The New Rhetoric, Judaism, and Post-Enlightenment Thought: The Cultural Origins of Perelmanian Philosophy

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In search of justice, Chaim Perelman rediscovered the rhetorical tradition and reclaimed his Jewish identity after World War II. As an attempt to correct misreadings of Perelmanian thought and to situate the New Rhetoric as a response to post-Enlightenment and postmodern culture, I advance two arguments in this essay. First, Perelman's philosophy and the New Rhetoric project reflect his Jewish heritage and Talmudic habits of argument. Second, because Perelmanian philosophy enacts Jewish and Talmudic thought, the New Rhetoric charts a "third way" between Enlightenment metaphysics and the dangers of the more extreme expressions of postmodernism. The New Rhetoric is much more than a relativist taxonomy of argument, for it aspires to replace violence, to create human community, and most important, to discover and craft justice with a Talmudically influenced system of rhetoric. **Key words:** Perelman, argument, Jewish thought, Talmudic tradition, post-Enlightenment

RAY Dearin writes that Chaïm Perelman was a "Child of the so-called 'Age of Analysis,' [who] was yet able to transcend the reductionist assumptions of rationalism and logical positivism and to reassociate reason itself with the wisdom of the good life in the good society" (Introduction 8). A "recovered logician," Perelman built a reflexive and pluralistic philosophic system intended to produce justice. Given the importance of Perelman's scholarship, it is unfortunate that his philosophy and the New Rhetoric project,[1] written in collaboration with Lucie Olbrechts-Tyteca,[2] are portrayed as relativistic or idealistic rather than as systems of paradoxical interdependencies. For example, van Eemeren and Grootendorst contend that "Perelman and Olbrecht-Tyteca's theory of argumentation boils down to a stocktaking" taxonomy of argument ("Perelman" 122). Van Eemeren and Grootendorst also accuse Perelman of holding an "ill advised prejudice against logic" (*Argumentation* 4), claiming that the New Rhetoric embraces relativism.

Other critics of Perelman's system of thought find it idealist and elitist. Ray traces Perelman's "fondness" for traditional rationalism to an appropriation of Kantian philosophy and an attempt to "provide for a rhetorical theory a transcendental grounding which combines elements of logical positivism and critical idealism" (375). Following Ray's lead, Ede suggests that Perelman exhibited a "lingering fondness for (or reluctance to give up) traditional rationalism" (142).

The confusion in the literature regarding Perelman's work has created serious misreadings and misinterpretations of his philosophy and epistemology. As a result, some rhetorical scholars often misunderstand the intent of the New Rhetoric, ignore Perelman's scholarship, or restrict the New Rhetoric to purposes of argument taxonomy. Rhetorical scholars have yet to see the importance of Perelman's project as a "philosophical response to a postmodern Europe shaped by systemic (and systematic) violence and unconstrained fragmentation . . ." (Crosswhite, "Audience" 137).

I offer this essay as an attempt to develop the potential of the New Rhetoric project as a philosophical response to the exigencies of post-Enlightenment culture and to correct the misreadings of Perelmanian philosophy and the New Rhetoric project. When the origins

and intent of the New Rhetoric are brought into focus, I believe rhetorical scholars will share my conclusion that the New Rhetoric offers a third way between Enlightenment metaphysics and the more extreme expressions of postmodern thought. The New Rhetoric avoids the polarities and dichotomies that characterize so much of post-Enlightenment discourse by drawing from Jewish habits of mind and Talmudic narratives. In so doing, the New Rhetoric enacts a system of justice that is both rooted and transcendent.

To develop this thesis, I offer two arguments. First, the New Rhetoric cannot be understood without an appreciation of Judaism and Talmudic habits of argument and their influence on Perelman's identity and scholarship. The accepted view is that Perelman extended Classical concepts of argument, dialectic, rhetoric, and justice (Kluback and Becker 8; Tordesillas 109). A dedicated pluralist, Perelman drew from many sources of authority. However, Perelman's work also reflects his Jewish heritage in general and Talmudic narratives in particular.[3] At several key junctures in his writing Perelman makes explicit reference to Jewish philosophy and the Talmud, so the Jewish influence on his philosophy and view of rhetoric is clear (Perelman, *Justice* 96; Perelman, *New Rhetoric and The Humanities* 112–113; Perelman, *Justice, Law, and Argument* 165; Perelman, "Juridical" 390). When Perelman turned to Jewish thought, he did so to chart a path between dualisms and to create a philosophical rhetoric that aspires to *Tsedek*, the Jewish conceptualization of justice.

Second, the New Rhetoric offers post-Enlightenment thinkers a philosophical rhetoric designed to seek justice and to develop its justification. Perelman recognized that justice, as it was understood in the Jewish tradition, could not be achieved with apodictic logic, and he sought to navigate between the polarities of idealism and relativism. Perelman's scholarship parallels work in law and other disciplines that draw from Jewish sources to create an alternative to the binary thinking that is prevalent in post-Enlightenment thought (Stern; Handelman, *Slayers, Fragments;* Stone 818–819). This alternative provides a reason and logic designed for a world of pluralism that is in need of a system of justice.

I devote the first section of the essay to the influence of Judaism (the social, cultural, and religious practices of the Jewish people), *Tsedek* (the Jewish conceptualization of justice), and the Talmud (Rabbinic commentaries that include the Mishna and the Gemera) on Perelman's life and scholarship. This section clarifies the origins and shape of Perelmanian thought and the development of his rhetorical theory. In the second section of the essay, I identify five philosophical touchstones of the New Rhetoric that draw from Judaism and Talmudic thought. In the final section, I juxtapose the assumptions of the New Rhetoric with those of postmodernism to reveal areas of agreement and difference. I conclude with the implications that this study has for our understanding of justice, postmodernism, post-Enlightenment thought, and the New Rhetoric.

Judaism, Justice, and Perelman

Justice and its justification are the nucleus of Perelman's philosophy and of the New Rhetoric (Dearin, "Justice"). Crosswhite suggests that the New Rhetoric is "implicitly a theory of justice" ("Reason" 1) and Farrell writes that for Perelman justice is "the principle aim of all practical reasoning" (205). A close examination of Perelman's life and scholarship confirms the conclusions of Farrell and Crosswhite and suggests that his view of justice was anchored in Judaism.

Judaism and Tsedek

The influence of Judaism on Perelman's scholarship is evident in the structural resemblances between Jewish habits of thought and Perelman's philosophical rhetoric.[4] A diachronic and synchronic study of over 4,000 years of Jewish history reveals a tremendous diversity of Jewish thought and action. Yet, diversity and commonality coexisted over and within periods of this history. As Stone and others have noted, the Jewish voice is characterized by a "tendency to think in oppositional or paradoxical interdependencies" (887). Twersky characterized the Jewish search for justice and law (Halacha) as "a coincidence of opposites: prophecy and law, charisma and institution, mood and medium, image and reality, the thought of eternity and the life of temporality" (336). Depending on context and audience, Jewish reason and logic oscillates between and among polarities, using argument and debate as vehicles of decision making. *Tsedek* is the aspiration and desired goal of Jewish argument.

Perelman's experience with the Nazis—he played a major role as a founder and leader of the Jewish wing of the Belgium resistance movement—and the tragedy of the Shoah (the Holocaust) called him to publicly declare his adherence to cultural Judaism and to the Jewish notion of justice (*New York Times Oral History Project;* Mattis-Perelman). In moments of epideictic, as he and Olbrechts-Tyteca defined the term (Perelman and Olbrechts-Tyteca 49–54), Perelman emphasized and expressed the values of Judaism. When King Baudouin I of Belgium awarded the title of Baron to the Perelmans in 1983, the family created a coat of arms that included the Star of David, the insignia of Hebrew University, which consists of two strands of grain, and a passage from Dueteronomy 16:10 "*Tsedek Tsedek Tirdof*" (Justice justice you shall pursue). This passage and the Star of David grace Perelman's tomb in Brussels, Belgium.

Tsedek was the polar star of Perelman's life and of the New Rhetoric project. Perelman's view of justice was heavily influenced by the work and writings of the Jewish psychologist Henri Baruk (Mattis-Perelman).[5] Baruk (*Hebraic; Tsedek*) wrote that the Jewish sense of justice is not satisfied with the achievement of formal equity; rather, *Tsedek* calls for those who judge to be compassionate and caring. Built into the notion of *Tsedek* is a natural tension between the divine and human and the dictates of equity and mercy. (Baruk, *Tsedek*).

Perelman's post-war realization that apodictic logic could not lead to a workable concept of justice for use in life and argument led him to reconsider the question of justification. Baruk and Perelman saw in the Jewish tradition a form of justification that avoided dualisms and worked to blend love and justice, truth and peace (Baruk, *Hebraic;* Perelman, *Idea of Justice* 73–78). The justification of justice in the Jewish tradition required a definition of reason that embraced all human faculties, including empathy, emotion, and the reasonable.

Judaism drew upon oral law, the moral conscience of those in the community, and immanent criteria to discover and create justice. Importantly, justice was not only the result of immanent criteria, for local justice and universal or divine justice were placed in oppositional and paradoxical interdependency. Perelman incorporated the Jewish and Christian prophetic view of justice and celebrated its ability to include the immanent and transcendent (Perelman, *Idea of Justice* 73–78). As Cohn in his essay on *Tsedek* noted, "the province and function of divine justice [is] to watch over human justice so that it might thrive and rule" (518–519).

Perelman cited as a counter-model to Western rationalism the Jewish systems of

argumentation and debate that bridged universal principles to particular circumstances and balanced 'pshat' (the plain, simple and possibly decontextualized interpretation of text) with 'drash' (how the text is to be lived and applied) (Perelman, *Justice, Law and Argument* 97). Perelman may have derived from Jewish jurisprudence his distinction between the rational and the reasonable. The dialectical relationship between the pshat and the drash and the rational and reasonable is characteristic of Jewish thought and of the New Rhetoric. The universal and the self evident are yoked with the local and the experiential, making rhetoric and argumentation the process of bridging opposites (the dissociation of concepts) for the purpose of judgment.

The Jewish experience, culture, and view of justice and justification affected Perelman's life and writings. To illustrate the relationship between justice, truth and their justification in Jewish thought and the role Talmudic argument could serve as a counter-model, Perelman turned to Talmudic narratives. These narratives made vivid the difference between Enlightenment thought and the assumptions of the New Rhetoric.

Perelman and Talmudic Thinking

Perelman's philosophy was a response to René Descartes and Enlightenment rationalism. Descartes maintained that reason should dispel doubt, revealing clear and distinct ideas, and that if two people disagreed, one must be wrong (Descartes, *Philosophical Works*). Perelman argued that Descartes and the classical rationalists had an unduly restricted vision of reason, that some concepts and notions are inherently "confused," and that if two people disagree, both may have reason on their side. His answers to classical rationalism and the construction of the New Rhetoric pivot on Judaism and Talmudic thought, and in particular, on two narratives from the Babylonian Talmud (the Bavli): the story of the clash between the schools of Hillel and Shammai and the story of the Oven of Akhnai.[6]

Perelman juxtaposed the Western tradition of rationalism with the pluralism of Talmudic thought by noting that Western philosophy tended to define reason in scientific and mathematical terms, and assumed that there was one right answer to a given question. In contrast, Talmudic reason is plural, revealing many answers to the same question (*New Rhetoric and the Humanities* 112). To critique Western rationalism and to illustrate the nature of Jewish Talmudic thought, Perelman cited the famous story of the conflict between the schools of Hillel and Shammai, and discussed it in depth in his essay on "Disagreement and Rationality:"

> [The school of Hillel] very often tended to allow what [The school of Shammai] forbade. One controversy lasted three years, each school claiming that the Law conformed to its teachings. The Talmud tells what Rabbi Abba in the name of Rabbi Samuel says. The latter addressed himself to Heaven to know the truth; from on high a voice responded that both interpretations expressed the word of the living God. The two diametrically opposed interpretations command equal respect because they express thoughtful and recognized ways of thinking and in this they are both reasonable (*New Rhetoric and the Humanities* 112–113).

Recognizing that Talmudic thought and argument does not stop at relativism, Perelman noted that "tradition preferred the teaching of the school of Hillel" because the arguments of Hillel were modest, humble, and included the values and opinions of the Shammaite. Perelman concluded that it is "remarkable" that the School of Hillel was "not invoked to disregard the School of Shammai's interpretation, or to show its falsity or

its irrationality. Between the two opposed interpretations, *both are seen as equally reasonable;* we will choose, but not on the basis of the falsity or irrationality of the one or the other" (113, italics in original). The School of Shammai, in comparison, did not teach the words of the school of Hillel, and by implication, was neither as pleasing nor as humble. Yet, the Talmud suggests that the opinions of the School of Shammai were "sharper" than those of Hillel. The opinions of the latter school became law because they embraced those of Shammai, remaining open, pluralistic, and reflexive.

Gershom Scholem suggests the story reveals that it "is precisely the wealth of contradictions, of differing views, which is encompassed and unqualifiedly affirmed by [the Jewish] tradition" (290). The schools of Hillel and Shammai held opposing views, but both revealed dimensions of a truth that could not be expressed in one opinion, contained in one ideology, or owned by one school. As with the search for justice in the Jewish tradition, the search for truth was seen as contested and elusive. The clash between the schools of Hillel and Shammai demonstrated that in the Jewish tradition, and more specifically, in the Talmud "truth is indeterminable and that alternative views can encompass different aspects of the truth" (Kraemer 139). That Perelman begins his critique of Western rationalism and of Descartes with this particular story demonstrates the influence of Talmudic thought on his scholarship.

Perelman's interpretation of the story underscores the pluralism of Jewish thought and the process used to judge between and among competing values. First, the story provides him with an entrance to his position on pluralism: opinions can conflict, coexist, and remain in the realm of the reasonable. Importantly, the opinions of both the majority and the minority, as well as the voices of the secular and heavenly, are all allowed access to the audience.

Second, the story highlights the importance of the practice of discourse and argument. If truth is elusive, then its justification cannot be coercive and violence must yield to tolerant and humble argument. The structure and form of Talmudic discourse, as Kraemer writes, reflects the contingent and ineffable nature of truth and the limitations of human cognitive and emotional abilities. When brought into focus, it appears that Perelman may have instinctively returned to the story of the schools of Hillel and Shammai in search of an answer to Western rationalists and Descartes. He also turned to a second Talmudic story, the Oven of Akhnai, to reveal a method of adjudicating value and legal disputes.

As in his overview of the origins of justice and pluralism, Perelman's position on legal ontology as outlined in a 1983 article begins with the Jewish tradition (Perelman, "Juridical"). His survey of the origins of law in the Western culture commences with Moses receiving the law (Torah) at Mount Sinai, moves to a discussion of Rabbinical oral and written interpretations of the law, and then centers on the following questions: What should be done when members of a community disagree? How should the conflict be adjudicated? What sources of authority should be privileged? In answering these questions, Perelman turned to the story of the Oven of Akhani (Perelman, "Juridical").

Rabbi Eliezer, a renowned and much respected teacher, claimed that the Oven of Akhnai was pure. The majority of Rabbis disagreed and held that the Oven was impure. In defense of his position that the oven was pure, Rabbi Eliezer called on heaven for proof. And heaven responded to his plea as a carob tree was uprooted and thrown one hundred ells; the current of a stream was reversed; and the walls of the academy started to fall as proof that Rabbi Eliezer's interpretation was in concert with that of the Divine.

The Rabbi's audience was not persuaded by these miracles. Finally, a Divine Voice declared Rabbi Eliezer in the right. Rabbi Josue, speaking for the majority, responded that "The Torah is not in Heaven." The Rabbinic majority was not persuaded by miracles or even by Divine proclamation, holding instead that the law had been given at Mt. Sinai, and that legal and legislative decisions in the post-Sinaitic period were to be made by the human community.

In his analysis of the Oven of Akhnai, Perelman observes that "If various interpretations depart from the oral law and have, as such, a divine origin, nevertheless the choice between them is not the affair of God, but of men" ("Juridical" 391). Further, in his view, the story demonstrates the need to develop criteria to "choose the authoritative interpretation." Perelman concludes his discussion by noting that "Jewish law authorizes the creation of actions which are tailored to the needs of the moment" (393). This may be accomplished by "add[ing] flexibility to the texts by resorting to general principles and even to fictions" (392). Here, he refers to decisions made by Hillel and Rabbi Gershom of Mayence, which were inconsistent with the written word but were necessary for the survival of Jews living under Muslim and Christian rule. The Oven of Akhnai narrative reveals the complexity of Judaic thought and Talmudic argument, and a sustained focus on the story sheds light on the origins of Perelman's philosophy and the New Rhetoric.

Legal scholars believe the story of the "Oven of Akhnai teaches that legal interpretation and decision-making must rest on persuasive and reasoned human discourse, not on the apodictic assertion of self-evidently authoritative divine truths" (Stone 841; Goldin; Englard). As in the story about the clash between the schools of Hillel and Shammai, the Oven of Akhnai story reveals a commitment to pluralism and humble persuasion. Heaven supported Rabbi Eliezer's minority interpretation, leading scholars to suggest that the story elevates dissent to a divine status (Halivni). The story enacts the Talmud's view of truth and argumentative practice by emphasizing and even sanctifying the minority point of view. Majority rule, while privileged, was held in check by dissenting voices that could at some future point move the community, through persuasion, in a different direction.

In the Jewish legal model, humans were held accountable to and by God. God's law, or Torah "may not be heaven," but God and the Heavenly voices were members of the community and presented arguments to the human audience. Human reason must also attend to, but not be bound by, heavenly voices and the universal. Indeed, an ancient tradition of arguing with God is recorded in the Torah (Laytner). This tradition is revealed in the conclusion of the Oven of Akhnai. According to the Talmud, God is asked what God thought when Rabbi Josue declared that "the Torah is not in Heaven?" God responds with laughter and joy, declaring: "My Children have defeated me, my children have defeated me" (Epstein, Baba Mezia 59b). The Divine laughter evoked by Rabbi Josue's response suggests that even God follows the accepted rules of the dialectic and that the proof texts cited should persuade even God. Maneli reports that Perelman knew the coda of the story and enjoyed its implications (Maneli, Interview).

The Oven of Akhnai illuminates several themes in Perelman's writings. First, he insisted that all discourse, regardless of its source, should be scrutinized with and by human reason. No source was immune to the scrutiny of reason, and even God could be defeated in argument. Second, he argued that the majority and the community in the form of an audience, rather than the Divine or the individual, are vested with ultimate powers of judgment and adjudication. Although Perelman's education in philosophy and

law may have inspired similar conclusions, his recitation of the Oven of Akhnai in an essay on legal ontology indicates that Talmudic thought also played a role in the formation of his philosophy. In the next section, I identify the influences of Judaism and Talmudic thought on the structure of the New Rhetoric.

Perelman, Judaism, and the New Rhetoric

In constructing the New Rhetoric alone and with Olbrechts-Tyteca, Perelman turned to Judaism and Talmudic thought for some of the more important philosophic anchors of the New Rhetoric. In particular, his position on argument and violence, his view of pluralistic reason, his celebration of community and the epideictic, his critique of solipsism and the need for a universal audience, and his commitment to Justice or *Tsedek* reflect his reaction to the Shoah and the post-war ruins.

Argument and Violence

The destruction of Europe by the Nazis moved Perelman to profound grief (Maneli, Interview; Mattis-Perelman). In response, Perelman searched for a philosophic system that would allow justice and humane values to prevail. Judaism and rhetoric seemed natural answers, for both aspired to promote nonviolence and spiritual freedom. As Perelman and Olbrechts-Tyteca observed, the use of force denied humans the spiritual and physical freedoms necessary for dignity. "One can indeed try to obtain a particular result either by the use of violence or by speech aimed at securing the adherence of minds. It is in terms of this alternative that the opposition between spiritual freedom and constraint is most clearly seen" (55). And the Judaic tradition gave Perelman an example of a rhetorical alternative, a culture guided by rhetorical norms.

Joseph Cover observes that "The Jewish legal system has evolved for the past 1900 years without a state and largely without much in the way of coercive powers to be exercised upon the adherents of the faith" (68). An abhorrence of violence is a result of the Judaic commitment to spiritual freedom. This sense of freedom, according to Abraham Joshua Heschel, is deeply encoded in Judaism:

> The most commanding idea that Judaism dares to think is that freedom, not necessity, is the source of all being. The universe was not caused, but created. Behind mind and matter, order and relations, the freedom of God obtains. The inevitable is not eternal. All compulsion is a result of choice. A tinge of that exemption from necessity is hiding in the folds of the human spirit (*Insecurity* 13).

In the opening passages of *The New Rhetoric* Perelman and Olbrechts-Tyteca echo Heschel's theme, praising the "noncompulsive" element in argument: "the very nature of deliberation and argumentation is opposed to necessity . . ." (1). The emphasis on freedom was not meant to exclude or negate the category of necessity or realities of nature that assumed necessary relations, rather, freedom and necessity were placed in juxtaposition. Genuine argument, Perelman and Olbrechts-Tyteca maintained, acknowledged necessity, but sought to establish and expand the domain of freedom.

In the Jewish tradition, argument is used to adjudicate value disputes and to organize value hierarchies. Coercive powers are harnessed, for it is recognized that the use of such powers assumes a command of truth not available to the human. The existence of a relatively non-violent Jewish tradition of problem solving and of a European tradition of rhetoric may have led Perelman and Olbrechts-Tyteca to conclude: "It is because of the

possibility of argumentation which provides reasons, but not compelling reasons, that it is possible to escape the dilemma: adherence to an objectively and universally valid truth, or recourse to suggestion and violence to secure acceptance for our opinions and decisions" (514).

The "possibility of argumentation" gave Perelman an alternative to compulsion and violence. Such an alternative was developed as a response to the death of six million European Jews and to the "inhuman monsters" who used mathematical logic to destroy Europe. Here, Perelman joined the ranks of other Jewish thinkers, such as Emmanuel Levinas, in identifying speech, language, and rhetoric as humanizing forces requiring recognition of "the Other" (Handelman, *Fragments* 239–240). Judaism offered Perelman a "counter-model" to violent methods of resolving value conflicts, for in the Jewish tradition argumentation preserved the freedom of the Other and provided the community with a vehicle for ordering value hierarchies (Handelman, *Fragments*).

Pluralism and the logic of Kal Ve-Chomer

Western rationalists, such as Descartes, were in search of "clear and distinct" boundaries to the universe. Similarly, the totalitarians who destroyed Europe held a metaphysical position that was clear, unchanging, and totalistic. Handelman (*Fragments*) notes that the "connection between the historical horrors of the Nazi period and the philosophical ideas of a neutral, impersonal 'Being' is direct" (190). Such a metaphysics, Perelman and Olbrechts-Tyteca noted, "is incapable of adaptation and renewal, . . . its bounds are set once and for all, and . . . its functions are definitively fixed" (139). In juxtaposition, Perelman's metaphysics set "boundaries that cannot be foretold" (139). This metaphysics had elements of the ineffable that language could not capture: "At the limit, the most concrete, the most actual term may correspond to what is inexpressible, and be no more than the fleeting demonstration of an infinitely unstable presence" (148). This is consistent with Perelman's preference for reflexive and open philosophical systems. The metaphysical position pervading the New Rhetoric is also a reflection of Jewish metaphysics entailing a belief in a universe in the process of becoming, a human world of irreducible pluralism, and domains of existence that may resist human understanding.

The need for a philosophy of irreducible pluralism was compelling to many Jewish thinkers in the post-Shoah era. Like Perelman, post-Shoah Jewish thinkers reacted against a Western and Heideggerian philosophical tradition that aspired to totality, essence, Being and impersonal reason. Because Jews were seen as different, the Other, and as a pariah people, they were subjected to a "purification" campaign outlined in the "cold logic" of National Socialist ideology (Arendt, *Origins*). To protect that which was not an essential part of the "onto-theological" white mythology, post-Shoah Jewish thinkers have featured and exalted the "Other," "différance," and "alterity" (Levinas, *Otherwise;* Derrida, "White", *Speech;* Handelman, *Slayers, Fragments*).

Against a totalizing vision that levels and homogenizes, contemporary Jewish thought asks that ethics be placed before ontology, and that the well being and the survival of the Other should be the prior and primary consideration in human affairs. Perelman's well developed view of pluralism was also set against the Greek philosophical impulse, as he juxtaposed his philosophy of difference with Parmenides's belief in an unchanging being and by elevating the good of community above that of the speaker (Perelman, *New Rhetoric and the Humanities* 62). These views of metaphysics and pluralism directly influenced the New Rhetoric's perspective on reason and logic.

As Hannah Arendt (*Origins*) and others have observed, the logic of totalitarian societies is rigidly syllogistic and deductive. Hitler, the Gestapo, and the SS employed air tight syllogisms that were brutally efficient and evil. Perelman may have been thinking of his experience with the Nazis and their system of logic when he wrote that "according to Bertrand Russell, the rational man would only be an inhuman monster" (*New Rhetoric and the Humanities* 118). The perfectly rational human "separates reason from other human faculties and shows a unilateral being functioning as a mechanism, deprived of humanity and insensible to the reactions of the milieu" (118). Reason and logic, Perelman argued, must not be bound to the paradigms of geometry or math. Like Martha Nussbaum ("Compassion"), Perelman believed that a justice inspired reason must include compassion and empathy.

Unfortunately, a number of scholars believe the universal audience is the New Rhetoric's normative standard for discourse and miss, ignore, or fail to appreciate the dialectical logic Perelman offered to test arguments (the exceptions are Schiappa, "Arguing"; Measell; Dearin, "Justice"; Warnick and Kline). Zyskind observes that the "form of inference in the New Rhetoric gives it its specific character . . ." as it is "neither deductive nor inductive, but comparative . . ." (xvi). In fact, the New Rhetoric, influenced by Judaic patterns of thought, employs a system of inference and logic known as the *Kal Ve-Chomer* (Knust; Todorov) or reasoning through analogy and juxtaposition. This system of logic, which Perelman does not mention by name, is "one of the major accomplishments of the Rabbis" and was "independent of the syllogistic model, and hence branded as illogical by those schooled only in Greek thought" (Handelman, *Slayers* 6).

Like Perelman, the Rabbis were well aware of syllogistic reasoning, but recognized its limitations. Syllogistic reasoning, with its focus on universals, classes, lexical symbolism, and predication is well suited for closed systems, formal logic, and a language of univocal meaning. "In *Kal Ve-Chomer*, however, the relation of juxtaposition allows for multiple predication . . . The *Kal Ve-Chomer*, like all Rabbinic thought, does not present us with Q.E.D., but with a relative conclusion based on a hypothesis and subject to continual testing and scrutiny" (Handelman, *Slayers* 56). Syllogistic reasoning produces results that are necessary and must follow from the acceptance of the first and universal premise; *Kal Ve-Chomer* leads to conclusions that are probable and open to revision (Knust; Todorov).

The dialectical system at the heart of the New Rhetoric is rooted in *Kal Ve-Chomer*. Perelman's rule of justice ("which requires that people be treated equally and that essentially similar situations be passed on in a uniform way" Perelman, *Justice, Law, and Argument* 76–77) is a form of juxtaposition, allowing for judgments through comparison and contrast. Similarly, "the dissociation of concepts" is designed to order values and resolve incompatibilities through the juxtaposition of opposites.

The *Kal Ve-Chomer* provides a different framework for the relationship between the universal and the particular than the one found in Greek logic. In Jewish logic, the universal and the general are not seen as either superior or inferior to the concrete and the particular. Handelman explains that in Rabbinic logic,

> [g]eneral and particular, then, are not seen as independent categories; they are aspects of each other, extensions or limitations . . . *The "general" does not have the power of predicating an essence beyond the particular.* And this precludes any hierarchy in interpretation. The extraction of a general application is not logically superior to the particular instance (*Slayer* 61, 65, italics in original)

The New Rhetoric employs the spirit of the *Kal Ve-Chomer* when it juxtaposes abstract and concrete values, universal with particular audiences, formal and concrete justice. Through juxtaposition, the abstract and the concrete, the universal and the particular, the formal and informal, are brought into comparison and provide for the starting points and the process of argument. Perelman and Olbrechts-Tyteca note "Argumentation is based, according to the circumstances, now on abstract values, now on concrete values" and that argumentation often consists of a "motion back and forth from concrete to abstract values" (77,78). Indeed, the explicit intent of the New Rhetoric is to "combat uncompromising and irreducible philosophical oppositions" and it does so by using a system that moves between and among values.

Community, Audience, and the Epideictic

Maneli reports that when Perelman visited a Germany in ruins after World War II, he shook his head and said "This isn't Germany" (Interview). Perelman's belief in the humane traditions of Europe was deeply entrenched. Consequently, he saw the rise of Nazi Germany, of violence, and of monistic movements as a betrayal of the European heritage of tolerance. As a Pole, a Belgian, and a Jew, Perelman believed the war experience revealed that Europe had failed to remain true to its best values.

Perelman's commitment to his community of origin can be traced to the Jewish view of the relationship between the individual and the community. In the Jewish tradition, communal obligations take precedence over individual rights, asserting the notion that "to be one who acts out of obligation is the closest thing there is to a Jewish definition of completion as a person within the community" (Cover 67). Cover explains that the "principle word in Jewish law, which occupies a place equivalent in evocative force to the American legal system's 'rights,' is the word 'mitzvah' which literally means commandment but has a general meaning closer to 'incumbent obligation' (65). In Jewish thought, obligation to the community is a central, unifying principle.

As in the Jewish tradition, the New Rhetoric prioritizes the community of minds, and it is the human audience rather than God, formal logic, or the individual that judges the merits of an argument. Viewed rhetorically, an audience is drawn from a universal human community and constitutes "*the ensemble of those whom the speaker wishes to influence by his argumentation* " (Perelman and Olbrechts-Tyteca 19, italics in original). Accordingly, the values and knowledge of the audience take priority over those of the speaker: "In argumentation, the important thing is not knowing what the speaker regards as true or important, but knowing the views of those whom he is addressing" (23–24). Perelman's focus on the community and the audience brings his view of the epideictic into relief.

The epideictic, according to Perelman, is essential in forming the community of minds (Perelman, *New Rhetoric and the Humanities* 6–7). Unlike deliberative and forensic discourse, epideictic oratory plays a critically important educational function by "bringing about a consensus in the minds of the audience regarding the values" that are celebrated in persuasive discourse. "The orator's aim in the epideictic genre is not just to gain a passive adherence from his audience but to provoke the action wished for, or, at least, to awaken a disposition so to act. This is achieved by forming a community of minds, which Kenneth Burke . . . calls *identification*" (6, 7, italics in original).

Through epideictic discourse, communities are formed and audiences are taught fundamental values used in making judgments: "The epidictic speech has an important

part to play, for without . . . common values upon what foundation could deliberative and legal speeches rest?" (Perelman and Olbrechts-Tyteca 52–53). Such discourse has defined the Jewish community, as the various rituals that involve the Jewish calendar, worship, and rites of passage, embody and communicate fundamental communal values. Indeed, modern Jewish identity is a direct result of epideictic discourse, and Perelman's vision of community and values must have been affected by Jewish communicative practices.

As is the pattern in *The New Rhetoric*, the authors turn to the experience of World War II and the failure of German and French communities to act on their own values in order to illustrate the role played by the epideictic. Toward this end, they make reference to the Jewish-Christian writer Simone Weil's *The Need for Roots;* a book that captures the need for human beings to remain committed to obligations over rights, and human traditions over technology. Weil's critique of German and French action and inaction during World War II began with this premise: "To be rooted is perhaps the most important and least recognized need of the human soul. It is one of the hardest to define. A human being has roots by virtue of his real, active, and natural participation in the life of a community, which preserves in living shape certain particular treasures of the past and certain expectations of the future" (43).

By the time Hitler arrived on the scene, (one that included the national humiliation of World War I, hyperinflation, massive unemployment, and great poverty) the Germans were a nation of "uprooted individuals" (47). Hitler filled the void with values that distorted and perverted humane traditions to which Germans had adhered and had practiced for centuries. The Germany of Hitler defied the recognition of those who understood these traditions and was viewed as an abomination by those who were aware of German history.

As with Germany, according to Weil, "The sudden collapse of France in June, 1940, simply showed to what extent the country was uprooted" (48). Given the fracture of French society along class and other lines, the French were reduced to an apathetic stupor that Pétain and Vichy exploited. In the paragraph quoted in *The New Rhetoric*, Weil writes that had French expatriates in London expressed the thoughts that "were already in the hearts of the people, or in the hearts of certain active elements in [France] . . ." the French may have been wrested from their stupor and provoked into action against the Nazis (190–191, qtd. in Perelman and Olbrechts-Tyteca 53). Weil's observations, Perelman and Olbrechts-Tyteca note, reveal the function of the epideictic speech as an "appeal to common values, undisputed though not formulated, made by one who is qualified to do so, with the consequent strengthening of adherence to those values with a view to possible later action" (53). The epideictic served as a community creating discourse that could be used to evoke action against injustice.

Weil underscores the importance of education in the growing of roots, for "education—whether its object be children or adults, individuals or an entire people, or even oneself—consists in creating motives. To show what is beneficial, what is obligatory, what is good—that is the task of education" (189–190). Perelman appears to have drawn on Weil's work in conceptualizing the epideictic, and notes that "the epideictic genre is not only important but essential from an educational point of view" (Perelman, *New Rhetoric and the Humanities* 6). Education as it is embodied through the epideictic performs the function of creating communal motives and roots.

Reflecting the influence of Judaism, the New Rhetoric reordered the traditional

conceptual hierarchy of classical rhetoric, reconfiguring the meaning of the epideictic in the process. The community and audience, rather than the individual and speaker, are seen as creators and arbiters of social values. Communities are formed and identified through epideictic discourse, which in the New Rhetoric functions to establish roots for communities and audiences. Perelman's conception of the epideictic can help to explain the discursive foundations of genuine argument. Like Levinas's system of ethics, Perelman's rhetoric repudiates narcissism and solipsism, insisting that rhetoric begin with a recognition of the human other. The epideictic is the form of discourse through which such recognition is achieved.

Perelman acknowledged that neither communal roots nor the epideictic were sufficient guarantees for the creation of *Tsedek*. World War II, the failure of German and French values, and the Shoah moved Perelman in two directions. First, he appears to have been persuaded by Weil's analysis of a rootless Europe to emphasize the need for communal ties and the epideictic. Second, he recognized the danger in sanctifying or universalizing the beliefs of particular communities and audiences. Perelman attempted to check the local with the universal, and the New Rhetoric was designed as an attempt to mediate between and among plural truths.

The Universal Audience and Tsedek

Although the focus of the New Rhetoric is on the audience, Perelman was acutely aware that the speaker needed a conscience for the purpose of judgment. Such a conscience, Perelman believed, should be cosmopolitan, wed the intellect to sentiment, understand the motives and values of the community, and allow for the impulse of the universal (Perelman, "Rhetoricians" 192). A close reading of Perelman's writings on justice suggests that the universal audience constituted the speaker's conscience.

Citing the Judeo-Christian prophetic tradition, Baruk's writings on *Tsedek,* and Kant, Perelman wrote that "our own moral conscience . . . constitutes the ultimate criterion" (Perelman, *Idea* 75). As Perelman emphasized, an "ultimate" criterion is not an "absolute" criterion (75), for the conscience, Perelman believed, should use reason in its fullest sense to discover and create justice. Reason itself oscillated between the rational and reasonable and reflected the needs of the community. The moral conscience, Perelman concluded, "synthesized" all the aspirations necessary for justice. Such a synthesis required attention to local concerns and a "universalizing impulse" about discourse (Scult 86).

For Perelman, the prophetic and universalizing impulse of *Tsedek* made necessary a non-absolute ideal or criterion that could be used to judge between and among values. The universal audience served as a dialectical check on local and human justice, and should not be confused with the metanarratives or the universals of the Enlightenment. *Tsedek* was not predetermined by an apodictic system of logic; rather, *Tsedek* was the product of an open system of argument in which the ideal of justice as embodied in the universal audience was vibrated against the local and relative. A profound tension between the universal and local is characteristic of Jewish thought.

Stone notes that the "continual process of holding together the interdependent yet sometimes seemingly conflicting divine and human, or ideal and normative, elements of the Jewish legal system within a unified whole manifests itself in different ways in Jewish legal history" (889). In the Jewish tradition, those who were entrusted with the power to interpret the law were to "fear heaven" and follow majority opinion. Heaven and

majority opinion were often in opposition and tension. Talmudic argument reflects this tension and the "continual process of holding together" conflicting values that have different sources of origin.

Perelman imported into the New Rhetoric the Jewish sense that conflicting values needed to be held together rather than allowing one set of values to negate the other. As one illustration, the epideictic and the universal audience can function as interdependent opposites in the New Rhetoric. The epideictic served to create and strengthen communal values, and the universal audience was designed to bridge the judgments of the particular audience (the concrete ensemble the speaker wishes to influence) to a source of reason outside the self and the particular ensemble of minds.

Perelman suggested that arguments addressed to the universal audience should be "conceived as an appeal to an ideal audience—which I call the universal audience—whether embodied in God, in all reasonable and competent men, in the man deliberating or in an elite" (Perelman, *New Rhetoric and the Humanities* 14). Consistent with Perelman's commitment to pluralism, he suggested multiple sources of universal reason. Although a freethinker, Perelman identified Heavenly voices, God, and the Gods as sources of the universal. Formal logic and expert opinions were also seen as sources and embodiments of the universal audience. In adapting to an audience better versed in classical Greek, Roman and Continental rhetoric than in Judaism or the Talmud, he quoted, with approval, Plato's admonition in the *Phaedrus* that a real rhetoric should aspire to convince the Gods themselves (Perelman and Olbrechts-Tyteca 7).

The New Rhetoric asks that particular audiences and speakers pay heed to the voices of the divine as well as to the insights afforded by formal logic and expert opinion. However, reflecting the teachings of the Oven of Akhnai, it does not advocate nor suggest that these sources are off-limits to reason. Since humans must interpret the meaning of the divine, of formal logic, and of expert opinion, human flaws and interest are bound to affect the values and judgments produced by these interpretations. Because such interpretations may be given undue weight because of their original sources, the New Rhetoric invites them into the process of argumentation; but does not privilege these sources with definitive insight.

No source of values, in the New Rhetoric, is beyond the pale of reason and argumentation, not even the universal audience. Given Perelman's metaphysics, it is not surprising that Perelman and Olbrechts-Tyteca outline interdependent particular audiences, universal audiences, and an undefined universal audience. All of them are open to the judgment of reason.

> We believe, then, that audiences are not independent of one another, that particular concrete audiences are capable of validating a concept of the universal audience which characterizes them. On the other hand, it is the undefined universal audience that is invoked to pass judgment on what is the concept of the universal audience appropriate to such a concrete audience, to examine, simultaneously, the manner in which it was composed, which are the individuals who comprise it, according to the adopted criterion, and whether this criterion is legitimate. It can be said that audiences pass judgment on one another (35).

Perelman's pluralism extended even into the realm of the universal. In his view, audiences themselves are composites of different values. Accordingly, Perelman and Olbrechts-Tyteca conclude that "each individual, each culture, has thus its own conception of the universal audience" (33).

This passage calls for some clarification. First, if audiences "pass judgment on one

another," then the relationship between and among them is dialectical, not hierarchical. Second, as in the *Kal Va-Chomer*, the particular is not ruled by the universal, for the concrete audience has the power to judge the universal audience. Finally, since the conceptions of universal audiences are necessarily limited by the views and values of individual speakers, Perelman may have found it necessary to posit an undefined universal audience that, like his metaphysics, has "boundaries that cannot be foretold" (139). Reason itself is not an absolute, for a sphere of the cosmos may defy human reason and understanding. The construction of an undefined universal audience freed Perelman from the restrictions of a clearly demarcated system of the universal, allowing for the ineffable as well as for the creation and evolution of new thought, values, and rhetoric (Crosswhite, "Universality").

With an understanding of a Jewish-influenced New Rhetoric, it becomes apparent that Perelmanian philosophy serves as an alternative to the dangers of Enlightenment thinking. Similarly, the New Rhetoric steers clear of the more extreme expressions of postmodernity. The New Rhetoric stands as a counter-model to contemporary critical theory and as a "third way" between the certainty of the Enlightenment and the radical skepticism of some post-Enlightenment thought.

The New Rhetoric and Post-Enlightenment Thought

Post-Enlightenment thought is distinguished by its critique of foundational epistemologies, the totalizing and leveling powers of instrumental reason and rationality, and a predetermined history or future. The New Rhetoric project shares many of these concerns. Horkheimer and Adorno and Perelman reach similar conclusions about the powerful role played by Enlightenment reason and logic in the justification of totalitarian movements. However, unlike Horkheimer who casts reason in a tragic narrative form, leaving no room for a possible redemption or regeneration (Farrell 185), Perelman extricated reason from the boundaries set by the Enlightenment thinkers and envisioned a reason that was not defined by formal systems, mathematics, or geometry.

Similarly, the New Rhetoric and the post-Enlightenment movement known as postmodernity[7] converge and diverge in significant ways. Many commentators refer to Kristeva, Irigaray, Deleuze, Bataille, Blanchot, de Certeau, Barthes, Jameson, Horkheimer and Adorno, Lyotard (*Postmodern*), Foucault, Rorty, DeMan, Derrida and others as representatives of postmodernity. The extreme or hard version of this diverse and heterogeneous movement,[8] inspired by the writings of Horkheimer and the Frankfurt school (Docherty 5), frames discussions of reason in the tragic mode (Horkheimer and Adorno), exhibits an unqualified "incredulity toward metanarratives" (Lyotard, *Postmodern*), reveals a vision of a fragmented world in which the "simulacrum" is reality (Baudrillard), is committed to indeterminacy (DeMan), and to the indiscriminate use of deconstruction (Lucy 85).

The rejection of Enlightenment metanarratives and a concern for the preservation of the "Other" in the discourse of postmodernity is consistent with the spirit and intent of Perelman's work. In contrast to Perelman and the New Rhetoric project, postmodernity can, particularly in its hard or strong version, overemphasize skepticism (Handelman, *Fragments;* Nussbaum, "Valuing"), deny the possibility of common or shared values (O'Neil), and place no limits on the range of deconstruction (Crosswhite, *Rhetoric*). The writings of Horkheimer, Adorno, Derrida, Foucault, and Lyotard have alerted us to the horrific consequences of Enlightenment optimism, metaphysics, and reason. Yet, there is

"an almost irresistible drive in many 'postmodern' discourses toward an abstract negation and skepticism" and

> Despite all the professed skepticism about binary oppositions, there has been a tendency in many 'postmodern' discourses to reify a new set of fixed oppositions: otherness is pitted against sameness, contingency against necessity, singularity and particularity against universality, fragmentation against wholeness (Bernstein 309, 310).

The hard version of postmodernism deploys Otherness, contingency, singularity, and fragmentation to exclude their opposites. If the Other has nothing in common with Others, if contingency is a figure without ground, and the particular does not recognize the status of the universal, then the conditions necessary for genuine argumentation are denied (Goodheart; Rowland; Eagleton). Like Arendt (*Human*) and other post-Shoah Jewish thinkers, Perelman developed a "third way" between Enlightenment optimism and postmodern skepticism. Perelman acknowledges the indeterminacy, polysemy, and irreducible plurality of post-Enlightenment thought, but still leaves room for argument. When the New Rhetoric and postmodernity are juxtaposed, some striking similarities and differences are revealed.

Origins

The New Rhetoric and postmodernity are post-Enlightenment responses to the violence enabled and inspired by Enlightenment assumptions, metanarratives, and reason. Horkheimer and Adorno trace the metaphysics and logic of Enlightenment rationality to the control and domination of nature and human beings. In their condemnation of Enlightenment reason, Horkheimer and Adorno sound a theme remarkably similar to one developed by Perelman: "For the Enlightenment, whatever does not conform to the rule of computation and utility is suspect" (6). Others who develop this line of thought see the logic of the Enlightenment in the Holocaust and the bombing of Hiroshima and Nagasaki (Kren and Rappaport; Bauman).

Perelman and postmodernists agree on the dangers of Enlightenment reason. Thomas Docherty summarizes the postmodernist complaint about the Enlightenment definition of reason in this manner: "In a word, reason has been reduced to *mathesis:* that is, it has been reduced to a specific form of reason. More importantly, this specific inflection of reason is also presented as if it were reason-as-such, as if it were the only valid or legitimate form of rational thinking" (Docherty 5–6). This observation is consistent with Perelman's response to Enlightenment reasoning.

In search of an alternative to Enlightenment metaphysics and thought, Perelman and many postmodern thinkers turned to a common source: Judaism. Historian Martin Jay, in his *Downcast Eyes* writes, "the rise of postmodern thought is tied to the revival of interest in France in one of the most premodern of cultural phenomena. For an essential, if unexpected, element [in the story about postmodernism] is the intense fascination with Judaism that gripped many French intellectuals in the 1970s and 1980s" (546). Jay documents the influence of Judaism on two of the most prominent postmodern writers; Jacques Derrida and Jean-François Lyotard.

Derrida, of Algerian Jewish heritage, and profoundly influenced by Levinas, could rightly be considered the "latest in the line of Jewish heretic hermeneutics" (Handelman, *Slayers* 163). Lyotard was influenced by Judaism and Levinas as well (Lyotard, "Jewish"). Post-Enlightenment thinkers and postmodernity have appropriated much that can be

traced to Jewish thought: the use of such concepts as indeterminacy, différance, poly-
semy, and deconstruction in postmodern discourse are borrowed from Rabbinical
Judaism (Stone; Stern; Handelman *Fragments*). Perelman and postmodernist thinkers are
in general agreement that Enlightenment metaphysics and reason are dangerous, that
philosophies of totality and Being should be resisted, and that Jewish modes of thought
can be used as counter-models. Where Perelman and the strong version of postmodern
thought diverge can now be clarified.

Postmodern and Perelmanian Epistemology

Having jettisoned foundationalism, metanarratives, and epistemology, the strong
version of postmodernity suggests that we cannot come to understand or know through
reason conceived as rationality in the European tradition. Perelman would join postmod-
ern thinkers in the rejection of Enlightenment foundationalism and the reduction of
reason to *mathesis,* but would not foreclose the possibility of epistemology and argument.
While Rorty (*Philosophy; Consequences*) and other postmodern thinkers conflate epistemol-
ogy with foundationalism (Fairlamb 60–72), Perelman liberates epistemology from the
confines of *mathesis* and symbolic logic. Such an expansion includes forms of knowledge
that are neither foundational nor absolute.

Consequently, Perelmanian epistemology better reflects the constructive impulses of
Talmudic thought than some representatives of postmodernity who cite Jewish sources.
As Stern and Stone warn, appropriation of Jewish concepts must be done with care, for
while the Jewish tradition employs the notions of indeterminacy, polysemy, deconstruc-
tion, and pluralism, it also assumes the possibility of principled judgment through
reasoned discourse and of redemption. For example, the concept of indeterminacy in
postmodernity can lead to an infinite deferral of judgment that is inconsistent with
Rabbinic discourse. In Rabbinical Judaism, judgments are made, not continually de-
ferred; conflicts are decided, and are not left unresolved (Stern 141–60). Jewish thought
oscillates between indeterminacy and meaning, deconstruction and redemption, holding
extremes in juxtaposition. (Handelman, *Fragments* 43, 143, 249–250). Jewish argument
reveals some claims of knowledge and some opinions as either stronger or weaker in
given contexts and before certain audiences. The New Rhetoric and Judaism share the
ability to critique and affirm, while a primary hermeneutic of postmodernism, deconstruc-
tion, may not fulfill both functions.

Deconstruction and the New Rhetoric

In an attempt to displace the dominant "onto-theology" of the Western world, Derrida
("White") and other postmodernist thinkers seek to deconstruct "white mythology."
Through deconstruction, hierarchies of values found in texts can be reversed or leveled,
ideologies revealed, and foundational epistemologies exposed (Crichley, *Ethics;* Culler,
Deconstruction; Derrida, *Speech, Writing*). The New Rhetoric and Deconstruction share
some similar assumptions and features. Deconstruction is a "species of midrashic play"
(Handelman, *Slayers*) and the New Rhetoric's "dissociation of concepts" reflects Jewish
thought (Handelman, *Fragments* 245–250). Both attempt to reveal and reorder the
operating value hierarchies in discourse. Finally, both seek to reveal the limitations and
dangers of Enlightenment reason and foundationalism.

When practiced indiscriminately, without a concern for justice, deconstruction can

produce nihilistic results incompatible with Derrida's critical method (Derrida, "Force"). As a negative hermeneutic, deconstruction can undermine the possibility of communication and judgment, preventing communal reasoning and reasoned action (Crosswhite, *Reason* 24). Simon Crichley (*Ethics*) observes that "the move that deconstruction is unable to make–what I call its impasse–concerns the passage from undecidability to decision, from responsibility to questioning, from deconstruction to critique, from ethics to politics" (236).

In contrast, the New Rhetoric overcomes deconstruction's "impasse" by establishing non-foundational commonplaces (or the ordinary) through epideictic discourse. Epideictic discourse cultivates the communal roots (Weil) and the "dikes" that prevent violence from destroying human community (Perelman and Olbrechts-Tyteca 55). In short, the epideictic establishes the "necessary conditions for argumentative social conflict" (Crosswhite, *Reason* 104). With such commonplaces assured, social knowledge and values can be tested and ordered through *Kal Ve-Chomer*.

The "Dissociation of Concepts" provides a second avenue out of deconstruction's impasse. Rather than deconstructing values and leaving them, as Perelman and Olbrechts-Tyteca observe, as "bricks saved intact from a building that has been pulled down" (413), dissociation reorders and reassembles by rearranging hierarchies, altering circumstances, inventing fictions, and tolerating contradiction. The dissociation of concepts assumes that reason can be used to "remodel our conception of reality" through a process of bridging terms that appear to be incompatible. Typically, this is accomplished by bringing philosophical opposites into juxtapostion. When concepts and pairs are brought into juxtaposition, the goal is to remove incompatibilities by preserving rather than eliminating the incompatible elements. A "remodeling of our conception of reality" results when the dissociated terms are reordered through the process of rhetoric.

Aporia and Tsedek

Operating within limits, the skepticism of postmodernity is a useful counterpart to the optimism of reason. Although the absolute optimism of the Enlightenment thinkers was unjustified, representatives of the hard version of postmodernity foreclose the possibility of judgment. Unlimited deconstruction and skepticism can produce endless aporias and a chronic inability to judge. As Crosswhite (*Reason*) and others observe, the impulse of postmodernity and the procedure of deconstruction can become an "obsession" and an "absolute" that can be taken to "the point where nothing remains of any basis for reasoned action" (Harvey 116).

In marked contrast, the purpose and design of the New Rhetoric is to create systems of and for communal justice. With rhetoric and considered argument, the human community can avoid violence, solve problems, create value hierarchies, and make decisions. Reflecting Jewish metaphysics and epistemology, Perelman enlarged the domain of reason with a metaphysics and epistemology in process. As a Jewish influenced system of discourse, the New Rhetoric charts a course between the optimism of the Enlightenment and the skepticism of postmodernity through an intimate blending of opposites for the purposes of justice.

Conclusion

I believe that the New Rhetoric, inspired as it is by *Tsedek*, should share the post-Enlightenment search for a just politics and for a justice that is contextually sensitive

and transcendent. Our local and global communities need a philosophical system that allows humans to disagree and remain in relationship. The New Rhetoric is a system that invites people to argue about values, to do so with the community in mind, and to use a definition of reason that includes all human faculties of understanding and compassion.

The study of argument in the post-Enlightenment era should be enhanced by the Jewish influenced dialectical system displayed in the New Rhetoric. There are systems of logic and inference that are non-formal and allow for non-foundational judgment. The *Kal Ve-Chomer* system of reasoning develops a non-formal logic revealed in the rule of justice and the dissociation of concepts that avoids the compulsion of the syllogism and produces judgments involving general principles that are intimately tied to the concrete. This logic fulfills the aim of the New Rhetoric by providing communities with a nonviolent system of adjudicating value disputes.

The New Rhetoric remains an important, but neglected, system of justice and rhetoric, well designed for the problems raised in post-Enlightenment thought. As a system dedicated to justice, the New Rhetoric acknowledges and embraces the interests of the Other, différance, alterity, indeterminacy, and pluralism, yet retains the possibility of genuine argument. The New Rhetoric maintains this possibility because as a system of thought it oscillates between the Other and sameness, the particular and the universal, refusing to settle on an absolute or on one side of a polarity. Justice and its justification, Perelman recognized, requires an enlarged sense of reason that avoids binary thinking and includes the intellect and sentiment. Rhetorical scholars have yet to realize the potential of the New Rhetoric, to appreciate its vision, or to hear its prophetic voice offering an alternative to violence and absolutes.

Endnotes

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[1] I will refer to the more general philosophical rhetoric developed by Perelman alone and in collaboration with Olbrechts-Tyteca as the New Rhetoric or the New Rhetoric project and the Wilkinson and Weaver English translation as *The New Rhetoric*.

[2] Warnick's work on Olbrechts-Tyteca makes it clear that Perelman was responsible for the global theories on philosophy, logic and law. Olbrechts-Tyteca provided the middle level theories and many of the examples in *The New Rhetoric*. Warnick writes "He was the philosopher and provided the theoretical framework and justification for the work as a whole. She was the empiricist, providing the examples, description, and 'middle level' theory that Perelman's more global theories required for application" (3). Olbrechts-Tyteca was not a Jew, although she did draw from Jewish humor in her *Le Comique du discours*.

[3] A review of the 52 theses and dissertations that have been written between 1970 and 1995 on Perelman and the New Rhetoric, individual articles in rhetoric and communication studies, symposia and festschrifts on Perelman's work in argumentation, philosophy and law, and recent books on or about Perelman's work (Dearin, *New Rhetoric;* Foss, Foss, and Trapp; Golden, Berquist, Coleman; Farrell, *Norms;* Maneli, *Perelman's New Rhetoric;* Crosswhite, *Rhetoric*) reveals that many scholars briefly acknowledge that Perelman was a member of the Belgian underground and was Jewish. No scholar has yet identified in much detail the influence of World War II, the Holocaust, and Judaism on the New Rhetoric.

[4] Susan Handelman notes that trying "to prove that a Jewish background has some influence on even the most avowedly secular Jews is a difficult and complicated task. Even if one leaves this question entirely aside, the fact remains, however, that there are striking and profound *structural* affinities between the work of some of our most recent and influential (Jewish) thinkers like Freud, Derrida, and Bloom, and Rabbinic models of interpretation" (*Slayers* xv).

[5] See the citation to Baruk's books on *Tsedek* in footnote 4 in Perelman, *Idea of Justice* 75 and Baruk's citation of Perelman's work on justice in *Hebraic* 71.

[6] I use the Soncino Press translation (under Epstein in the works cited) of the Babylonian Talmud.

[7] Giddens writes that postmodernity "usually means one or more of the following: that we have discovered nothing

can be known with any certainty, since all pre-existing foundations of epistemology have been shown to be unreliable; that history is devoid of teleology and consequently no version of 'progress' can plausibly be defended; and that a new and social and political agenda has come into being" (46). However, I use the words postmodern and postmodernity with trepidation. Contemporary thought that breaks with foundationalism might better be termed post-Enlightenment rather than postmodern. Bernstein (1991) argues that the "terms 'modern' and 'postmodern' are not only vague, ambiguous and slippery, they have been used in conflicting and even contradictory ways" and suggests that "it is better to drop these terms from our 'vocabularies,' and to try to sort out the relevant issues without reifying these labels" (200).

⁸Briand identifies a "hard" and a "soft" version of postmodernity. The latter version envisions the possibility of a common politics and mutual comprehension; the former denies the possibility of knowledge and judgment.

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