Tosafot Gornish Post-Kant: The Talmud as Political Thought

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Tosafot Gornish (TG) is a fourteenth-century commentary on the Tosafists, the thirteenth-century commentators on the Talmud, which in turn is a fourth-to eighth-century commentary on third-century texts (the Mishnah and its parallel traditions). Preserved only in fragments, and written in the margins of Talmudic manuscripts, TG has been marginalized by the history of Talmud interpretation as well. This is because the latter has been understood primarily in legalist terms, not in terms of philosophical or intellectual innovation, let alone in terms of political thought. Otherwise, TG would be one of the central elements in the history of Talmud interpretation, one in which Aristotelian logic and Talmudic rhetoric come together to shape a version of Talmudic rationalism in contradistinction from Maimonides’s philosophical rationalism, which denied the rationality of the Talmud. As Israel Ta-Shma puts it, TG is distinct in its way of approaching every argument in the Talmud or in the Tosafists; TG constantly asks why an argument was carried out in this particular way as opposed to another possible way. This characteristic is both necessary and insufficient for understanding the role of TG in the bi-directional inquiry about the political this essay conducts. There is more: TG makes previous interpretations of the Talmud look either underestimated or unsatisfactory, unless they are explained according to a new criterion, that of logical necessity. TG privileges Aristotelian logic in the same way in which Maimonides privileged it in his early work Milot ha-higayon, and in the same way in which Maimonides continued...

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to privilege it in the Guide and in the Mishneh Torah. The innovation of TG consists in using logic to control rhetoric by proving the rhetorical arguments of the Tosafists and in the Talmud to be rational according to the standards of Aristotelian logic. This stands precisely in contrast to Maimonides, who used Aristotelian standards of logic to dismiss rhetorical modes of analysis in the Talmud. Such new orientation to Aristotelian logic also explains TG’s marginality in a legalistic view of Talmud interpretation: Aristotelian analysis does not immediately lead to new legalist achievement, despite a potential for doing so through the fine distinctions that TG teaches us to draw, the potential of which was uncontestably proven in Isaac Canpanton’s reception of TG in his version of Talmudic rationalism. Yet if the tradition of Talmud interpretation is understood not only as a legalist tradition but also as a tradition of political thought, TG comes front-and-center. That, however, can only be shown with recourse to concepts and categories of political thought post-Kant, which explains why, in what follows, I invoke a post-Kant reader of TG to draw the implications and to show the heuristic importance of TG for political thought. If approached from a post-Kant perspective on judgment and decision, TG shines anew and provides new intellectual resources for contemporary political thought. To recall and to wit: Kant introduced the faculty of judgment as opposing any dogmatic application of rules to a case; however, per Hannah Arendt, he did not venture to describe political judgment. In contrast, Carl Schmitt programmatically implies the impossibility of political judgment, replacing it with decision on exception from the law. Jacques Rancière counters Schmitt by defining political thinking and action through the unwelcome but necessary element of perpetual dis-agreement between parties as they share words but bypass each other in understanding their meaning. Yet despite all these differences, Arendt, Schmitt, and Rancière remain transcendentalists in Kant’s sense: they all allow for a transcendentalist solution of the dogmatism-versus-skepticism dilemma by introducing conditions of possibility of experience that are both internal to and independent from that experience. TG, in contrast, is an instance at which an alternative solution of the dogmatism-skepticism dilemma both lurks and calls for articulation. Reading TG post-Kant allows us to discern this attempted solution and to describe it as apodictic irony, a notion that I will be developing in this essay. Reading TG also requires us to look back at the Talmud from TG’s perspective, showing how TG constructs the past of the Talmud. In that

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4 See Hannah Arendt, Lectures on Kant’s Political Philosophy (trans. R. Beiner; Chicago: University of Chicago Press, 1982).