

Parshat Nitzavim: Contracts and Covenants

Brooke Pollak '27

As Parshat Nitzavim opens, with Moshe sealing the covenant with the generation about to enter Eretz Yisrael, he says something surprising:

I make this covenant, with its sanctions, not with you alone, but both with those who are standing here with us this day before our God and with those who are not with us here this day. (Devarim 29:13-14)

What does it mean to make a covenant with those not present? How does that work? Generally speaking, both in halakha and American law, for a contract to be binding on someone, each party has to agree to the terms of the contract. In halakha, one example of the requirement of full knowledge when entering into a contract is the prohibition against a person acquiring an item not yet in existence. Likewise, American law requires the parties of the contract to affirm, by signing and sometimes having that signature notarized, that the parties understand the terms of the contract.

If you were one of the people physically standing before God at Har Sinai at this moment and you heard Moshe explain that you are accepting the covenant on behalf of yourself and on behalf of those not present, how would you feel? Would you feel up to the task? Would this be fair to those future generations? Is the Torah, with its myriad of laws and obligations, in your children's best interests?

So did the generation standing at Har Sinai in our parsha accept the covenant on behalf of future generations? Did they actually bind those who were not there? Is it right to bind someone else to the terms of a contract or a covenant, in this case, without their consent? I think not. If you remember my review of American law on this question, the answer would be NO. Under the concepts of American contract law, we would not be bound by the Torah.

Bnei Yisrael is not bound to the covenant with God because our ancestors bound us; ancestors do not have the power to do that. A covenant is not a contract. The Torah is not a contractual arrangement; God gifted the Torah to Bnei Yisrael with the knowledge that Bnei Yisrael has the capacity to observe the Torah. God created humanity with the ability and inclination to be in relationship with God through the Torah. The covenant is not a burden, a debt, or a contract whose terms we have to uphold; it is a gift that comes along with responsibilities, which we would not have been given if we were unable to fulfill them.

Our relationship with God is not a contract in the legal sense and our obligations described in the Torah are not the terms of a contract. It is so much more than that. Thinking of that relationship as purely contractual belittles our relationship with God, and belittles God's role in our lives. Similarly to the way we know that a marriage is in one sense a contractual arrangement, but married people hopefully do not think of their married lives as the fulfillment of contractual obligations. Hopefully, most married individuals think of their married lives as building a partnership through love, affection, acts of service, and kedusha or holiness, with the goal of each partner becoming the best versions of themselves in this supportive relationship. In our relationship with God, God has given us the Torah as a roadmap of how

to move through the world, and although the Torah is full of obligations, it is also full of love and support, and faith in Bnei Yisrael.

When thought of as a gift from God and not as a decision made by others and forced upon us, the covenant has a different feeling to me. It no longer invokes the image of the weight of a mountain held above my head, but rather a mountain standing in front of me with a clearly delineated trail that I know I need to climb AND I know I *can* climb.

In Rav Kook's book "Orot HaTeshuva," Rav Kook talks of returning to one's self, and writes:

When we forget the essence of our own soul... everything becomes confused and in doubt. The primary teshuva, that which immediately lights the darkness, is when a person returns to himself, to the root of his soul—then he will immediately return to God, to the soul of all souls (Orot HaTeshuva 15:10).

When seen through this lens, the process of teshuva (repentance) becomes an approachable task as opposed to a daunting one. Teshuva is no longer about trying to become an ideal version of myself that I have never been; teshuva is about embodying my truest self.

Parshat Nitzavim ends with a reminder that what the Torah asks of us is doable. The pesukim read, in part:

Surely, this instruction which I enjoin upon you this day is not too baffling for you, nor is it beyond reach. It is not in the heavens...Neither is it beyond the sea...No, the thing is very close to you, in your mouth and in your heart, to observe it (Devarim 30:11-14).

Remember that God gave us the Torah to live by, not as a test of Bnei Yisrael, but as a gift to Bnei Yisrael to be in relationship with God. Although I know that I have not always managed to bring my best self to my relationship with God and the Torah, knowing that God trusts that I can hold up my side of the relationship gives me the strength I need to be able to go into the Yamim Nora'im. God believes in us, so we can too.

Brooke Pollak has co-chaired her synagogue's Women's Tefillah group and has been a frequent Gaba'it for their services. She has also worked with families to plan for, practice, and facilitate meaningful s'machot for numerous B'not Mitzvah. Brooke has also been active in her community's partnership minyan. Brooke earned her bachelor's degree in Judaic Studies from Yale and her law degree from NYU School of Law. During and after her undergraduate years, Brooke studied at Drisha and Pardes.