

**IN MEMORY OF AN INTERACTIVE PIONEER,
HAROLD JOSEPH BERMAN (1918–2007)**

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Like John Henry Cardinal Newman, Harold J. Berman knew that “to live is to change and to be perfect is to have changed often.”¹ Yet neither Newman nor Berman was a theological chameleon changing colors to match a momentary fad. Both were willing to change their views, and both challenged their readers to consider important changes in our views because both were deeply committed to the unfolding of what the Canadian philosopher Bernard Lonergan called the “unrestricted, detached, disinterested desire to know.”²

Berman’s reassessment of the interaction of law and religion represented a seismic shift in thinking about disciplines that previously had been viewed as isolated and even antagonistic to one another. Hal first stated his thesis on this theme in the seminal lectures that he delivered at Boston University in 1973.³ In these lectures, Berman demonstrated persuasively that—broadly understood—law and religion have, in fact, had a continuous and powerful influence upon the other. Two later volumes that formed his *magnum opus* richly illustrated his pivotal thesis and added a powerful historical claim that law and religion have been interactive from the ancient world to the present.⁴ Neither volume allows us to miss the forest for the trees. And both volumes are truly revolutionary in reshaping the ways in which law and religion must now be viewed as an interaction.

It is, of course, possible in the post-Berman universe that lawyers might continue to ignore theology, and theologians might continue to ignore law. But such lawyers and theologians now go along their separate paths at their

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¹ JOHN HENRY NEWMAN, AN ESSAY ON THE DEVELOPMENT OF CHRISTIAN DOCTRINE 41 (1909), available at <http://www.newmanreader.org/works/development/chapter1.html>.

² BERNARD J.F. LONERGAN, INSIGHT: A STUDY OF HUMAN UNDERSTANDING 380 (1958).

³ HAROLD J. BERMAN, THE INTERACTION OF LAW AND RELIGION (1974).

⁴ HAROLD J. BERMAN, LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION (1983) (focusing principally on the synthesis of religion and law achieved by medieval canonists and theologians); HAROLD J. BERMAN, LAW AND REVOLUTION, II: THE IMPACT OF THE PROTESTANT REFORMATIONS ON THE WESTERN LEGAL TRADITION (2003) (focusing principally on the central figures of the Protestant Reformation).

peril, or at least at the loss of a richer understanding of much within their chief focus of concern that would be disclosed to them if they begin to appreciate the importance of interacting with the other discipline.

Anyone who encounters Hal's scholarship is bound to state a sense of awe for the breadth of his interests and the utter integrity of his lifelong research agenda. One must admire his greatness, if only for the scope of what he sought to understand. But I would be deficient if I failed to acknowledge that his humility constantly drove his research as a project to search and to search again for some fact or some important connection that he might have missed. This rigorous honesty enabled Hal to reject false dichotomizations of things that many lesser minds view not simply as distinct, but as radically disjointed.

Having grasped that religion and law are not inherently contradictory but are interactive, Berman readily applied this insight to specific aspects of both law and religion. For example, when he focused sharply on the Religion Clauses of the First Amendment, he quickly concluded that establishment of religion and free exercise of religion are not competing offsets that nullify one another, but are complementary expressions of the deepest longing of the human mind and heart for freedom in matters of religion.⁵

Whenever Hal entered the space of our halls and homes, one-dimensionality did not stand a chance. Even his virtues came in complementary sets: courage and understatement, clarity and charity, seriousness and humor, eminence and graciousness.

His deep dedication to scholarship made him a pioneer, restlessly blazing new paths to discover new connections and relationships. Yet, it was always with a deep respect for ancient traditions with which he became intimately familiar, so that he could unravel them so masterfully to his readers.

History was the matrix of his principal discoveries. Yet, he never made the mistake of revering a mythical Golden Era in which all was glorious, and he never treated the past as only the future deserves to be treated.⁶

⁵ Harold J. Berman, *Religion and Law: The First Amendment in Historical Perspective*, 35 EMORY L.J. 777, 779 (1986).

⁶ One might expect a paleontologist to be concerned exclusively with the past, indeed with the very remote past. Yet, the paleontologist Pierre Teilhard de Chardin wrote to Max and Simone Begouen:

I am not sure whether what I say may not shock my friends in prehistory. In the end I come to the conclusion that there is only one real method of discovering (as we learn from historical research); it is to build the future. It's perfectly simple, but there are still so many people who

At different times of his life Hal was a Jew and a Christian. To Jews troubled by his acceptance of Jesus, he could offer the reassurance that he was never a supercessionist. He did not imagine that the newness of the covenant into which he entered by becoming a Christian was defined by nullifying the older alliance between the divine and the human called the people of Israel. That covenant is “old” in the sense of being venerable, and it retains its own significance and vitality in the world. The very fact that Hal took Jewish faith seriously enabled many of his new Christian brothers and sisters to accept the sense in which “spiritually we are Semites.”⁷ No bigot could safely utter a word of contempt or scorn for Jews in the presence of this great Christian.

Neither would this devout Episcopalian let Roman Catholics monopolize the term “catholicity.” Nor would he allow his Christian identity lead down the path of viewing the current encounter with Islam as merely a “clash of civilizations.” On the contrary, as any Jew or Muslim who ever met Hal could testify, he repudiated all stereotypes that continue the teaching of contempt.

It is not simply Hal’s scholarship that focused on interaction. He also lived his life interactively—with attention and respect for others. No one knows this better than his wife Ruth and his children and grandchildren and great-grandchildren. Hal was not one to boast of his own formidable achievements. The only occasions on which I recall him being boastful or proud was to express his joy in his family.

His family are not the only ones who cherish this memory of this jolly soul. So did thousands of friends of different backgrounds and interests. The interaction of Hal Berman and Emory University was especially rich. His status as a world-class scholar added luster to Emory when he made the great move to Atlanta from another prestigious institution to the north. Emory gave to him the gift of collegiality he had begun to lack in the other place. Frequently in my conversations with Hal he would use the word “delight” to describe the deep joy he felt in Atlanta. Emory, you were very good for Hal

behave as though the past was interesting in itself, and treat it as only the future deserves to be treated.

Letter from Pierre Teilhard de Chardin to Max & Simone Begouen (Sept. 14, 1935), in *LETTERS OF A TRAVELER* 209 (Bernard Wall ed., 1962).

⁷ Speaking to a group of Belgian Pilgrims a year before the outbreak of World War II, Pope Pius XI stated: “Anti-Semitism is unacceptable; spiritually we are Semites.” *LA DOCUMENTATION CATHOLIQUE* 29 (1938). See also *VATICAN COMM’N FOR RELIGIOUS RELATIONS WITH THE JEWS, WE REMEMBER: A REFLECTION ON THE SHOAH* (1998), available at http://www.vatican.va/roman_curia/pontifical_councils/chrstuni/documents/rc_pc_chrstuni_doc_16031998_shoah_en.html.

Berman, and he was a great blessing to you. So it is most appropriate for the Emory community to celebrate with gratitude the special relationship that you and Hal sustained for decades with one another.

But even this relationship invites the happy memory of another set of interactions between Hal and other scholars and friends around the world—up in Cambridge (he never burned a bridge in his life) and over in Moscow and Beijing (he was busy building bridges throughout the Cold War). Like Wesley, Hal Berman viewed the “wide world” as his “parish.”

Specifically, the larger circle of scholars on law and religion now happily numbers thousands outside the Emory community who have profited immensely from the fine work that Hal began here. This work is now sustained by superb scholars, such as Frank Alexander, John Witte, Johan D. Van der Vyver, Michael Perry, Steve Tipton, Martin Marty, and countless others associated with the Center for the Study of Law and Religion. And Hal’s work is also sustained by the *Journal of Law and Religion*, a project he helped to found decades ago and that has become the premier journal on these matters. Hal Berman is now surrounded by a thick “cloud of witnesses” to the interactive mode of thinking about law and religion. All of us who encountered Hal have found ourselves drawn into a conversation that has been rewarding not only for us but also for our world.

A distinguished professor, Hal was always accessible to his students. I count myself richly blessed that I was one of his pupils, and I never ceased to be amazed at his expectation that I could teach him anything, much less that I should do so. When I objected once to what I thought was an unfair reversal of roles, he corrected me gently: “All teachers learn from their students,” he said. And in that moment I decided to become a teacher. I also decided that I had to be a much more diligent student if I was going to match up to his extraordinary expectation that our relationship would be—like the great themes he linked in his writing—an interaction.

In the end, the single word “interaction” sums up much of Hal Berman’s contribution to this world. Hal embodied the interaction about which he frequently wrote. Hence, he leaves not just a legacy of profound scholarship that connects things but also an ethical obligation to interact with one another with the same generous respect that he showed us in daily interactions throughout his long and fruitful life. For Hal, the duty of interaction commenced with the habit of careful, attentive listening to the other. Since this is so, it is equally true that his legacy imposes upon all of us who were

influenced by him to behave with similar respect for one another. By carrying on the enterprise that Hal Berman began so well, all of us may continue to rejoice in his vibrant presence to and in us.

