

You Shall Live by Them: Ancient Dynamics and Modern Judaism¹

Bradley S. Artson

The history and wisdom of Jewish traditions and viewpoints can complement and challenge contemporary Western values. The perspectives of the Torah, the Mishnah, the Talmuds and other Jewish writings embody the views of a very disparate group of people, linked by their shared identification as Jews, a common and growing body of sacred literature, and a desire to incorporate God's will into their daily and societal actions.

Seeking God's will is a notoriously ambiguous exercise; it is difficult to understand how to employ a Heritage to address contemporary needs. This essay cannot provide a comprehensive or final consideration of how to use Judaism to live meaningful contemporary lives; that effort requires more extensive attention. However, it can outline a general approach. Before we can establish precisely what Judaism says about issues of social justice, personal morality, and holiness, we must first determine how a four-thousand year old collection of traditions can speak at all. How may we use the past to understand the present more fully? Does Judaism speak with one voice or with many? Does it say now what it has always said? And how does the perspective of the viewer affect the material being viewed? This essay is intended to suggest a fruitful approach to the issue of how modern Jews can utilize Jewish traditions to challenge and elevate their religious, societal, and ethical needs.

The view presented here builds on the investigations of many predecessors, most notably Zacharias Frankel, Solomon Schechter, and Mordecai Kaplan. To summarize their positions, these three men understood Judaism as developing within a historical process, rather than as the result of a single Divine verbal revelation. They viewed the community of Jews ("*catholic Israel*" was Schechter's phrase) as the ultimate mediator of Jewish law and custom and believed that God communicated (and continues

BRADLEY SHAVIT ARTSON is a rabbinical student at the Jewish Theological Seminary and was the OMETZ Coordinator from 1984-1986.

to communicate) through the voice of the community and through historical developments. As Frankel expressed the idea, Judaism today

affirms both the divine value and historical basis of Judaism, and, therefore, believes that by introducing some changes it may achieve some agreement with the concepts and conditions of the time. . . . Moderate changes . . . must come from the people and . . . the will of the entire community must decide.²

Kaplan's addition to Frankel's concept of community was that Judaism was never merely a religion or a set of beliefs, but a religious civilization, with all the richness that such a term implies.

The understanding of Judaism which follows proceeds from the accomplishments of these three giants.

What we have inherited from the past is a body of literature and a set of memories which form an integrated unit only in retrospect. Looking from the present into the past, we can select those parts of the larger Heritage we wish to retain, those aspects of the past which still speak to us, and which command through their moral vision or their spiritual force. Contemporary communities have made these decisions to guide their understanding of what in the past has lasting significance.

Looking backwards and creating a subjective relationship to the Jewish past is how we construct a "tradition." Each community chooses, either implicitly or explicitly, which aspects of the past to emphasize, retain, and develop. Traditions involve choices of lifestyle, community, and also ideology. Looking back at the multiplicity of Jewish views, writings, and opinions, we can today assert a thematic unity by selecting those parts of the past which we as a community wish to emphasize. But from the point of view of history, looking forward from the earliest times, the unity of Jewish perceptions and writings is so loose as to have little meaning. To denote that inclusive unity I use the term "Heritage." The Jewish Heritage includes the total array of Jewish writings, thinkers, movements and experiences—whether or not they were incorporated within later Jewish communities. All strands of Jewish living, whether rejected or accepted, find their place within the Heritage—both Moses and Korah, Philo and Qumran, Pharisees and Sadducees, Karaites and Geonim, Maimonideans and mystics, Zionists and anti-Zionists as well as all modern communal Jewish expressions.

It should be quite apparent that this "Heritage," while containing a lot, signifies only a little. It provides the cultural gene pool from which traits and characteristics of contemporary understandings of Judaism may be built, but in itself it retains absolutely everything, and therefore highlights nothing. At the very most, one could claim that certain streams within the Heritage, because of the historical experiences of diverse Jewish communities, encompass a larger consensus than other streams. While Philo was indeed a prominent voice in the Alexandrian community, he was virtually unknown to other Jewish groups. At the other extreme, the Babylonian Talmud has been accorded a prominent place in the literature of almost

every subsequent Jewish community. Having played a larger role in a greater number of Jewish communities, the Babylonian Talmud may be called more prominent within the Jewish Heritage than the works of Philo. But in no way could one objectively deny a figure such as Philo a place, whether large or small, in the total Heritage of Jewish thought.

Of course, even developments as amorphous as a Heritage have some borders, some limits beyond which their purview does not extend. It is a relatively simple assertion that Isaiah is a part of the Heritage, but that Tom Paine or Lao Tze are not. Accordingly, then, the most fundamental characteristic of a work within the Jewish Heritage is that the author or authors must be Jewish. But this standard itself is insufficient. Alone, this criterion would make Samuelson's textbook on economics a part of the Heritage no less than the Talmud. A fuller understanding must recognize the role played by intention. Samuelson did not intend to speak specifically to Jews, nor did he intend to reflect on Jewish themes or concerns. Therefore, a second, more refined, characteristic of the Heritage is that the work must be intended to address a Jewish community and Jewish concerns. In this regard, it is possible to argue that Marx's writings are not contained within the Jewish Heritage, since he did not intend to speak either as a Jew or to Jews. On the other hand, since Spinoza was often motivated to write on issues which perplexed him *as a Jew* he was often in dialogue with that Jewish Heritage, if also often in dissent.

So we can assert two interdependent standards which define the extent of the Jewish Heritage: the first criterion is that the author be a Jew. The second equally essential standard is that the issue must be one which speaks specifically to a Jewish community—addressing its existential, religious, or social concerns.

It is possible, therefore, to speak of *the* Jewish Heritage. The Heritage does have limits beyond which it does not extend; it does form a conglomerate. But it is a unit with no *a priori* consistency of content. The Heritage is extremely broad, and it is important to remember just how inclusive that Heritage is. Indeed, it is essential that all elements of the Heritage be retained for study, research, and possible future revitalization. If "traditions" are subjective relationships between communities and aspects of the Heritage, then "the Heritage," as an entity, can be understood as the objective body of literature and thought which together comprise the richness of the entire range of Jewish expression and stand behind its numerous traditions.

Accordingly, the Heritage does not take a uniform stand on many issues. The variety of opinions found implicitly in the library we call the Hebrew Bible and explicitly throughout rabbinic literature present a multiplicity of opinions all of which claim equal legitimacy, although they do not all share equal prominence. That amorphous and beautiful Heritage contains many Jewish traditions. Each reveals not "the" Jewish opinion, but "a" Jewish opinion which was, in its time, one of many that was striving for acceptance as normative. Such a tradition may embody the writings of a single individual

(such as Maimonides) or a specific text (such as the Mishnah). Even that one individual or one text will often exhibit conflicting views. Nonetheless, it is possible to speak of, say, the tradition of the deuteronomic school,³ a corpus which exhibits a more-or-less consistent interpretation of Jewish history and presents a more-or-less consistent vision of Jewish theology. Each Jewish tradition emphasized and ignored different aspects of the Jewish Heritage, thereby making a statement of what the Heritage would *mean* for a particular Jewish community.

Using traditional language, we can see a similar distinction in the use of the term "Torah" as opposed to "the Torah." "Torah" refers to the grand sweep of Jewish literature and thought, comprising Jewish sources of knowledge. "The Torah," on the other hand, refers specifically to the first five books of the Hebrew Bible. It includes different traditions and itself became a tradition for later generations. "Torah" is not a book, or even a set of books, but an attitude, a recognition that there are many sources of learning and that all of those sources are, in some way, aspects of divine revelation similar to the Five Books. Torah is the Heritage—inclusive, unsystemic, unassimilable. The Torah is a tradition—usable, a product of selection from within the Heritage.⁴

Throughout Jewish history, the Judaism which was practiced reflected this selective process. Different communities of Jews responded to different parts of the Jewish Heritage (and to pressures and currents in the surrounding cultures as well), practicing some of its rituals and dropping others, sanctifying some texts while excluding others. The Babylonian Talmud provides at least three explicit examples of this process of converting Heritage into traditions. In the tractate Sanhedrin,⁵ certain rabbis discuss the "rebellious son" whose rebellion against his parents is to be punished by death. The biblical mandate for this penalty is explicit,⁶ yet the sages are clearly opposed to this requirement. So a good deal of the Talmud's discussion is devoted to limiting the effect of the law—women, adult men, and young boys are held to be excluded from this law by the use of the term "son." Then they limit the age even further until the entire period in which a boy could fit this category is no longer than three months. Finally they require that both parents act and look identical, that the son have rebelled against both of them and that both parents insist on bringing the boy to trial. This extensive discussion fills several pages of rabbinic discussion and argument. Finally, still not satisfied, the Talmud relates that "there has never been a rebellious and contemptuous son, and there never will be. Why was it written [in the Torah]? For study, so you may receive reward."⁷ According to this final understanding, the law was never intended for practice. Its sole purpose was to provide opportunity for study and discussion. The talmudic Sages go on to apply this same reasoning to two other biblical cases: the condemned city (an entire city of Jewish idolators)⁸ and a leprous house (which must be destroyed).⁹ Despite all three explicit biblical requirements, the rabbis choose to ignore their legal implications, and treated all three as pure subjects for study. What was commanded

action in the Torah was transformed by rabbinic tradition into meritorious study.

Thus one form of Jewish practice gave way to others. So, for instance, the varieties of Judaism practiced in biblical times gave way to the different groups of the Second Temple period (the Essenes, Pharisees, and Sadducees, to name a few). These groups in turn gave way to different forms of rabbinic Judaism. In discussing the phenomenon by which the Mishnah recast the basic lines of the religion of the Jewish people, Jacob Neusner observes that

the philosophers of the Mishnah conceded to Scripture the highest authority. At the same time what they chose to hear, within the authoritative statement of Scripture, would in the end form a statement of its own. To state matters simply: all of Scripture was authoritative. But only some of Scripture was found to be relevant.¹⁰

This ability to read selectively and subjectively within a Heritage is, I presume, a universal cultural reality. It is certainly a constant within Jewish practice. Not only the framers of the Mishnah, but the compilers of the Talmud and later thinkers also selected from within the Heritage those aspects which spoke to them. The "authoritative" Heritage provided the background and range from which the "relevant" traditions would be chosen and constructed. This process of selection does not deny the larger range of valid Jewish options, nor does it permit apologetic reconstructions which project current liberal (or not-so-liberal) values onto an ancient past. On the contrary, the distinction between the objective Heritage and subjective traditions is intended to force an honest confrontation with the full range of Jewish writings. Contemporary communities are all engaged in mining the Heritage for aspects of the past which can challenge or instruct them. But as people coalesce into communities around shared aspects of the Heritage (in other words, as they form a tradition), the Heritage still remains undiminished in its fullness, its variety, and its authority. So long as no community pretends that their tradition exhausts the entire range presented by the Heritage, then the errors of either false apologetics or arrogant intolerance can be avoided.

The issue of inheritance for women provides a fine illustration of the view that whereas the Heritage is authoritative, only a community's tradition is relevant. The Torah states that "if a man dies without leaving a son, you shall transfer his property to his daughter,"¹¹ implying that if there is a surviving son, the daughter may not inherit at all. No other biblical text deals explicitly with this issue. Faced with a situation that appeared unjust, the rabbis reached elsewhere within the Heritage for "relevance." They established a *ketubbah banin dikhrin*, a contract which permitted a father to will property through a daughter. This bold move required some justification: the Talmud asks: "Since God said that a son shall inherit and a daughter not, would the rabbis rule that a daughter shall inherit?"¹² Rather than permit the retention of this rule, the rabbis selected a verse which

appears to have nothing to do with the topic at hand: "Take wives and beget sons and daughters; and take wives for your sons, and give your daughters to husbands."¹³ They held that a father was obligated to see that his daughter could marry and that a man would not want to marry a penniless woman. So in order to fulfill his obligation toward his daughter, a father was permitted to include her in the inheritance along with his sons. Here the mechanism is clear: the Heritage includes the entire body of Jewish literature, both the texts which clearly address the issue of inheritance and those which do not. It is up to the current generation, the readers of the texts, to select those passages which they view as relevant. Out of the formless Heritage, they shape their own traditions.

Were our ancestors unaware of their own crucial role in the development of Jewish traditions? I think not, but it is possible that they felt they were merely following a pre-established path. In any case, that option is no longer available to us. The great revolution of modern thought is our awareness that we, ourselves, are part of a historic moment and subject to its trends of thought and emotion. Our critical self-awareness cannot be wished away or denied. We know that we are the products of a specific time and that the assumptions of our age will be reflected in our viewpoints, in the questions we bring to our Heritage and in the traditions we maintain and develop. We know that we are not a monolithic community, that in fact there are many differing Jewish communities, both in America and around the world. Each community struggles to determine which parts of our common Heritage will speak, and with what degree of force, within their own emerging traditions. What an Orthodox Jew from Israel sees when examining the Jewish past will be different from the perception of a Reform Jew in Ohio or a Conservative Jew in California. Each will approach the same undefined body of books and memories with different assumptions, priorities, questions—and answers. Each will observe and enlarge their own specific Jewish tradition out of the building blocks of the Jewish Heritage.

From all of this it will be apparent that Judaism does not, nor has it ever spoken with only a single voice. Additionally, the view of Judaism presented here, of many traditions with a single Heritage, implies that the perspective of the viewer is an essential element in the position which ultimately emerges. Judaism cannot be separated from Jews; there is no objective tradition outside of the opinions of individuals and communities.

With an understanding that the Heritage is authoritative but that traditions are the locus of relevance, it is inevitable that Jewish diversity becomes the norm. The diversity of opinions will naturally reflect the diverse nature of Jewish communities, both now and in the past. It also allows us to take our rightful place in that rich panoply of Jewish diversity as a legitimate and as a desirable Jewish viewpoint. We no longer need to continue to deny the legitimacy, the authenticity, or the existence of differing Jewish responses. We may—indeed must—continue to question their foresight, their morality, and their ability to provide meaning through a relationship

to Judaism. It is no longer sufficient to claim Jewish authenticity—one must embody the finest of Jewish morality and empathy as well.

The role of the community becomes apparent in yet another way. In determining which texts should be studied religiously, which are to be included in a living tradition, the community asserts its part in an ongoing Jewish quest for God. Jewish texts serve a dual function: they convey information *and* they form an opportunity for revelation. Other literary sources convey information or evoke emotion, yet Jews for millennia have asserted an additional role for their sacred writings. In the words of the Mishnah, “When ten people sit together and occupy themselves with the Torah, the Shekhinah abides among them.”¹⁴ Or, as Louis Finkelstein used to say, “When I pray, I speak to God; when I study, God speaks to me.” For religious Jews, Jewish texts are channels for conversation with God. They provide the structure for a metaphysical relationship between God and the Jews.

Using this approach to the Jewish past, the construction of a dynamic Jewish tradition on a particular issue serves as a challenge to our unexamined assumptions, as a guidepost for our future decision-making, and as an attempt to “converse” with God on the subject. To do so, it would be necessary first to review the wealth of material embedded within the Jewish Heritage and then to extract those perspectives and insights which represent the ethical and spiritual highpoints of previous Jewish sages *as it speaks to us*. This selection from the Heritage would in no way deny that Judaism is broad and multifaceted. On the contrary, it would recognize that the Jewish Heritage is too large, too all-inclusive to permit a relationship with its entirety. Constructing a tradition within the Heritage is the only possible way a group can live out values—we cannot act as both Karaites and Rabbanites, as both Sadducees and Lubavitchers. Different communities will—and should—construct different responses to the Jewish Heritage.

Only in this way can we develop Jewish positions that we are intellectually honest and ethically meaningful, admitting that there are aspects of the Jewish past (and present) which are frankly distasteful or repugnant while still insisting that much that is contained within the Heritage is profound and sublime. Not every thought ever conceived by every Jewish thinker needs to be synthesized into some later whole. Instead, if we build on what, by community consensus, appears *to us* to be the *best* of Jewish insights and the *best* of Jewish morality, insisting at the same time on utilizing the full range of tools and approaches of modern thought, we can hope to do for Judaism today what our ancestors did in their day—present to the world visions developed by communities seeking to embody and enact God’s will for a human society which is morally sensitive and spiritually rich.

NOTES

1. I would like to express my deep gratitude and affection to Professors Neil Gillman and Gordon Tucker, and to Rabbi Leonard Gordon, all of whom were kind enough to read this essay several times, to criticize and offer suggestions for its final form. Their wisdom and generosity have greatly added to whatever insight this article contains. Errors are exclusively my own.

2. Quoted in *The Jew in the Modern World*, eds. Paul R. Mendes-Flohr and Jehuda Reinharz, (New York: Oxford University Press, 1980), p. 175.

3. See "Deuteronomist History," in *The Interpreter's Dictionary of the Bible: Supplementary Volume* (Nashville: Abingdon Press, 1973), pp. 226-228.

4. The Torah is unique in that it forms the core of *all* later Jewish traditions, even those modern forms which rejected religion. It is such a pervasive tradition as to appear as a necessary element of any subsequent tradition. It is, thus far, at least, impossible to address issues of Jewish identity, values, or purpose without in some way referring to the Torah. As such, it has an amorphous and unique position in the scheme of Heritage and traditions. It is the tradition to which all subsequent traditions must somehow respond. Perhaps this is a third standard (see p. 48) for inclusion in the Jewish Heritage: any tradition must relate in some way to the Torah.

5. B. Sanhedrin 71a.

6. Deuteronomy 21:18-21.

7. B. Sanhedrin 71a.

8. Deuteronomy 8:17.

9. Leviticus 14:34ff.

10. Jacob Neusner, *Midrash in Context* (Philadelphia: Fortress Press, 1983), p. 27.

11. Numbers 27:8.

12. B. Ketubot 52b.

13. Jeremiah 29:6.

14. M. Avot 3:7.

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