

ARGUING WITH GOD, TALMUDIC DISCOURSE, AND THE JEWISH COUNTERMODEL: IMPLICATIONS FOR THE STUDY OF ARGUMENTATION

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God may well slay me; I may have no hope/ Yet I will argue my case before God.
Job 13:15 (Miles 324)

[To love the Torah more than God is] protection against the madness of a direct
contact with the Sacred that is unmediated by reason.

Emmanuel Lévinas (*Difficult* 144)

The relationship between Judaism and the classical tradition, between Athens and Jerusalem, the God of Israel and the God of the Christians, and Continental and Jewish thought has been and remains argumentative. To some, this relationship rests on a fundamental binary in which Judaism and classical thought are conceptualized as antipodes, mutually exclusive antagonists having little or nothing in common. As Hannah Arendt (*Origins*) and others have documented, Hitler and the Third Reich transformed this binary into a vicious twentieth-century totalitarian movement that led to the Shoah (Holocaust). The two traditions, others hold, share some beliefs and differ on others, with economic, political, religious and cultural contexts influencing the degree to which difference and commonality are stressed (Lévinas, *Difficult* 275; Handelman, *Slayers* 4). I believe the two traditions are a philosophical pair (Perelman and Olbrechts-Tyteca 415–18). They are antinomies: two coherent and relatively reasonable systems of thought that sometimes contradict.

My hope is that a juxtaposition of classical and Jewish understandings of argument and

argumentation will contribute to the contemporary theory and practice of reasoned discourse. Ultimately, I aspire to show how a philosophy and pedagogy of argumentation, informed by normative Jewish patterns of reasoning and the Jewish-inflected works of Emmanuel Lévinas and Chaïm Perelman, can help to cultivate a more pluralistic and civil society in the twenty-first century, one based on disagreement expressed through argument rather than on consensus enforced through rules or secured through schism and polarization. I do not suggest that Judaic thought is intrinsically better or is exclusive in its emphasis on pluralism and civility; doing so would betray the very impulse at the heart of this system of thought. Jews can draw from their tradition doctrines of exclusion and incivility. Witness, for example, how the settlers of the occupied West Bank depict Palestinians as modern day “Amaleks” (ancient enemies of the Jews) with the Hebrew Bible (Rowland and Frank 148). This reasoning deviates significantly from that of normative Judaism, which I feature in this study.

For the purposes of contrasting classical and Jewish perspectives on argumentation, I will assume that the two can be distinguished by their respective views on the following philosophical pairs: ontology and speech,

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the *vita contemplativa* and *vita activa*, philosophy and rhetoric, and apodictic logic and argumentative reasoning. Classical, Western, Patristic (Christian), and Enlightenment thought favors the first term over the second in these pairs, often allowing the first term to rule if not obliterate the second (Arendt, *Human*; Perelman, "Reply"). I follow Chaim Perelman's definition of the classical tradition, with the understanding that there are major exceptions to his generalizations (as there are to my efforts to identify fundamental patterns of Jewish thought):

[T]he tradition I called classical assigns but little importance, as far as achieving science and contemplation goes, either to practice or to the historical and situated aspects of knowledge. . . . This viewpoint is held in common by Plato and Aristotle, as well as by thinkers such as Descartes. . . . The tradition I call classical includes all those who believe that by means of self-evidence, intuitions—either rational or empirical—or supernatural revelation, the human being is capable of acquiring knowledge of immutable and eternal truths, which are the perfect and imperfectible reflexion of an objective reality. ("Reply" 86)

In drawing upon the Jewish countermodel to classical thought and on the works of Lévinas and Perelman, we may choose to reverse the terms in the key philosophical pairs by favoring speech over ontology, the *vita activa* over the *vita contemplativa*, rhetoric over philosophy, and argumentative reasoning over apodictic logic. Unlike the classical tradition, this reversal of terms in Jewish thought does not mean the elimination of or lack of respect for the second term, as philosophical pairs nest opposites in the same system; philosophy and rhetoric can coexist, apodictic logic and argumentation can complement one another.

These philosophical pairs have had significant consequences for the study and practice of argument in western culture. Bruce Kimball's comprehensive history places oratory and public argument, which were clustered under the art of rhetoric, at the center of ancient Greek and Roman education.

This center was under constant attack by philosophers who, by the twelfth and thirteenth centuries, gained control of the newly emergent universities and stressed "speculative thought" over public action, logic and mathematics over the more practical disciplines. As a result, "rhetoric . . . dropped from sight or was transformed into a highly formal" art (Kimball 207).

In the 1660s Peter Ramus removed logic and reason from the realm of rhetoric, placing it instead in mathematics and sciences, thereby effectively demoting and degrading rhetoric (Ong). Although Ramus's direct responsibility for the demise of rhetoric is questionable (Conley 142–43), rhetoric did not recover fully until the 1950s when Perelman and the other "new rhetoricians" sought to revive nonformal logic and argumentative reason (Hauser). "The struggle between philosophy and rhetoric in Greece ended in philosophy's conquest" writes Susan Handelman; in contrast "The Rabbis . . . never suffered this schism . . ." (*Slayers* 11).

To understand how Jewish thought "never suffered this schism" I will consider the birth of argument in the Hebrew Bible, the development of argumentative reason in the Talmud (which interprets the Hebrew Bible) and, finally, two important statements on Jewish thought and argument, cast in response to the Holocaust. Accordingly, I will begin with three founding illustrations of Jewish argument with God in ancient Judaism as recorded in the Hebrew Bible. These arguments, I believe, establish the fundamental metaphysical, theological, axiological, and epistemological assumptions of Hebraic patterns of thought. Then I will reflect on the form and function of Talmudic argument as it struggled to illuminate this Bible in the Diaspora. In conclusion, I yoke the ideas of Emmanuel Lévinas and Chaim Perelman, important twentieth-century Jewish thinkers who provide argumentation theorists with a Jewish-influenced outlook on argumentative

reason, one that can complement the more humane impulses of classical thought.

This survey, of course, will operate at the surface and must ignore the great complexity of the Jewish and classical traditions. I will use Robert Alter's new translation of the Torah and the *Jewish Study Bible* to consider the arguments between and involving God, Abraham, and Moses. I will supplement the *Jewish Study Bible* with translations by Miles and Mitchell for my analysis of argument in Job. I will follow Miles's lead and treat God as an advocate who develops character and argumentative competence over time in the Hebrew Bible. In addition, unlike the arguments in many Western texts, those in the Hebrew Bible are often indeterminate, confused, and can yield a host of reasonable but incompatible interpretations. In the next section, I begin with the genesis of argument in the Jewish tradition and consider as foundational to Jewish thought the arguments made to God by Abraham, Moses, and Job, and God's responses.

ARGUING WITH GOD

The field of argument has yet to penetrate the fields of Jewish studies or philosophy, although one will find some studies that use our scholarship for purposes of taxonomy and argument classification. Laytner's *Arguing with God: A Jewish Tradition* provides a comprehensive overview of the multiple instances of humans and God involved in argumentation. However, Laytner does not draw from our field to conceptualize and explain the Bible's arguing-with-God pattern. His otherwise superb study collapses the arguing-with-God notion into the "law-court pattern" of prayer. This pattern reveals itself in a four-part structure: God is addressed as judge, the facts of the case are presented to God, a request is made to God on the basis of the facts, and God, if persuaded, responds. This pattern, with the key exception of Job's argument with God, does

describe an archetypal pattern of argument between God and humans but, in reducing argument to prayer and the law-court pattern, Laytner often misses the deeper meaning of argument in the Hebrew Bible.

The God of the Hebrew Bible is, by nature, argumentative. Humans, made in God's image, also are argumentative and, in that famous description found in Exodus 32, are described by God as "thick-necked." Agonistic speech is the beginning of Jewish theology. Genesis I has God, in the words of Robert Alter's translation, facing "welter and waste" and then speaking the world and humanity into existence (17). Speaking, or *davar*, is the touchstone notion in the Hebrew Bible, which Handelman defines as speech and thought, word and thing (*Slayers* 3–4). In this tradition, there is no distinction between symbol and reality: "for the Hebrew mind, the essential reality of the table was the word of God, not any idea of the table as in the Platonic view" (Handelman, *Slayers* 32). In contrast, the classical tradition dissociates the word from the thing (the map is not the territory) and privileges what Aristotle termed "First Being" (*ousia*). True knowledge exists in this tradition beyond the symbol, and Being is grasped through a silent speculation that transcends speech and noise. There is no Hebrew word for Being because "[o]ne does not pass beyond the name as an arbitrary sign towards a non verbal vision of the thing, but rather *from the thing to the word*, which creates, characterizes, and sustains it. Hence *davar* is not simply *thing* but also *action, efficacious fact, event, matter, process*" (Handelman, *Slayers* 32). God's arguments become speech acts, creative interventions in the world of experience. Indeed, as Katz has demonstrated, the very letters of the Jewish alphabet may reveal the "source of Jewish cultural and spiritual isolation, consciousness, and survival" (S. B. Katz 151).

The Hebrew God established speech (*davar*) rather than Being (*ousia*) as the primary term. This God is both knowable and often

inscrutable. Unlike the Greek gods, the God of the Hebrews “presuppose[s] that God is good and that creation (and the creation of people) is good” (Laytner xix). Zeus does not assume a benevolent attitude toward humans, nor does he appear to enter time. The God of the Hebrew Bible appears fallible, enters into and is constrained by human time. In Greek myth, humans do not engage in genuine argument with Zeus. The Christian tradition submerges the arguing-with-God tradition in order to emphasize contrition. Where the Hebrew Bible has Job declaring “[God] may well slay me; I may have no hope; Yet I will argue my case before Him,” the King James version bowdlerizes the passage with this translation that eliminates argument: “Though he slay me, yet will I trust in him: but I will maintain mine own ways before him” (Miles 324).

Jack Miles believes the Hebrew Bible is configured diachronically and synchronically around God’s argument with Job. I agree with Miles, as discussed below, that Job defeats God in argument, producing a sequence of action, speech, and silence in the arrangement of the Hebrew Bible in which the book of Job is the climax. The Christian Bible reorganizes the books of the “Old” Testament to herald the coming of Jesus as Messiah, creating a sequence of action, silence, and speech in which the prophetic texts of Joshua, Judges, etc., comprise the final third in which God acts and speaks in anticipation of the coming Christ. The books of the prophets are moved to the end of the Old Testament in the Christian Bible in order to bridge the Old and New Testaments. In the Hebrew Bible, the prophetic texts are nested in the middle, and “from the end of the Book of Job to the end of the Tanakh [the Hebrew Bible], God never speaks again” (Miles 329). The books following Job depict a silent God, a pattern repeated in the Talmud and the works of Lévinas and Perelman.

God’s choice to argue with Abraham, Moses, and Job unveils the essential qualities of the Hebrew God, and traces of these foundational arguments can be found in subsequent Jewish thought. By arguing, God “enters time and is changed by experience. Were it not so, he could not be surprised; and he is endlessly and often most unpleasantly surprised. God is constant; he is not immutable” (Miles 12). God is surprised and changed by the experience of argument, underscoring the risk that God and humans undertake when they engage in argumentation. By arguing, rather than simply exercising raw power, God relinquishes control over and vests freedom to humans. When God and humans argue, and also listen, they risk significant change to self, others, and world; a wedge of consciousness and freedom is placed between arguers; arguers adapt to each other through *argumentum ad hominem*; and action in the world is a consequence of argumentation.

Henry W. Johnstone, in a neglected statement on the philosophical assumptions of argument, writes that “[t]o argue is inherently to risk failure, just as to play a game is inherently to risk defeat. An argument we are guaranteed to win is no more a real argument than a game we are guaranteed to win is a real game” (“Some Reflections” 1). God places God’s moods and conclusions in play during argument with Abraham, Moses, and Job, and not only risks but suffers defeat in argument with Job. To God’s credit, argumentation leads God to reduce the scope of God’s claims in argument with Abraham, change mood and the decision to act in response to arguments posed by Moses, and acknowledge defeat in argumentative exchange with Job. By engaging in argument, God reveals an openmindedness, an openness I would extend to God’s emotional state as well.

Johnstone captures the deepest function served by argument, which is to confront self and other with the risk of change. When

Miles suggests that God “enters time and is changed by experience,” and is “unpleasantly surprised,” God reveals the marks of argumentative encounters (12). These encounters change God, which is inconceivable to those who believe in an immutable, omniscient God. The risk entailed in argument is a function of God’s creation, a creation that does not provide God or humans with clear choices, sufficient information, or the clarity necessary to command immaculate perception.

The risk involved in argumentation, according to Johnstone, is attended by the freedom of those who encounter arguments to resist, ignore, remain neutral, or agree. “Power here is bilateral in the sense that whoever undertakes to correct or supplement what another asserts in the name of knowledge must be willing to be instructed by that other person” (Johnstone, *Philosophy* 134). The choice of argument rather than physical power to adjudicate conflict creates what Johnstone calls a rhetorical “wedge” between arguers (“Rhetoric”). This wedge creates a buffer of consciousness between the argument and its judgment. For example, if God did not choose to abide by the conditions of argument, God would issue commands that would pierce consciousness and produce instant action. Instead, God’s arguments with Abraham, Moses, and Job make claims open to conscious scrutiny and criticism; freedom reigns.

Freedom is denied in formal logic and the apodictic reasoning Arendt detected in totalitarian movements (Arendt, *Origins* 468–72; Perelman, “The Rational”). Abraham Joshua Heschel eloquently depicts the freedom in Jewish thought:

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. (13)

Chaim Perelman and Lucie Olbrechts-Tyteca describe a spiritual wedge in the use of argument, and put it this way:

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. The use of argumentation implies that one has renounced resorting to force alone, that value is attached to gaining the adherence of one’s interlocutor by means of reasoned persuasion, and that one is not regarding him as an object, but appealing to his free judgment. Recourse to argumentation assumes the establishment of a community of minds, which, while it lasts, excludes the use of violence. (55)

By resorting to argumentation, God renounces the use of force to gain adherence and appeals to the free judgment of Abraham, Moses, and Job, and endorses the establishment of a wedge of spiritual freedom. In addition, Johnstone maintains that genuine argument takes the form of *ad hominem*, which he rescues from the bin of fallacies (*Philosophy* 123–37).

Although it may be weak or strong given the structure, context, arguer and audience of a particular argument, Johnstone notes that the *ad hominem* is not, by nature, a fallacious expression of reason. Indeed, he locates it at the core of philosophical reasoning (*Philosophy*). The *ad hominem* argument makes use of the audience’s values and principles in reaching conclusions. At the center of the *ad hominem* argument rest commitments to which the audience is expected to remain faithful.

I believe the *ad hominem* is at the core of Judaic argument, and manifests as *argumentum ad Deum* (an argument asking God to be consistent with God’s stated values). As I will illustrate below, Abraham, Moses, and Job assume that God is just, an assumption that God shares. This shared commitment to justice, or *Tsedek*, constitutes the shared ground

of argument for God and God's human interlocutors. In contrast to the Greek notion of justice, which stresses formal equality, *Tsedek* involves compassion for the other and an integration of equity with mercy, truth and peace, love and justice (Baruk, *Hebraic Civilization*; Baruk, *Tsedek*; Cohn; Perelman, *Idea of Justice*). Divine and human justice, in this vision, are yoked, as the Deuteronomist at 16:20 repeats the word twice, declaring "Justice, justice shall you pursue . . ." That justice is something to be pursued highlights the role that argument plays in precipitating action in the Hebrew Bible.

The Hebraic tradition confuses the distinction, clear in classical thought, between the *vita activa* and the *vita contemplativa*. Arendt traces the *vita contemplativa* to *bios theōretikos*, the "ideal of contemplation (*theōria*)" (*Human* 14). Arendt observes: "Traditionally and up to the beginning of the modern age, the term *vita activa* never lost its negative connotation of 'unquiet' . . ." (*Human* 15). Argumentation, expressed on the plane of action, was at best a prelude to the authentic birthplace of Truth, the silence of contemplation and speculation. Judaism reverses the emphasis given to the *vita contemplativa*. The human world, "like the world of God, is one of action," the world of the *vita activa* (Roth 52). At the end of the three argumentative encounters involving God, Abraham, Moses, and Job, God takes action; the arguments have consequences.

To summarize, the Hebrew Bible depicts an argumentative God, one devoted to arguing with humans. This devotion cannot be conflated simply with a law-court prayer pattern, for these arguments cannot be contained by a preexisting structure or ritualistic practice. As Laytner demonstrates, some significant patterns in the argumentative discourse recur but they are surface characteristics of a much deeper, more profound theological and metaphysical expression of God, humans and the relationship between the two. The Hebrew God is one who ar-

gues, meaning this God is involved in lived time, risks change, does not use an asymmetrical power relationship to deny humans consciousness and the freedom to judge God's arguments, is committed to using justice consistently as a primary criterion for argument evaluation, and translates argument into action.

The argumentative relationship between God and humans that is displayed in the Hebrew Bible echoes throughout the Jewish tradition, affecting both religious and secular thought. When God and humans engage in argument, they develop an expression of reason at the center of normative Judaism. To understand the importance of this expression of reason, I consider, in the following sections, three foundational arguments with God.

Abraham and God: Changing the Criterion of Justice

"[P]erhaps the most dramatic usage" of the arguing-with-God motif, Laytner writes, "is found in the story of Abraham's argument with God over the fate of the people of Sodom and Gomorrah (Genesis 18:23-32)" (3). God initially decides to destroy the two cities because the residents have sinned. However, God then argues internally and asks: "Shall I conceal from Abraham what I am about to do?" (Alter 88). God answers God's self that Abraham will be a "great and mighty nation" and he and his sons will "keep the way of the Lord to do righteousness and justice . . ." (Alter 88). These latter claims appear to win the day as God shares with Abraham the proposal to destroy the two cities and establishes action (Abraham's and the two cities') and justice as the two standards for judging both God's decision and Sodom and Gomorrah. According to Laytner, by sharing with Abraham the proposal to wipe out the two cities, God "all but invites Abraham to question His justice . . ." (5), establishing a bilateral sharing of power

essential to the existence of genuine argumentation. Abraham accepts the invitation, and “stepped forward” to contest God’s plan (Alter 89). In so doing, Alter sees an Abraham “who is surprisingly audacious in the cause of justice, a stance that could scarcely have been predicted from the obedient and pious Abraham of the preceding episodes” (89). This audacious advocate succeeds in changing God’s criterion of justice.

Abraham asks, “Will You really wipe out the innocent with the guilty?” refusing God’s impulse to apply punishment indiscriminately (Alter 89). “Far be it from You to do such a thing, to put to death the innocent with the guilty, making innocent and guilty the same. Far be it from You! Will not the Judge of all the earth do justice?” (Alter 89). By posing the preface and conclusion as rhetorical questions, Abraham helps God develop the standard of justice to be used in this dispute and then insists that God be true to God’s own principles of justice. The rhetorical questions pressure God to perform the reasoning necessary to reach a just conclusion. God then establishes the criterion of 50: “Should I find” God responds, “in Sodom fifty innocent within the city, I will forgive the whole place for their sake” (Alter 89). Here, Abraham provokes God to set forth a numerical criterion. Abraham questions the number 50, and proposes 45, to which God accedes. Abraham then proposes 40, then 30, then 20, and God relents. Abraham’s final offer of 10, which ends a bargaining session familiar to merchants and customers in Middle Eastern casbahs, fleshes out and then changes the criterion of justice to be used.

Alter observes that Abraham, who is “aware that he is walking a dangerous tight rope in reminding the Judge of all earth of the necessity to exercise justice, deploys a whole panoply of the abundant rhetorical devices of ancient Hebrew for expressing self-abasement before a powerful figure” (89–90). This may be true, but God still

permits Abraham to know God’s intentions and to question the criterion of justice to be used in assessing the fate of Sodom and Gomorrah. Abraham’s argument pressures God to change the criterion in two ways in order to bring it into alignment with *Tsedek*. First, the guilty must be separated from the innocent; in God’s initial proposal the two were undifferentiated. Second, Abraham establishes a numerical standard of 50 innocents, which in subsequent bargaining is reduced five times to 10.

God acts on this new criterion, seeks evidence of the number of innocents in the two cities, finds only Lot and his family meeting this standard, spares them, and then destroys the guilty. Eventually, God turns away from mass slaying as a vehicle of justice. Yet, the God-Abraham argumentative exchange is an important moment; through and with argument, God shares power with Abraham, whose character evolves as he develops audacity and courage. This is the prototypical argument with God, which “affirms the role of justice as the key relational concept between God and the world . . .” (Laytner 7). Abraham’s argument with God helps God develop and define justice. Yet Abraham does not challenge God’s plan to destroy Sodom and Gomorrah if destruction is warranted by their agreed-upon standards. In contrast, in his argument with God Moses succeeds in changing God’s mood and plans.

Moses and God: Argumentum ad Deum

Moses “lagged in coming down from the mountain,” where he and God were conversing (Alter 493). In Moses’s absence, the people below lost faith, built a golden calf, and then “rose up to play” (Alter 495). God can see this turn of affairs and shares it with Moses. God is angry, and declares to Moses: “I see this people and, look, it is a stiff-necked people. And now leave Me be, that My wrath may flare against them, and I will put an end to them and I will make you a

great nation” (Alter 495). Moses is quick with *argumentum ad Deum*, and uses a robust set of principles to which God subscribes:

Why, O Lord, should your wrath flare against Your people that You brought out from the land of Egypt with great power and with a strong hand? Why should the Egyptians say, ‘For evil He brought them out, to kill them in the mountains, to put an end to them on the face of the earth?’ Turn back from Your flaring wrath and relent from the evil against Your people. Remember Abraham, Isaac, and Israel Your servants, to whom You swore by Yourself and spoke to them ‘I will multiply your seed like the stars of the heavens, and all this land that I said, I will give to your seed, and they will hold it in estate forever.’ (Alter 495–96)

Like Abraham, Moses begins the argument with a rhetorical question; unlike Abraham, Moses ends his argument with two direct claims, suggesting that he was not on a “dangerous tight rope” (Alter 89) and, within the expected constraints, could avoid self-debasement and speak candidly. Moses’s *argumentum ad Deum* calls God to be true to the principles of justice and reputation, and reminds God of a significant loss of face should the Egyptians witness God’s destruction of the people.

This argumentation is better developed than that between Abraham and God, reflecting the full characteristics of genuine argument. Here, God’s arguments are *ad hominem* and when God states that God will “make [Moses] a great nation,” God gives Moses a personal motive to accept God’s proposal. Moses also calls for a change in mood and quotes God’s words, in which he reminds God of the promises of children and land, back to God. The response is startling. God does not bargain as in the argument with Abraham; rather God “relented from the evil that He had spoken to do to His people” (Alter 496). Moses’s arguments change God’s plan and mood.

In so doing, Moses helps God develop a sense of *Tsedek* that encompasses compassion and careful thought. God, in this story, forms an opinion, shares it with Moses, subjects it

to argumentative scrutiny and, through a bilateral exchange of reasons, changes affect and policy. The arguments between God and Moses are, comparatively, more mature than those between Abraham and God, but both assume that God favors justice over power. In the story of Job, this assumption is challenged, and in the aftermath of the argument between Job and God, God falls silent.

God and Job: Speaking Justice to Power

The argumentation between Job and God is quite different than the preceding encounters. In Job, God violates all of the standards of genuine argument followed when arguing with Abraham and Moses. Unlike the residents of Sodom and Gomorrah and the people who built the golden calf, Job had no brief filed against him for immorality or sin. At the beginning of the book, the reader finds Job to be a good man, with wealth, health, wife, seven sons and three daughters. Unbeknownst to Job, God and the Adversary (Satan) engage in a conversation about Job’s virtue. God celebrates Job, declaring him “a thoroughly good man, who fears God and does nothing wrong” (Job 1:1; Mitchell 12). The Adversary agrees with God, but attributes Job’s just behavior to God’s protection and argues that Job “will curse” God if he suffers (Job 1:11; Mitchell 12).

God accepts Satan’s challenge without sharing it with Job, and permits Satan to cause Job great pain. Job loses his wealth and family. He weeps, shaves his head, but does not think ill of God. Then Satan ups the ante: without revealing this decision to Job, God allows Satan to inflict great physical suffering. “God damn the day I was born and the night that pushed me from the womb,” Job laments (Job 3:3; Mitchell 19). God shares God’s internal arguments with Abraham and Moses; in contrast, Job knows neither that he is part of a cosmic bet nor why he is suffering.

As a prelude to his confrontation with God, Job's friends try to comfort him. Their efforts only add to Job's misery. There is no textual evidence that Job has done wrong, and even were he sinful his suffering seems grotesquely incommensurate to the unrevealed evil for which he may be responsible. Job does not accept or find solace in his friends' attempts to make sense of his suffering. Job refuses to accept rational explanations for his plight and, through it all, seeks justice, not rationalization. It is Job, not God, who emerges as the character seeking *Tsedek*. It is Job who seeks an opportunity to argue and to know the charges against him: "Oh if only God would hear me, stated his case against me, let me read his indictment . . . I would justify the least of my actions; I would stand before him like a prince" (Job 31:35-37; Mitchell 79). God's response, founded on the argumentative touchstones developed by Job's friends, is one of pure power. "Few speeches in all of literature," Miles writes, "can more properly be called overpowering than the Lord's speeches to Job from the whirlwind (Job 38-41)" (314). These speeches turn the *ad hominem* principles of argumentation on their head, as Job has not questioned God's power, claimed greater knowledge than God, or to have been present at creation. He asks for justice. In response, God proclaims God's might, but does not approach the question of justice: "Where were you when I planned the earth? Tell me, if you are wise" (Job 38:4; Mitchell 83). And with words of great irony, God asks Job: "Do you know who took its dimensions, measuring its length with a cord?" (Job 38:5; Mitchell 83). God offers no explanation for Job's anguish, which appears to have no reason or redemptive purpose.

The arguments between Job and God do not clash: Job's arguments are about justice while God's reasoning is exclusively about power. As translated by Miles, Job's response to God's power-arguments is an ironic concession:

Look, I am of no account. What can I tell you?

My hand is on my mouth.

I have already spoken once: I will not harp.

Why go on? I have nothing to add. (Job 40:4-5; Miles 317)

God insists on rehearsing the power theme, asking: "Have you an arm like God's? Can you thunder with a voice like His?" (Job 40:9; Miles 313). Job's reply, which in the tradition has been read as a recantation, should be read as the trump argument in the exchange.

As noted previously, the tradition represses the notion of arguing with God; both the King James and Revised Standard versions seek to establish an attitude of contrition and to highlight the need for the Messiah. As a consequence, almost every Christian Bible translation of Job's reply is a variation of the New Revised Standard Version's rendering:

"I know that you can do all things,
and that no purpose of yours can be thwarted.
'Who is this that hides counsel without knowledge?'
Therefore I have uttered what I did not understand,
things too wonderful for me, which I did not know.
'Hear, and I will speak;
I will question you, and you declare to me.'
I had heard of you by the hearing of the ear,
but now my eye sees you;
therefore I despise myself,
and repent in dust and ashes." (*Holy Bible*, Job 42:2-6)

Building upon previous scholarship, Miles translates Job's reply in a way that is more consistent with Job's lines of argumentation, which congeal around justice. In this translation, Job answers God's power-motif as follows:

You know you can do anything.
Nothing can stop you. . . .
'You listen, and I'll talk,' you say,
'I'll question you, and you tell me.'
Word of you had reached my ears,
but now that my eyes have seen you,
I shudder with sorrow for mortal clay. (Miles 325)

Miles believes that this translation is stronger philologically. It is also reflects Job's founda-

tional claim that, while God may kill him, he will continue to argue his case. Job does not yield his claim for justice to God's power and, in critique of God's monologic deployment of argument, displays God's failure to engage in genuine argument. I agree with Miles's judgment: "Morally, Job has held out to the very end . . . when the Lord praises Job at the end of the book, he is praising both Job's earlier stubbornness with his human interlocutors and his final, utterly consistent, stiff-necked recalcitrance before the Lord himself" (325). The implications of this final exchange are important.

"Job has won," Miles concludes: "The Lord has lost" (325). God recognizes that Job was just and in the end restores Job's health and family, giving him twice what he had at the beginning of the story. With this defeat, God falls silent; this is God's last argument in the Hebrew Bible. This loss, though, is paradoxical, as "Job may, therefore, have saved the Lord from himself" (Miles 327) by insisting on the pairing of justice and power. God's silence after Job has profound theological implications. God's nature is revealed as contested, leaving in the wake of this silence "a realistic vision of the world in which justice is both guaranteed by the good God and occasionally threatened by the bad God" (Miles 327). By besting God in argument, Job demonstrates that humans can remain true to justice in the face of power. With the gifts of the Torah, argument, and the aspiration of *Tsedek*, humans from this point had no direct need to argue with God; God could be absent, although present in the face of the Other, and interpretation of the Hebrew Bible could proceed via the argumentation captured in the Talmud, the text that provides an unending dialogue about the meaning of the Torah.

TALMUDIC ARGUMENTATION

Emmanuel Lévinas would write in the twentieth century: "[To love the Torah more

than God is] protection against the madness of a direct contact with the Sacred that is unmediated by reason" (*Difficult* 144). Responding to the Holocaust, he drew from the resources of Judaism to emphasize ethics over ontology. Contact with God, Lévinas believed, cultivated a divine madness. He shifted the divine to the Torah and the face of the Other. Similarly, the Rabbis saw no need for God's direct presence since God had given them the law (Torah) at Mt. Sinai. Reason would serve as the mediator between and among people, although Lévinas, in contrast to the Rabbis, was quite critical of rhetoric. The nature and form of reason used in the Talmud and by the Rabbis was argumentation.

Talmudic reason expressed through argumentation did not turn directly to God, was rooted in experience and lived time, assumed a set of constant but mutable traditions, placed the beliefs of those who argued at risk, allowed freedom of dissent, emphasized *ad hominem* reasoning, sought reasons for action, and did not seek an end to argument. The development of this sense of reason was due, in part, to the circumstances of Jewish life in the Diaspora. With no state or central power demanding obedience in the Jewish community, persuasion and argument were the primary modes of deliberation. Two well-known Talmudic stories ground its system of reason: the Oven of Akhnai, "the most frequently cited talmudic passage in modern literature," justified communitarian rule over that of God; and the dispute between the two major rabbinical schools, Hillel and Shammai, produced the "these and these" principle (Stone 855). I have discussed these stories as critical intellectual influences on Chaim Perelman's system of argumentation (Frank, "New Rhetoric"; Frank, "Dialectical Rapprochement"). For present purposes I consider them from a different angle, namely, how the arguing-with-God tradition establishes the conditions necessary for decision making in the Tal-

jud, which leads to the placement of ethics before ontology and genuine argument before coercion in normative Jewish thought.

I begin with the end of the Oven of Akhnai parable. Elijah reported to the Rabbis that “[God] laughed [with joy] . . . saying, ‘My sons have defeated Me, My sons have defeated Me’ ” in argument with the Rabbis (*Babylonian Talmud; Seder Nizikin* 353). The argument lost concerns God’s jurisdiction in a dispute among the Rabbis regarding the purity of the Oven of Akhnai. One Rabbi holds that it is pure, but the majority disagrees. This Rabbi offers four proofs that he is right: three physical signs from heaven (a tree is uprooted, the flow of a stream reversed, and the walls of the school crumble); and an announcement from a Divine Voice (a Bot Kol) that the Rabbi is right. The Rabbis in the majority base their response on Deuteronomy 30:12 and Exodus 23:2, claiming that the “Torah had already been given at Mt. Sinai; we pay no attention to a Heavenly Voice because [God has already written] in the Torah at Mt. Sinai, [follow the majority]” (*Babylonian Talmud; Seder Nizikin* 353). It is here that God admits defeat, doing so presumably because the majority has deployed sacred texts to justify the use of reason rather than divine contact to adjudicate disagreement.

The use of an *argumentum ad Deum* to redraw the lines of God’s jurisdiction is both ironic and paradoxical, a result that seems to have given God some pleasure. The implications for subsequent patterns of thinking and argument in the Jewish tradition are important, and I am aware of no similar stories in the classical or Christian traditions. The Oven of Akhnai parable speaks to questions of authority, proof, and the role of human community in judgment. God, and God’s mediators, are not authoritative in disputes. Although God accepts the texts cited in the majority justification as germane, I believe the deeper reason why the majority rejects the divine voice as proof is the one

expressed by Lévinas: direct contact with the Sacred without the mediation of reason produces madness. Lévinas, in particular, finds Moses’s acquiescence to God’s command to kill his son troubling, but finds relief in Moses’s ability to hear and follow the subsequent command to desist (C. Katz). In acquiescing to God’s initial command, Moses was displaying a kind of divine madness, which is a result of his contact with God. The relevance for this kind of divine madness in our period is direct.

The story of the Oven of Akhnai excludes the Divine from the realm of argument and seems to replace it with the majority. Yet, the majority’s power in disputes is circumscribed as well. The story of the debate between the two major rabbinical schools, Hillel and Shammai, addresses the status of the majority and minority, as well as the nature of truth in Talmudic argumentation.

I begin, again, at the end: two key rabbinical schools have debated an issue for three years. Heaven is asked to judge, and a divine voice declares: “both [‘these and these’] are the words of the living God” (*Babylonian Talmud; Seder Mo’ed* 85–86). Both schools are said to present truth, even though they may contradict or display antinomies. Both were reasonable. But, although their arguments were sharper, Shammai did not honor Hillel’s arguments. As a result, Hillel came eventually to be preferred in the tradition because they were in the majority and treated Shammai’s arguments with respect.

An implication of this story is that minority opinion and dissent are highly valued in Talmudic argumentation. Shammai may continue to make arguments, and their arguments are included in those that earn the consent of the majority. To secure communal stability, majority rule is a necessary but certainly not a sufficient guarantee. The “these and these” principle demonstrates that those who disagree can command shards of truth and that the process of argumentation, because it has no ending point,

must continue. For argument to continue, the very structure of reasoning must be contrarian, that is, reflect the multiple truths that sometimes clash.

These two stories reveal the crossover of the arguing-with-God tradition into the sphere of secular human argument. If God's argument with Job is God's last in the Hebrew Bible, the majority in the Oven of Akhnai ensures that reason and argument in community, rather than with God or God's mediators, will be the primary means of dealing with disagreement. And majority opinion is not simply a replacement for the divine, although it remains a necessary decision rule. The "these and these" principle, derived from the clash between the two rabbinical schools, reveals the possibility in Talmudic thought that antinomies can coexist. An even deeper insight to be gained from this parable and a reading of argumentation in the Talmud is that, in the words of David Kraemer in the *Mind of the Talmud*, "truth is indeterminable and that alternative views can encompass different aspects of the whole truth" (139; see also Neusner). With the insights of these two Talmudic parables in mind, we now can consider the trajectories of Talmudic argument and the nature of its rationality before concluding with a consideration of Lévinas and Perelman to twenty-first-century argument theory and practice.

In both the Hebrew Bible and the Talmud, God admits defeat in argument with humans. The arguing-with-God tradition ends with God's defeat in Job; God is not given direct authority in the Talmud, according to the Oven of Akhnai story. Argument between humans in the Talmud, absent the direct presence of the divine, and capable of hosting antinomies, does not have an ending point. "[F]inal answers," writes Kraemer, "may be unavailable" and as a result,

the process by which answers are sought assumes far greater interest and acts of study and interpretation become, on their own terms, expressions of piety.

Furthermore, in recognition of the elusiveness of a single, definitive truth, practice is effectively divorced from truth, and coercion, which may be justified in the presence of truth, yields to considered persuasion. (139)

The "considered persuasion" in the Talmud was valued independently of its outcomes: "argumentation has a value independent of a given conclusion. In fact, argumentation that led to no conclusion at all was often composed" (Kraemer 90). At this point we can pause again to juxtapose this version of argument with that practiced in the Greco-Roman tradition.

Having conducted close readings of the classical canon, Hannah Arendt and Chaim Perelman both detected a clear desire in the classical tradition to find a unitary Truth, which could "reveal itself only in complete human stillness" (Arendt, *Human* 15). Indeed, disagreement indicated error: Descartes's famous codification declared that if two men disagree, one must be wrong. Argumentation in this tradition was ruled by apodictic logic and the syllogism, producing a conclusion that would end disagreement. Auerbach argues that Greek reasoning is characterized by hypotactic logic (in which the elements of an argument are subordinated under a major or controlling premise) while Hebraic reasoning is characterized by paratactic rationality (in which the elements of an argument are juxtaposed rather than subordinated). Classical argument has a definitive end, a conclusion that captures the truth through apodictic reasoning, designed to end disagreement and speech. Jewish wisdom, claims Arthur Waskow,

has always proceeded in a spiral where the future and the past are intertwined . . . Jewish wisdom is neither the endless circle of tradition nor the abrupt progression of a straight line forward. Always it does *midrash*—takes an ancient tradition, gives it a twirl, and comes out somewhere new. (42)

The Talmud is structured as a spiral, with the earliest arguments in the middle of the page,

attended by responses curling around the center in chronological order. Disagreement is privileged and assumed, and speech is valued most highly.

To end disagreement, classical thought has obeyed the three laws of rationality established by Aristotle and many modern teachers of logic: the laws of identity, non-contradiction, and the excluded middle. Talmudic logic dissents from these laws, at least when they move beyond the realm of abstract symbol systems, geometry, and mathematics. In the classical tradition, the law of identity demands that an entity possess an immutable essence beyond the reach of time and speech. In the Jewish tradition, identity may be constant but mutable. God and humans have temperaments, but they change in time, often because of argument. Take, for example, the use of proper names in the Hebrew Bible. A number of names describe God, and the names of the patriarchs often change as they mature. As I have discussed, the law of noncontradiction is transgressed often in the Talmud; antinomies are not merely tolerated but comprise the pluralistic nature of the Jewish universe. True contradictions, which may exist at a certain moment, may be worked out over time: it may not be necessary to exclude one of the contraries. In the clash between Hillel and Shammai, Hillel carries the day because it integrates the contrary opinion of its opponent into its argument. In Jewish logic, it does not follow that if two people disagree, only one must be right. Finally, in the classical tradition, the law of the excluded middle holds that a statement is either true or false; it cannot be both. Talmudic logic seeks out and cultivates an "included middle," one that attempts to find or invent common ground between contraries. Hannah Arendt's *Origins of Totalitarianism* describes the consequences of the application of this form of logic, particularly in the European answer to the Jewish question. The Nazi claim was that Europe is not Jewish, a state-

ment that was either true or false. Of course, the truth was and is that one could have a "dual loyalty" and be European and Jewish. This truth underscores Miles's conclusion that "Western civilization is descended equally from Athens and Jerusalem" (408) and their responses to the tragic.

To summarize, the arguing-with-God tradition and the argumentation in the Talmud offer a striking contrast to the vision of reason and argument in the classical tradition. In the final section, I conclude by briefly positioning Lévinas and Perelman as Jewish-inflected touchstones designed to work through the tragedies of the last century. Both reflect the assumptions about speech and argument that I have identified in the Hebrew Bible and the Talmud, and give us philosophical and practical insight into the construction of twenty-first-century systems of argumentation.

LEVINAS AND PERELMAN: THE JEWISH CONTRIBUTION TO GENUINE ARGUMENTATION

Susan Handelman pairs Lévinas and Perelman as Jewish thinkers, and observes: "Perelman's great masterwork, *The New Rhetoric* (1958), was written, like much of Lévinas's philosophy, in response to the catastrophes and violence of World War II." She further observes that "Perelman's 'new rhetoric' is close in spirit and has many parallels to Lévinas's philosophy . . ." (*Fragments* 237). The major differences between the two thinkers lie in their views on rhetoric and religion. Lévinas conflates rhetoric with coercion and does not clearly address the possibility of disagreement between or among "Others" (*Totality and Infinity*). Perelman appropriates the secular contributions of Jewish thought to justify rhetoric's rescue, but does not address religious or theological issues. Pairing Lévinas and Perelman generates a means of working through the traumas of the twentieth century and the touchstones

for systems of genuine argumentation in this century.

Ronald C. Arnett's excellent recent overview of Lévinas's relevance to the study of argumentation suggests: "It could be argued that [Lévinas] is the most important figure for understanding ethics between persons in a postmodern age" (49). In the wake of the demise of the modern/western conception of life, which enthroned the autonomous self and Being, Lévinas offers a "philosophical starting place" in the key notions of the Other and ethics (49). Arnett sees Lévinas as a "corrective" to modern thought and an "alternative to commonplace communicative assumptions" (49). Rather than beginning with self, Lévinas shifts our focus to the face of the Other, which becomes for him the face of God. We are responsible for and to this face, which is sacred.

In contrast to classical philosophies that sought authenticity through Being, Lévinas calls us to be responsible for others. This sense of responsibility corrects and reverses the hierarchy of Western philosophy, placing the ethical response to the Other before the pursuit of Being, or ontology. For my purposes it is important to recall that Lévinas is very much a Jewish thinker, and his thinking is directly informed by his encounters with the Hebrew Bible and Talmud. His reflections on the story of Moses and Isaac, I believe, are crucial in that they detect the danger of direct contact with the divine and call for the mediation of reason. Lévinas, however, does not dwell on practical reason or discuss disagreement among Others, nor does he respect rhetoric.

Handelman judges Lévinas's "traditional bias of the philosopher against the rhetorician [as] unfortunate and mistaken" because his "conception of the essential sociality of language as truth is inherently rhetorical" (*Fragments* 221). Fortunately, Perelman corrects this bias; the new rhetoric develops argumentation as an expression of reason that complements apodictic logic. Perel-

man's new rhetoric is adapted to its audience of non-Jewish European philosophers and employs *ad hominem* arguments by citing Aristotle's *Rhetoric*. As I have argued elsewhere, Perelman's project is subtly critical of the classical tradition and of Aristotle's treatment of rhetoric (Frank, "Jewish Countermodel"). His project offers a new, expanded vision of reason that goes far beyond the limited conception in Enlightenment thought. Perelman's vision of reason turned to Jewish thought as a countermodel. He believed that a more expansive vision of reason

ought to be completed by a theory of argumentation that draws from the dialectical reasoning and rhetoric from Greco-roman antiquity, but also with Talmudic methods of reasoning. It is to the study of this theory, and its extensions in all domains that I have dedicated, for more than twenty years, the majority of my works. ("My Intellectual" 4)

Although many historians of rhetoric interpret his system as neo-Aristotelian, I believe it outlines a Jewish rhetoric that reflects a system of Talmudic principles and practices of argumentation. At the same time, Perelman's new rhetoric almost certainly remains indebted to classical thought. This suggests that his work may bridge the two traditions.

The New Rhetoric flows from normative Jewish habits of thought and Talmudic assumptions about reason and argumentation. First, it develops the touchstones and standards of genuine argument present in the Jewish tradition. Second, its focus on the audience rather than the speaker is consistent with the Lévinasian emphasis on the Other. Lévinas's explanation is deeper and theologically sounder than Perelman's, but Perelman better develops the argumentative resources necessary to respect the Other. Third, Perelman revises the three laws of thought in a manner consistent with Jewish logic. His logic specifically permits the co-existence of antinomies, and offers dissociation as a means of dealing with incompatibilities (on the use of dissociation in

argument theory, see Schiappa, "Dissociation"; Schiappa, *Defining*).

In his new book, *The Rhetoric of Rhetoric*, Wayne C. Booth concurs with Crosswhite and Vickers that Perelman and Olbrechts-Tyteca's *The New Rhetoric* was a "major revolution," represents the "most complex effort to explore all rhetorical resources for combating the 'absolutist,' 'Cartesian' view of truth," and "launches an amazingly deep, rich, all-inclusive exploration of rhetorical resources, both from classical giants, especially Aristotle, Cicero, and Quintilian, and from Renaissance anti-Cartesians on to 1969" (73). "Perelman," Booth concludes, "is by now sadly neglected" (73). This is sad because Perelman attempts a rapprochement between classical and Jewish thought.

The Jewish tradition offers much to the broader study of argumentation. Indeed, the process of argumentation is often more important than Truth. Ultimately, the Jewish tradition of argument teaches the global community of the benefits of reasoned discourse and pluralism. We now know that ethical behavior is much more likely when argumentation and persuasion are taught as means of dealing with difference and disagreement. In the Jewish tradition, consensus and dissent coexist, the laws of reason are sufficiently flexible to accommodate both constancy and change, and unending argument results.

Argumentation lies at the spiritual and metaphysical core of Jewish thought. In this tradition, God argues with humans. In turn, humans argue with each other, authority resides in the strength of reasons that acknowledge experience and the Other, and disagreement and contrarian thinking are prized. Perelman and Lévinas maintained a dual loyalty, one to the classical tradition, the other to the Jewish heritage. They saw the commitment of both traditions to reason. Argumentation scholars can do so as well, juxtaposing traditions in search of insight that can help us cultivate the kinds of cour-

age and audacity it took to argue with God, the sense of responsibility that places ethics before ontology, and a vision of reason capable of hosting antinomies.

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