4. David Hartman, *A Living Covenant: The Innovative Spirit in Traditional Judaism*

David Hartman, *A Living Covenant: The Innovative Spirit in Traditional Judaism*, Woodstock: Jewish Lights Publishing, 1985

Rabbi Dr. David Hartman (1931–2013) was the Founding President of the Shalom Hartman Institute in Jerusalem and also served as Professor of Jewish Thought at Hebrew University.

This book attempts to characterize Judaism in terms of a covenantal anthropology that encourages human initiative and freedom and that is predicated on belief in human adequacy. I argue that a covenantal vision of life, with *mitzvah* (divine commandment) as the central organizing principle in the relationship between Jews and God, liberates both the intellect and the moral will. I seek to show that a tradition mediated by the Sinai covenant can encourage the development of a human being who is not afraid to assume responsibility for the ongoing drama of Jewish history. Passive resignation is seen not to be an essential trait of one whose relationship to God is mediated by the hearing of *mitzvot*. (3)

I argue strongly for the significance of Jewish particularity, not for its uniqueness. The covenantal election of Israel at Sinai, which is a central theme in this work, should not be understood as implying a metaphysical claim regarding the ontological uniqueness of the Jewish people. I do not subscribe to the view that a serious commitment to the God of Israel and Torah requires one to believe that the Jewish people mediate the only authentic way for the worship of God. I make no claims regarding all the non-Judaic ways of giving meaning and significance to human life. The range of my philosophizing about Judaism does not go beyond the range of my limited, particular experience as a Jew. Judaism does not provide me with an anchor point beyond a particular community and its history. The Jewish tradition and the Jewish people mediate for me the dignity and humility that comes from the full acceptance of particularity and human limitation. I only explicate a way in which the tradition can encourage a spiritual direction through its emphasis on the covenantal relationship of Israel with God. (3–4)

The breakdown of halakhic authority, the loss of a shared value framework for translating our historical consciousness into present day experiences, is one of the most significant challenges to which Jewish philosophical thought must address itself in the modern world. Can Jewish monotheism admit the legitimacy of religious pluralism? Can covenantal Judaism accommodate the various options through which Jews have chosen to give meaning to their existence?

My book does not attempt to work out the way in which ethics can control halakhic development, nor does it try to establish the limits of tolerance and pluralism. Nevertheless, it provides a framework and a religious sensibility from which to begin to chart a new direction for Judaism so that it might become a living possibility for a Jew who takes the modern world with radical seriousness.

Pluralism requires an epistemological framework that limits the claims of revelation. It requires a political philosophy in which the unity of God does not imply one universal way for all humankind. However, before epistemological and political theory can chart new directions for Judaism, we need a conceptual framework in which covenantal consciousness is permeated by a religious sensibility that celebrates finitude and creatureliness as permanent features of a covenantal life. A human sensibility that is open to and appreciative of the possibilities of pluralism is the foundation from which one can build a new epistemological understanding of revelation and *halakhah*. (17–18)

The Zionist quest for normalcy should free the Jewish people of any myth about the unique moral and spiritual powers of the Jewish soul. In taking upon ourselves responsibility for a total society, we must allow ourselves to be judged by the same standards as we have judged others. The Torah challenges us to becomes a holy people. It does not tell us that we are immune from the moral weaknesses and failures that affect every human being. The Jewish nation is not free from the same potential corruptions that affect any human community that has taken upon itself the bold challenge of living with power. Our newly gained sense of belonging and power enables us to look critically and honestly both at ourselves and at the halakhic tradition without the apologetic stance so characteristic of a community that saw itself as a persecuted and vulnerable minority. A community that feels dignified and secure in its identity and place in the world can allow itself the mature activity of honest critical self-appraisal.

To the degree that we can look at ourselves in a non-apologetic light, to that degree will we demonstrate our liberation from an exilic consciousness

that is fundamentally timid, frightened, and outer-directed. We are free now to ask what we think of ourselves without being overly concerned with the way others will listen and respond to our agonizing self-appraisal. Because of our "role" as the suffering stranger in history, many have perceived the Jew as the moral conscience and critic of social and political injustice. In building the third Jewish commonwealth, our role must shift from the moral criticism of others to self-judgement. In coming home, the task before us is to clean up our own house. (296–297)

COMMENTARY BY DAVID ELLENSON

In *A Living Covenant*, David Hartman offered a picture of a living covenantal Judaism embedded in both the Jewish textual tradition and the reality of the land and people of Israel. In presenting this portrait of Judaism, Hartman rejected a notion of religion that distinguishes between law and spirit. Instead, he contended that an authentic Judaism incorporated both these elements.

To fully grasp the character of his thought, it is crucial to note that Hartman, like Martin Buber before him, insisted in *A Living Covenant* as well as his later writings that "genuine religiosity" requires "doing." However, in strong opposition to Buber, he completely rejected the notion that a commitment to Jewish law "damns" the Jews' "demand for freedom" and "degenerates into hairsplitting casuistry" that "enslaves religiosity."[1] Rather, he maintained that the values and beliefs that undergird Judaism are manifest in a "living covenant" that is concretized through a vibrant interpretive legal tradition. Hartman argued that Jewish law was capable of engagement with the modern world in a manner that is both faithful to the past and germane to the present, and he drew upon social, political, and religious categories of Western thought to present a spiritual-ethical vision of Judaism that called upon the Jewish people located in the State of Israel as well as in the Diaspora to manifest that vision and the values that flow from it in real life. His was a corporeal Judaism devoted to a commitment to all elements of traditional Jewish faith—God, Torah, and Israel.

Hartman strove mightily in *A Living Covenant* to articulate how the Jewish law might be approached so that an application of its resources could provide Jews appropriate and authentic guidance for the novel holistic venue created by the establishment of the third Jewish commonwealth. In order to do this, Hartman turned to the sobriety that marks the processes of the rabbinic tradition,

1 Martin Buber, *On Judaism* (New York: Schocken Books, 1967), 91–93.

particularly as that tradition finds expression in the writings of the great medieval philosopher Maimonides and other rabbinic teachers. From this rabbinic tradition, Hartman learned that God is not primarily discovered—as the Bible alone would have it—in the immediacy of personal encounter and experience. Instead, asserted Hartman, "From my many years of Talmud study, I learned that one can sense the living God of revelation … in the writings of any committed and learned covenantal teacher" (9).

Hartman called upon modern Jewish teachers to master the texts written by these past savants. He also challenged contemporary students of the Law to have the courage to assert their own authority by displaying the confidence past generations of rabbis did when they applied such textual mastery in new ways to meet the challenges of ever-changing situations. Hartman emphasized the authenticity and creativity he believed inherent in this process when he wrote:

> The Talmud contradicts the idea that "later" means "spiritually inferior" when it insists that the rabbinic sage is superior to the prophet. To accord the Talmud equal status with the Bible is to augment revelation not merely with a particular body of literature or school of teachers but with a method of interpretation that emphasizes the open-ended possibilities of learning from the received word. The covenant as reflected in the creative talmudic style of interpretation enables Jews to feel free to apply their own human reason to the understanding and application of the Torah. (9)

Maimonides, Hartman contended, properly understood all this, and Hartman asserted "that the covenant with the Jewish tradition was made for the sake of the oral tradition." The epistemological posture subsumed in this stance granted Hartman the license to maintain confidently that Judaism accords a rabbinic tradition of interpretation "the central place" in Judaism, and that such tradition is mediated through human understandings and discussions. On this basis, Hartman was able to state, "I philosophize within a tradition in which human teachers mediate my covenantal relationship with the God of Israel" (10).

By making this declaration, Hartman revealed his preference for what he long argued is a Maimonidean naturalistic approach to Jewish tradition that focuses upon the role that human agents play in establishing the parameters and demands of the covenant through the processes of rational legal interpretation. Some Orthodox colleagues were sharply critical of what they regarded as

the anthropocentrism of this stance.[2] However, Hartman himself defended this position as true to the tradition and even contended that his own posture on this question was true to the legacy of his teacher Rabbi Joseph Soloveitchik.[3]

Nevertheless, Hartman recognized that this attitude stands in sharp contrast to another trajectory in Jewish tradition, one that Hartman identified with the Bible and the teachings of Judah Halevi. Both the Bible and Halevi, as Hartman viewed them, eschew a focus on the legal tradition. Instead, they focused upon an unmediated sense of God's immediacy which they believed resides at the heart of Judaism. In reflecting his preference in *A Living Covenant* for the mediation of the present in rabbinic tradition, Hartman not only built upon his previous work as expressed in books such as *Maimonides and the Philosophic Quest* (1977). He also foreshadowed a linchpin in the larger argument he would ultimately advance in his *A Heart of Many Rooms* (1999) and *Israelis and the Jewish Tradition* (2000) as well as other works.

The identification of these two poles of Jewish tradition as represented by Maimonides and Halevi also facilitated and supported Hartman's contention that Judaism is not monolithic but pluralistic. The polyvocality of Maimonides and Halevi provided him with an intellectual foundation to maintain that an examination of Jewish religious history legitimates pluralism. Consequently, Hartman was completely comfortable in candidly admitting that his own approach to Jewish tradition was selective. Indeed, he stated that his rendering of the tradition was totally "related to my philosophical concern to locate specific tendencies or possibilities within the rabbinic tradition that could be supportive of a covenantal religious anthropology capable of participating in the challenge of modernity" (13). Hartman made a persuasive case that Jewish tradition itself extends its blessing to this type of self-conscious and self-selective approach to Jewish law.

In arriving at this conclusion, Hartman underscored one of the major themes that long characterized his work. Throughout his lifetime, Hartman attempted to interpret and renew the Jewish legal tradition so as to demonstrate its vitality even in a modern setting where most Jews were so distant from this tradition that they neither resonated to its language nor found its holdings compelling. He argued that this was because so many teachers of rabbinic Judaism

2 For example, see Daniel Landes, "A Vision of Finitude: David Hartman's 'A Living Covenant,'" *Tikkun* 1, no. 2 (1986): 106–111, for a representative Orthodox critique of this type.

3 See Hartman's response to Landes in David Hartman and Daniel Landes, "Current Debate: Human Autonomy and Divine Providence," *Tikkun* 2, no. 1 (1986): 121–126, as well as *A Living Covenant*, *passim*.

neglected to emphasize its interpretive tropes that place the human decisor at the center.

As a result, it is hardly surprising to find this theme of rational human response to the words of the living God as found in Jewish legal texts articulated so intensely in the pages of *A Living Covenant*. Indeed, Hartman eloquently and passionately summarized his position when he wrote, "The living word of God can be mediated through the application of human reason … to the revealed norms of Torah. This is the essence of the dialectical vitality of talmudic Judaism" (40). From narratives contained in the Talmud itself, Hartman found support for this posture. He maintained that the tradition itself teaches that the rabbi "is competent to introduce new legislation defining how the community is to behave. … The intellectual mastery of the word of God … is all the scholar requires to understand and define how … the community of Israel … [is] to behave" (51).

For Hartman, halakhic interpretation is an act of creative decision, not simply an uncovering of what is already there, for the text is always open to a number of meanings. Hartman would develop this point at greater length in *A Heart of Many Rooms*. However, it is enough to note that this argument already stood at the center of his concerns in *A Living Covenant*. He did not apologize for maintaining that rabbinic Judaism countenances the notion that an autonomous human moral sense can play a legitimately seminal role in covenantal Judaism.

However, it was by wedding this concern to an emphasis upon the State of Israel as the major (though not exclusive) venue for the expression of this ethos that Hartman marked himself as unique among modern Jewish thinkers. By lavishing his attention upon the State of Israel in *A Living Covenant*, Hartman developed a theme that while present, was more muted in his earlier writings.[4] In linking his emphasis upon Jewish law to the theological significance of the Jewish state in his 1985 book, Hartman heralded a new emphasis in his thought. He contended that the State of Israel now constituted the necessary precondition for the full realization of the Covenant inasmuch as only Israeli Jews were fully responsible for the homes they would build and the institutions they would construct.

This focus on the connection between a covenantal life grounded in Halakhah and the primary import accorded the Jewish state as the major

4 Moshe Sokol, "David Hartman," in *Interpreters of Judaism in the Late Twentieth Century*, ed. Steven T. Katz (Washington, D.C.: B'nai B'rith Books, 1993), 91–112, has pointed this out in his fine essay.

though not sole locus for its expression surely distinguished Hartman even at this juncture in his career from other Jewish thinkers with whom he was then identified.[5] While elements of his thought surely overlapped with ideals put forth by prominent Jewish thinkers such as Eugene B. Borowitz and Irving Greenberg, the differences between Hartman and these men were and are surely pronounced as well. His was not a covenantal theology that looked to the Holocaust as Greenberg did for direction, nor did he fail to accord preeminence to the richness of a living Jewish legal tradition or the centrality of an ever responsive and evolving Jewish state, themes that distinguished him from Borowitz. Indeed, his dual emphasis upon both a vital Jewish law and a vibrant Jewish state grant Hartman a unique position among the pantheon of contemporary Jewish thinkers. This singular posture characterized Hartman in *A Living Covenant*, and foreshadowed positions he would develop even further in his later thought. These insights from the pen of an Orthodox rabbi constituted a signal contribution to a modern philosophy of Jewish law as well as a significant gift to modern Jewish thought.

5 For such connections between Hartman and other prominent Jewish thinkers, see David Singer, "The New Orthodox Theology," *Modern Judaism* 9, no. 1 (1989): 35–54.