

To Know Us, Study Our Arguments

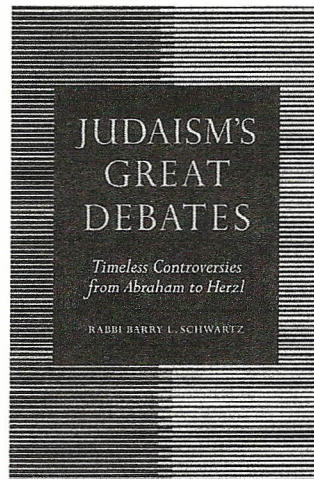
Judaism's Great Debates: Timeless Controversies from Abraham to Herzl

by Barry L. Schwartz
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REVIEW BY EDMOND H. WEISS

RIGHT NOW, especially in New York, Los Angeles, and Israel, tens of thousands of Jews are arguing, sometimes at the top of their voices, about ethics and justice—and only a small percentage

is in the yeshivot. Jews have done this from the beginning, arguing even with God. This should come as no surprise for, as David Frank points out: “The God of the Hebrew Bible is, by nature, argumentative. Humans, made in God’s image are argumentative . . . and ‘thick-necked.’” But the most interesting arguments, historically, have been between and among Jews themselves: for example, Moses versus Korach (on the issue of aristocratic privilege) or Ben Zakkai versus the Zealots (on the efficacy of armed resistance).



Barry Schwartz's *Judaism's Great Debates* emerges from this rich and cacophonous tradition. A deceptively simple little book, it identifies ten crisis points in the history of Judaism and conceptualizes them as debates between two powerful persons or perspectives.

Schwartz's template permits contemporary students to stage or conduct the debates inherent in the discussions: to establish the burden of proof, to examine unexpressed warrants, and perform the basic tasks required of debaters and legal advocates. Although each unit is called a debate, they are better described as conflicts or disputes. Abraham's conversation with God about saving the "good" people in Sodom is more a negotiation than a debate. Further, when the prophet Nathan berates King David for his adultery (and murder?), David does not even argue back, even though inherent in this conversation is a profound debate: empire versus republic; man versus law; unitary presidency versus checks-and-balances. There is also a tributary debate about the ethics of punishing children for their parents' transgressions.

Each chapter not only provides insights into the meaning of the period in which they occurred, but also illustrates that nearly all these arguments are relevant today. (The Sodom controversy, for example, is about proportionality of response; Hillel versus Shammai is about strict construction of laws.)

Each of the ten units is startlingly short; Spinoza gets scarcely 300 words to lay out his theology! While my first thought (as a student of Spinoza) is that this is an unacceptably thin presentation, I now realize that it is better described as elliptical, in the tradition of Torah and Mishna. That is, it offers just enough to stimulate discourse and guide productive inquiry. For the book to achieve its full usefulness, the instructor or leader who uses it as a text must also know how to design and

moderate debates, lest the confrontation between Moses and Korach, for example, devolve into a Purim Spiel.

There is also an innovative thesis in this work. Schwartz suggests that an especially useful way to study Jewish history is to study Jewish intellectual history. In this view, the most important thing to learn about the Jews is their ideas, particularly their clashing and opposing ideas. Out of each great conflict comes innovative thinking, ethical progress, social mechanisms that protect the Jews from their enemies, methods for adapting to modernity, and principles that move the Jewish people and the world at large closer to *tzedek* (justice). To know the Jewish people, then, one studies their arguments.

Rationales and Rationalizations

The arguments at the heart of Judaism are not mere shouting matches or power plays. Judaism as a culture has preferred reason to force and argument to intimidation. Orthodox children study the disputes of the Talmud when still in their early teens; non-Orthodox Jews and secular Jews are over-represented in the legal professions, especially in such intellectually charged parts of the system as defending death penalty cases or representing detainees at Guantanamo Bay. Jews seem most Jewish when they are justifying, defending, or attacking an ethical proposition.

In the Jewish tradition codified by Maimonides, rationality is the human feature that constitutes the "image of God." So, a productive way to study the history of the Jews is to study their arguments and debates. In doing so, it's important to remember that reason and rationality are rarely used to *form* beliefs. Rather, they are far more often used to justify and defend our opinions after they have been formed. When advocates give the true reasons for their conclusions, it is called a "rationale."

When they give other reasons that are more attractive to the audience or adversary, it is called a "rationalization." Either is equally legitimate, so long as the statements are true and the logic is sound. For example, the eating of matzo is almost certainly an ancient rite of unknown origin. The bread baked on the backs of fleeing Israelites is the rationalization.

People who disagree with each other almost never debate. Even apparent debates in the Talmud are mostly reconstructed pseudo-debates, made by placing remarks spoken in different times and locations into a single paragraph of commentary, thereby creating the illusion that the protagonists are debating with each other. Argumentation, debate, and scientific proof are formal ways of discoursing about ideas, notions, and conclusions, with a view to winning assent or acceptance for the advocate's position. In most fields of study (including religious scholarship), hypotheses, conclusions, and even whole theories pre-date the inquiry. Typically, the goal is not to learn what is true or effective, but to confirm one's prior position. Very little inquiry is genuinely open to new findings. Indeed, these days, the money that pays for most research is vested in a particular outcome.

So, then, what is this faculty, rationality, that Maimonides tells us is in the image of God? What is this "discourse of reason" that Hamlet tells us separates human beings from beasts? Is it the ability to separate what is true from false, what is appropriate from inappropriate? Or, rather, is it the ability to make one's choices and actions *seem* reasonable and therefore convincing to others?

Maimonides, Spinoza, and Incorporeal Thought

The contemporary Orthodox Jew is taught that some of the 613 commandments are understandable and serve a clear purpose, while others

are revelatory and beyond our understanding. That is, some can be defended to the doubter through rational argument, while some must be taken on faith (How many of us were taught that kashrut is good for your health? That the prohibition on pork protects Jews from trichinosis?). This, however, is not quite what the revered Moses Maimonides taught:

It is appropriate that one meditate, according to his intellectual capacity, regarding the laws of the Torah to understand their deeper meaning. Those laws for which he finds no reason and knows no purpose should nevertheless not be treated lightly. (*Me'ilah* 8:8)

In other words, Maimonides, whose well-known position is that the “image” of an incorporeal God is *intellect*, believes that there are reasons for *all* the commandments and that it is appropriate, even desirable, to reflect on those meanings. Later in this passage, he observes that all commandments have reasons in God’s intellect; when no reason reveals itself to study, then the fault is in the feebleness of our human intellects, not the capriciousness of the commandments. Maimonides’ intellect, to illustrate, argues that circumcision—a ritual whose origins are shrouded in primordial superstition—is commanded by God so as to lessen sexual pleasure and, thereby, focus the mind on better things.

Differences in intellectual capacity are central to Maimonides’ theology. High levels of intellect (along with “purity of behavior”) can elevate one to a prophet. Moses’ interaction with God, whatever incorporeal form it took, was an acknowledgment of the superiority of his intellect and rationality.

Of course, we must pause for a moment to remark that this core idea, the most widely discussed claim in the *Guide for the Perplexed*, is fundamentally flawed. We know today that thought is not incorporeal. Thought, reason, study, analysis, debate, knowing, understanding, rationalizing) all

entail “motion” in the brain and nervous system. One cannot think without a body and, therefore, since God has no body (*ayn guf*), God can’t think in the way we understand thinking. Indeed, thought is mainly electrochemical and therefore controlled by the laws of physics, a fact that undermines most claims about free will as well.

One memorable chapter of Schwartz’s new book explores Baruch Spinoza’s confrontation with the Synagogue Elders. Spinoza believed that God was best understood through the laws of nature and that, although nature affects every action, the Torah could not have been written or spoken by God. He believed that those *mitzvot* (commandments) justifiable through rational argument should be followed by all rational men. Therefore, that there is no need for divine reward and punishment. And he doubted—lacking evidence—the existence of the *olam habah*, or afterlife.

Spinoza, despite his many conflicts with Maimonides, also believed that thought was incorporeal. In his view, God was not the maker of the universe but the “substance” of which everything in the universe is made. This substance has an endless number of attributes, but the only ones that humans can perceive are “thought” and “extension” (reason and matter). Spinoza also did not appreciate that thinking entailed the “extensions” of the brain and nervous system, but in his case the error does not undermine his theology as badly as it does that of Maimonides.

Arguing with God

Judaism’s Great Debates is in the tradition of another classic on Jewish debate, Anson Laytner’s *Arguing with God: A Jewish Tradition*. Laytner’s book calls readers’ attention to three particular disputes in the Tanakh: Abraham (defending Sodom); Moses (convincing God not to abandon the Israelites); and Job (protesting the injustice of his treatment).

In each argument, the human is clearheaded, clever, and rhetorically effective; in each case, God is emotional and vulnerable to obvious devices of persuasion. For Abraham (whose “debate” is also a chapter in *Judaism’s Great Debates*), God retreats from his rage with Sodom and negotiates a compromise. In Moses’s case, God is shamed into revising his angry first position. In Job’s case, God merely explodes at Job’s challenge, dismissing his complaint but eventually acquiescing.

While each of these disputes deserves at least a monograph of commentary, it is still important to highlight a phenomenon that is characteristic of all three, but especially of Abraham and Moses. Abraham asserts that a just God should act justly. Moses asserts that the Egyptians would delight in the failure of the God of Israel. These arguments, like nearly all those made in ordinary conversation, leave out the most controversial and relevant premise: that God should care what people think of him. But that premise is never uttered or debated.

People do not speak in syllogisms, but inherent in each argument is a syllogism, or chain of connected syllogisms, that constitutes the spine of the argument. Typically, the actual point of friction in a dispute is an unexamined premise (or warrant). Sometimes the warrants are truisms (self-evident), such as “good health is better than ill health” or “parents love their children.” These obvious and basic warrants, according to Aristotle’s *Rhetoric*, would, if stated specifically, weaken the argument and undermine the speaker’s credibility. But, to be fair, it may *not* be the case that God should care about his reputation, or that good health automatically trumps other values and pleasures, or even that parents automatically love their children.

When Nathan chides King David (yet another chapter in *Judaism’s Great Debates*), he uses an analogy

about a farmer with lots of livestock stealing from someone who has very little. David is immediately taken with this argument, not realizing that he has condemned himself. However, inherent in any argument by analogy is a hidden premise, in this instance, asserting that livestock are analogous to wives, that kings are analogous to farmers, and so forth. The unexamined and far more interesting question—never brought up in the debate—is whether kings are subject to the same laws as commoners. In a true debate, one of the tasks of the adversary is to extract the unexpressed premise and challenge its truth.

Talmud Debates

When “debate” and “Judaism” are uttered in the same sentence, most will think of the Talmud: the oral Torah and its commentaries, transcribed over several centuries after the fall of the second temple. *Judaism’s Great Debates*, like most Talmud courses, begins with an account of a famous argument among rabbis (*Bava Metzia*, 59a-b). The subject of the argument is arcane and interests almost no one: “If an oven is kosher, then broken, is the reassembled oven automatically kosher as well?” But the deliberation itself is central to an understanding of Judaism. The majority, led by Rabbi Joshua, decides that the oven is still kosher; the minority of one, Rabbi Eliezer, not only disagrees with the majority but also invokes a series of miraculous events to prove his correctness. The last miracle is a heavenly chorus, urging the group to agree with Eliezer, to which Joshua famously announces: “The teaching is not in heaven!” He adds, “We take no notice of heavenly voices, since You, God, have already, at Sinai, written in the Torah to ‘follow the majority.’”

This text declares that the Jews are fundamentally a rational, legalistic people who base their judgments *not* on miracles or divine interventions but on the received Torah(s), and that in

disputed matters the majority should prevail. (This effectively eliminates God from all halachic discussions, save for citations in Torah verses. Later in this part of the Talmud, God laughs and declares, “My children have defeated me.”)

Emmanuel Levinas observes that this elevation of Torah and Torah disputes, even above miraculous voices from heaven, is “protection against the madness of a direct contact with the Sacred that is unmediated by reason.”

The story captures a wonderful moment in Jewish history: the enshrinement of intellect as the engine of Judaism. But note how Rabbi Joshua “proves his point.” Using one of the standard forms of talmudic argument, he cites—or appears to cite—a line of Torah that tells us to “follow the majority.” The annotators tell us that the verse he has in mind is Exodus 23:2: “You shall not follow a multitude to do evil; neither shall you testify in a dispute to follow after a crowd to pervert judgment.”

The word translated as “multitude” is *rabim*, which should more accurately be translated as “mighty” or “powerful.” And, in any event, the instruction is *not* to follow the “majority” or “mighty.” One might argue that not following the majority to do evil is somehow equivalent to following the majority to do good. But how could such a far-fetched, tenuous connection provide the “proof” for one of the foundations of Judaism itself? The rationalization is unconvincing.

Talmudic proofs are not demonstrations. Moreover, they are not really debates; that is, there is rarely an assignment of presumption or burden of proof. Disputed conclusions are often so fragile that the “losing” opinion is given nearly as much respect and authority as the winner. (Some very observant Jews light two Hanukkah menorahs: one the Hillel way, one the Shammai way.) This is because the purpose of the proofs is to impress the majority, to satisfy those present that

the advocate’s case is consistent with the Torah (as well as what the majority wants to do anyway). The great inheritance Jews receive from the disputes in the Talmud, therefore, is the art of using all available means to prove that one’s position is for “the sake of heaven”—that is, consistent with the requirements of the Torah and advancing that combination of justice and compassion called *tzedek*. Once that case is made, the majority is not afraid to concur.

Arguments over Israel

There are cultures and religions that eschew debate and questioning. There are religions that encourage faith *despite* the evidence. (It would be relatively straightforward, for example, to determine whether the Communion wine actually turns into blood.) There are faiths that prefer the ignorance of innocence to the knowledge of worldliness. Judaism is not one of those religions.

I said earlier that Jewish culture has traditionally preferred argument to force. This is, of course, a simplification. I’m sure the zealots weren’t much for talking. The domain in which the decrease of reason is most apparent these days is in Diaspora discussions about Israel—a topic that is now a source of divisiveness rather than unity in most American synagogues. This divisiveness does not mean an intensification of heated discussion or a large-scale commitment to study and debate. Rather, it refers to the formation of hostile factions, wholesale departures of congregants, much “evil speech,” and the firing of clergy whose sermons are too far left or right of some powerful people in the community.

If our current arguments about Israel are studied by Jews in future generations, will they find us as charmingly reasonable as our ancestors? ■

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