guides his rulings. This is in

addition to analyzing the rulings from a halachic point of view, and comparing them to rulings by other rabbis who'd discussed these issues. The halachic examination took place alongside an outlining of the historical background about which Rabbi Frank was writing.

Section 1: Life Stages

In the first section we will discuss Rabbi Frank's historical life stages. This is due to our understanding that the halachic responses he gave regarding public matters were based on ideological beliefs stemming from his personality.

In this chapter we will examine Rabbi Frank's public conduct from the historical aspect, and learn that his personality contained various combinations that appear contradictory at times.

The first such combination began when he was still living at his parents' home and in the surroundings where he was raised. At that time, they combined the in-depth theoretical learning with the learning of *Mussar* according to Rabbi Yisrael Salanter's *Beit Midrash* (study hall). In this way they combined the Torah study of the Lithuanian Yeshivas with Zionist ideology.

This combination between Torah study and the idea of settling the Land and building it, eventually brought Rabbi Frank, during his life in Israel, to recognize the need to create a connection between Torah scholars from the Old Yishuv and agricultural workers from the New Yishuv.

This recognition made him challenge and oppose different trends led by elderly rabbis from the Old Yishuv. Thus Rabbi Abraham Isaac Kook was appointed the Chief Rabbi of Jerusalem and of Mandatory-Israel, and Rabbi Frank supported his ideological positions regarding the Jewish agricultural workers and the country's state rabbinate.

The need to combine between the Jewish halachic position and its implementation in practice – in the state and its institutions, was Rabbi Frank's goal and purpose. He wanted the state's institutions to conduct themselves according to the Torah's laws. When these were not implemented by the state's leaders, Rabbi Frank thought it correct to admonish

them, sometimes harshly. However, these remarks did not show a lack of recognition or a retreat from his position that saw the in the establishment of the State of Israel "*reshit tzmihat geulatenu*" (the beginning of our redemption). In fact, it was because he perceived the state to be part of the Divine redemption process that he felt he could express his opinions regarding the establishment and the state's institutions' conduct.

Further on we will focus on various halachic issues in which Rabbi Frank's halachic stance is clear regarding important issues during the formation of the state. This was all part of Israel determining its spiritual character.

Section 2: Hilkhhot Medina or Laws of State

In the second section we will focus on halachic issues in which the common denominator is Rabbi Frank's approach to the state and its institutions.

In this chapter we will examine five halachic issues that provoked a halachic discussion in the first years of the state, as part of the changes caused by the ingathering of the exiles to the land of Israel.

We will look beyond the halachic discussion of these issues, and examine the ideological considerations at the base of the halachic discussion – those of Rabbi Frank, as well as the considerations of those opposed to him.

This section is divided into four chapters:

In **chapter 1**, 'The Abandoned Property – Between Halacha and Diplomacy', we dealt with the status of the abandoned property that the Arabs left behind in the War of Independence. The state declared this property to be absentee assets and left it in their ownership. Regarding the halachic status of this property, then-chief rabbi Rabbi Uziel and Rabbi Frank held conflicting views.

In this paper we analyze their halachic disagreement in two different ways. We conclude that their disagreement stemmed from their different approaches toward the halachic reality and the diplomatic conduct of the state's institutions.

According to Rabbi Frank, when there is a contradiction between the government's diplomatic declarations and the halachic reality – the deciding factor must be the Halacha.

Therefore, Rabbi Frank determined that the state's institutions have to be subservient to the Torah's laws and must implement them. If a contradiction between the halachic reality and the government's conduct should be revealed, the halachic ruling stood before his eyes – not the government's diplomacy.

In **chapter 2** – 'Custom, Society and Community', we analyze three halachic issues in which the common denominator was Rabbi Frank's approach toward the communities becoming united in Israel during the ingathering of exiles.

With the ingathering of exiles, the question arose regarding the relationship between the community and the individual. In other words, between preserving their ancient customs or uniting into one big community.

This dilemma can be seen throughout various halachic disagreements in which Rabbi Frank voiced his opinion, such as the question of changing the pronunciation in prayer, and the question of unifying or separating the *shechita* (kosher slaughter) customs. There were those who argued that we should unite between all the various congregations after coming to Israel. By deciding on one custom for everyone, they felt that we would be expressing our unity after two thousand years of exile.

This utopian view was not shared by Rabbi Frank. He followed Rabbi Abraham Isaac Kook's path in this matter, and argued that there is a halachic problem in changing from the customs of one's father, i.e. in changing the pronunciation in prayer and uniting the *shechita*. Instead, he believed that each and every congregation should preserve their different customs.

The third issue was the joining of the Karaites to the Jewish nation. Rabbi Frank wished to separate this issue from the question of timing involved – the unification process of the communities in Israel. According to him, despite the government gathering the remnants of Israel, including the Karaite community, this was not sufficient justification to make them part of the Jewish nation.

His attitude toward the state was complex: one must influence it, as a partner would, if the state conducts itself like a large Jewish community; however, one must accept the laws of a sovereign state and its government institutions with reservations – and then only if they are according to Halacha.

Therefore, importance was placed upon the Jewish communities keeping their fathers' customs during the ingathering. However, one must not view the decision of the sovereign Israeli government in charge of the ingathering as an instrument of the congregations that issued forth from the nation of Israel.

In **chapter 3**, 'The Hebrew Tongue – Between Judaism and Nationality', we examine Rabbi Frank's approach to the Hebrew language through his halachic responses on this topic.

In this paper we reveal that Rabbi Frank's continued attitude toward society and state was the same as that we previously saw. He was not opposed to the idea of sovereignty in the land of Israel, but stipulated it with the government institutions conducting themselves according to Halacha.

Likewise, regarding the revival of the Hebrew language – the Hebrew language carries with it nationalistic characteristics, but it is unique in the fact that it highlights the difference between the Jewish people and other nations. Therefore, as long as the revival was done according to Halacha, it was a positive thing.

In **chapter 4**, 'Military Service', we examine Rabbi Frank's halachic attitude toward military service. At the basis of this discussion is the definition with which Rabbi Frank agreed, that Israel's wars, and especially the War of Independence, are *milchemot mitzvah* and everyone needs to contribute to the war effort. On the other hand, Rabbi Frank refused to send the Yeshiva students to war since he feared their secularization and believed that the army did not maintain halachic standards. Thus, Rabbi Frank weighed the individual's consideration to keep his religious way of life, as well as the sovereign state's consideration to be responsible for all that is done within its borders allowing it to decide to draft the Yeshiva students.

Section 3: Torat HaShmita

As part of the return of the nation of Israel to its land, questions arose regarding the mitzvot dependent upon the land. In accordance to the needs of the New Yishuv, the people of the kibbutzim and moshavim, Rabbi Frank established a Beit Midrash to learn these Halachas. This, too, showed his approach of connecting Torah scholars with the agricultural workers and the builders of the land.

This section is divided into two chapters that deal with the *shmita* issue – the *Heiter Mechira* (sale permit) and the permit to work the land via *Gramma* (working the land indirectly).

In these two chapters we examine Rabbi Frank's halachic approach versus Rabbi Abraham Isaiah Karlitz's, the Hazon Ish, who spearheaded the halachic campaign against implementing the *Heiter Mechira*.

We examine the halachic responses of these two figures, and those of additional rabbis who expressed their opinion on these issues. Finally, we categorize the process of Rabbi Frank's halachic rulings.

In these two issues we see the same central motives that figured in previous sections and chapters in Rabbi Frank's halachic approach. One such motive was the combination of Torah with building the land. This was shown in Rabbi Frank's taking responsibility for the actions of kibbutzim and moshavim. Initially, he gave them halachic guidance and later on he found halachic solutions for different situations. Another motive was suiting the Halacha to the changing reality in Israel. A third was his desire to create the state's spiritual identity, and more.

To **summarize**, Rabbi Frank was first and foremost an arbiter of Jewish law, but there is no doubt that his rulings were based upon an ideology and considerations deeply rooted within his person.

It is true that there is usually not any mention of this in his halachic answers, especially in his responses regarding the *shmita* issue which have been edited, sometimes in a

selective fashion. However, in this research one can see the close connection between the discussion and the halachic response, and between the considerations that brought Rabbi Frank to his halachic conclusions.