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BENJAMIN AKZIN — *IN MEMORIAM*

Seven years ago the ISRAEL LAW REVIEW dedicated a special issue to Professor Benjamin Akzin, "as a token of our admiration and esteem, and in recognition of his unique contribution". At that time the Chairman of the Editorial Board wrote: "The ISRAEL LAW REVIEW owes its very existence to the vision and initiative of Benjamin Akzin". It is with deep sorrow that we inform our readers of the death of Prof. Akzin. Following is the eulogy delivered by Professor Izhak England, Dean of the Faculty of Law at the Hebrew University of Jerusalem, at the memorial gathering held at the Faculty on May 16, 1985.

We honour today the memory of Professor Benjamin Akzin, a founding member of the Faculty of Law of the Hebrew University of Jerusalem, and of its Political Science Department, and one of the founders of Haifa University.

Professor Akzin was an outstanding scholar and a man of vision, with a distinguished Zionist record. Born in Riga, he studied in various academic institutions and obtained three doctorates: a doctorate in political science from Vienna, and doctorates in law from the Universities of Paris and Harvard. He taught in the world's greatest universities and his scientific work was important and far-ranging: 12 books and more than a hundred articles, which gained him the Israel Prize in 1967.¹

Professor Akzin was deeply involved in public life, and his articles addressed to the wider public were notable for their high standard and their wisdom in the ways of practical politics. Indeed, his own personality was a remarkable combination of the theoretical and the practical. Professor Akzin

¹ For a detailed bibliography of Prof. Akzin's publications see (1978) 13 Is. L.R. 131.

was a forceful man who knew how to stand by his principles, but those close to him were also aware of his sensitivity and consideration for others.

Each man is a world in himself, and all the more so a man of Professor Akzin's stature. It is impossible, therefore, to do justice to the whole of his character and his special gifts in a few words. I wish to confine myself to a few personal remarks, based on my own experiences in connection with Benjamin Akzin and his scientific activities, which came to my mind on hearing the sad news of his death.

I remember my first lesson with Benjamin Akzin, in my first year of legal studies in the Ratisbonne Monastery where the Faculty was housed in the early fifties. I can still see him exactly as he was, seated before a hall crammed with students, and I can still hear his characteristic voice and remember his very words in a course on comparative government. It was a fascinating lecture, which still leaves the waves of laughter ringing in my ears with which the students responded in kind to the lecturer's somewhat barbed remarks on the facts of political and academic life.

Benjamin Akzin had the most refined sense of irony. He was familiar with the ways of the world and the weaknesses of its leaders. He knew the unvarnished truth and in his lessons tried to pass this knowledge on to us. I believe that what Professor Akzin was striving to achieve was awareness of the plain truth in a field of science where failure to distinguish between ideology and reality has led many to pursue illusions. Professor Akzin had his disappointments, but he never had illusions.

I remember Benjamin Akzin as a senior colleague in faculty meetings. I was deeply impressed by his practical wisdom—he always found the saving formula which ironed out difficulties and settled differences of opinion. After his retirement, his absence was felt in the life of the Faculty.

On the occasion of his retirement in 1970, his parting remarks struck, as usual, a practical and a personal note. These are his words: "Some of those who today are members of the Faculty were my pupils, and to them especially I wish to extend my good wishes. It always gave me great pleasure whenever I was in a position to further your advance up the academic ladder, and I would ask of you that you act in the same spirit when the time comes to discuss the fate of the best pupils, who have chosen the path of research and teaching. In this respect the University has taken a strange turn, fearing to grant promotion at a reasonable pace. While in universities abroad a certain liberalization has begun in this respect, the Hebrew University retains an old-fashioned approach". These remarks are, I am afraid, still relevant today.

In the scientific field, most of Professor Akzin's works are outside the realm of my expertise. I should like, however, to mention one aspect of his

research in which I found a particular interest, namely his comments on the theory of Kelsen. Benjamin Akzin was one of Kelsen's outstanding pupils and, I believe, was actually Kelsen's assistant for some time. He was certainly influenced by Kelsen at the outset of his career and remained an admirer all his life. In his article in honour of Kelsen, "Analysis of State and Law Structure",² Benjamin Akzin adds a number of important elements to the latter's "Pure Theory" and to an understanding of the pyramid of norms:

The pure theory of law gives us but a partial, incomplete view of the phenomena in question. According to Kelsen, this incompleteness is the price we must pay for methodological consistency. This may be so, but it leaves open the question whether the price is not too high if it carries the danger that a part-picture will be mistaken for the whole... To borrow a simile from physics, it is as if a man looked at a multicoloured landscape through coloured glass that filters out all hues but one—the landscape will appear to him in one colour. This is restful on the eyes and may be useful for certain purposes, but only as long as our observer does not mistake this monotony for reality. In our case, the one colour refracted is the colour, so to speak, of the normative nexus linking individual features to the system of positive legal norms; the colours filtered out are those of other normative systems, of causal and motivational connections closer together by dint of a synthesis-oriented scholarly effort, and we would not wonder if the neologism of the "behavioural approach", hitherto applied somewhat haphazardly to a variety of attitudes, would not in the end provide an appropriate semantic cover-all for this synthetic approach—a kind of a "united field theory" of the disciplines dealing with human behaviour in society.

This comprehensive view, which is not prepared to disregard practical aspects for the sake of theoretical consistency, is Benjamin Akzin's great contribution; one on which he acted in his lifetime and on which he based his research, and one of whose fruits was his last book, *The Principles of International Politics*.³

May he rest in peace and may his memory be blessed. תנצב"ה

² Published in *Law, State and International Legal Order: Essays in Honour of Hans Kelsen*, Salo Engel (ed.), (Knoxville, U. of Tennessee Press, 1964) 1–20.

³ B. Akzin, *Y'sodot Hamedinaut Habeinle'umit* (Academon Publishing House, Jerusalem, 1984, in Hebrew). The book was reviewed by Prof. Ruth Lapidot in (1984) 19 Is. L.R. 284.

A TRIBUTE TO BENJAMIN AKZIN

These few lines will deal with only one aspect of the late Benjamin Akzin—his scientific work. This, after all, is what remains outstanding after one or two generations.

Prof. Akzin's scientific work is, from every point of view, very impressive and original and in order to appreciate it fully one must first outline its various stages. These stages may be understood against the background which represents the destiny of the Jewish Eastern-European intellectual between the two wars. The various geographical poles of his life also shed some light on his work: Vienna, Paris and Boston (Harvard). Very few indeed may boast of such an education, one which implies not only the ability to express oneself perfectly in at least six languages, both orally and in writing, but also to know from within the intellectual life and legal systems of such widely differing countries as Austria, France and the United States. One must add to this the knowledge of Russian, Yiddish and Hebrew.

One is well aware of the effects of this inter-war period on an East-European intellectual. During these years Akzin began to be interested in certain questions which were to become central in his later work: mainly the *minorities* problem (of great importance at that time), the definition of *nationality* (in this respect Akzin's contribution to the classic work on the sociology of nationality, published in Paris in 1933, is outstanding), and the *Jewish question*.

During this period Akzin had hardly started to show his greatness: he was not yet involved in an academic career at a university. This did not happen until 1949 when the Faculty of Law at the Hebrew University was established. However, from that moment on his work grew continuously and he became internationally renowned. He also never stopped writing and if, in 1978, the *Israel Law Review* could publish a bibliography of his works which included 11 books and 115 scientific articles, after his death one would have to add several dozen titles, including several books. His work covers a great number of disciplines for he was not only a great jurist, but also excelled in the field of political science (of which he was one of the founders in Israel) and in international relations (his last work dealt with this field).

In the law Akzin made a decisive contribution. One must remember that just after the establishment of the new State of Israel it was necessary to

lay the foundations of a new theory of public law which should be clear, precise and flexible. Akzin set himself this task together with some others: everything had to be done from the beginning — from the creation of a legal terminology in Hebrew to the definition of concepts. In addition, the establishment of legal reasoning in a clear presentation; it is well known that the rich English legal theory which, at the time, predominated in the country, is not noted for its clarity, neither in its statement nor in its substance. One must read several of Akzin's articles in order to understand his fundamental contribution; we will refer to one which, in our opinion, can serve as a model — the article published in Hebrew in 1954 which dealt with the *Bialer* decision of the Supreme Court. There are two reasons for the importance of this piece; first, it was sensational at the time since it was the first instance that the University took the liberty of criticizing the holiest of the holy, the Supreme Court. (It must be remembered that the Faculty of Law was only five years old.) Secondly, in his analysis of the decision, Akzin combined both the theoretical and the practical approach. He did not limit himself to the "pure theory of law" point of view (and we must remember that he was a pupil of Kelsen), but also discussed the practical consequences of the attitude taken by the Supreme Court, in a matter where the later accumulation of errors has clearly shown how well-founded his criticism was.

Akzin pursued and developed his contribution to the science of law. He was always the first to underline the most intricate problems; as early as 1956 he devoted an article to the problem of codification, and his 1961 article on Rigid Basic Laws was the first to deal with the subject and it was only after its publication that for many years the matter was discussed in other legal writings. In 1962 he wrote a remarkable article on the legal aspects of the Declaration of Independence. When the decision in *Bergman v. Minister of Finance* was handed down in 1969, Akzin did not hesitate to criticize the Supreme Court, mainly for having disregarded legal literature; who, other than Akzin, would have been bold enough to do so? One should not forget the major role Akzin played in the creation of this Review in 1966. In a sense, it was "his baby". Akzin understood the role that the Review should play in the diffusion of Israeli legal science, and his belief in the Review aided its success.

In addition, there is, of course, his immense work in political science. Here too, Akzin was an innovator and his analysis of political parties (in 1953 and 1955) is a model of this area of his work. He applied concepts similar to those that Maurice Duverger seems to have proposed at the same period in his work on *Political Parties*. Akzin later returned to certain subjects which he had already outlined in the 1930s and published an

outstanding work which also serves as a model, *State and Nation* (which was translated into Spanish and Hebrew). His major work on the *Theory of Political Regimes* has been a guide to generations of students both of law and political science in this country and will certainly continue to be a reference work for a long time to come. Akzin's last book (in Hebrew) was devoted to the *Principles of International Politics* and was reviewed by Prof. Ruth Lapidot in (1984) 19 Is. L.R. 284. It is, and will remain, a remarkable working tool for students of international relations as it is the synthesis of a lifetime devoted to the most fascinating area of international politics.

This tribute is not intended to be a summary of Benjamin Akzin's work but rather an outline of something much more than a list of publications—a real intellectual masterpiece, produced during a whole life, rich in thought and experience, one which will continue to inspire us for a long time.

Claude Klein