

"Dissenting, Together"

by Rabbi David Ebstein

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Picture Washington, D.C., on New Year's Eve. While the rest of the city argues about politics, two of the most powerful people in America are raising glasses of champagne together, again. One of them has spent the year publicly tearing apart the other's legal reasoning in his dissents, and the other has returned fire just as fiercely. And yet they are practically family. Their spouses were old friends, and the two of them shared a box at the opera. Ruth Bader Ginsburg and Antonin Scalia disagreed about many of the biggest questions that came before the Court, and they adored each other off the bench.

Priya Parker, in her new book *The Art of Fighting*, asks a question that Ruth and Nino (as Scalia's friends called him) had already answered with their lives: what if the people who challenge us most are the ones who make real connection possible? Parker is a conflict-resolution facilitator, and one of the most common problems companies bring her is too little fighting. The teams she works with tell her, in one form or another, we're too polite. They feel the friction and never name it, and so they never get to a solution, because somewhere along the way everyone agreed, without ever saying so, that not offending each other mattered more than building something together. Parker believes we would have less violence in the world if we allowed ourselves more conflict in it, and that we round the edges off our gatherings and our families because we mistake avoidance for peace.

Our tradition knew this long before Parker wrote a word of it. The rabbis preserved the arguments between Hillel and Shammai side by side on the same page for two thousand years, and they called it Torah. Eilu v'eilu, the Talmud says: these and these are both the words of the living God. Pirkei Avot calls this an argument for the sake of heaven, לשם שמיים.

Tonight is Kol Nidre, and it asks more of us than admiring an armistice. It commands us to go to the people we have grown distant from, close that

distance wherever we can, and argue about the issue instead of attacking the person.

The Mishnah says it about as plainly as our tradition ever says anything: Yom Kippur atones for sins between a person and God. It does not atone for sins between one person and another, until that person has appeased the one they wronged, which means going to them and asking. For the sins between us and God, the day does the work: we fast, we pray, and God meets us there. But the moment another human being enters the picture, the day goes quiet. All the fasting and praying may get us ready, but it will not reconcile us with the people we have wronged.

Rambam takes that Mishnah and builds it into a demand with real force. In Hilchot Teshuva, the Laws of Repentance, he lays out what teshuva requires. It is not enough to repent between yourself and God. You must go to the person you wronged, and ask for forgiveness.

The first step is viduy, confession, out loud and specific; Maimonides is explicit that vague regret, the “I’m sorry if I hurt you” kind, does not count; you have to name the thing. Second comes charata, genuine remorse, and third, kabbalah al ha’atid, a resolve to be a different person long after the apology is over. Where the sin was against another person, And if they say no? Rambam does not let you off that easily. He rules that you bring three friends with you and ask again, and if the person still refuses, you go back a third time. Three specific, heartfelt apologies, each asking plainly for forgiveness for what you did, is a long way from a vague gesture in the general direction of an apology.

That is an uncomfortable bar, and we have lowered it for ourselves. What we want is absolution, to be let off the hook. We know there is a problem and will not name it, because naming it means friction and an argument where the real issue gets said out loud. So we send a text that says “hey, sorry about the other week,” or we take a warmer tone at a family simcha and hope the other person reads our body language as an apology. And when someone comes to us and asks forgiveness, we grant it and move on without ever asking what they think they did.

I knew a successful communal leader who wrote a book about being chronically late. He would arrive late, apologize, and change nothing. When his family held an intimate gathering in his honor, he came in late, apologized, and nobody spoke to him. He was asking for absolution, and his family had had enough of it. He never said the thing that would have counted: my lateness was disrespectful of your time, it inconvenienced you while you were doing something for me, and it was selfish. He would not go near the heat, so the apology went nowhere.

If there is a name sitting in your chest right now, and I suspect for some of you there is, Kol Nidre is telling you to go to that person, say the actual thing, and ask for forgiveness by name.

Most of us do mean it. What happens, then, when you have done every one of those things, gone back a third time with three friends beside you, and the person still says no?

Rambam has an answer for that too. Once you have made those sincere attempts, if the other person still refuses to forgive you, you may let them be, and the one who refuses is now the one who has sinned. Rambam goes further: he warns that it is forbidden to be *achzari*, cruel, and refuse to be appeased, and he calls forgiving readily the way of the people of Israel. The tradition builds an honest asymmetry into *teshuva*: you are fully responsible for the effort, while the outcome rests with the person you hurt, and Rambam refuses to let you carry both jobs forever.

Many of us carry a relationship where we have blurred those two jobs together and told ourselves that if it still has not healed, we must not have tried hard enough. Sometimes you meet the bar completely, and the door still does not open. When that happens, you are done, and the rest is not yours to fix.

Our tradition has a name for leaving something unresolved without resigning yourself to it or walking away: *teiku*. You will find the term scattered through the Talmud, at the end of arguments that never get settled. One tradition reads it as an acronym, *Tishbi yetaretz kushyot u'vayot*, “the Tishbite” (Elijah) “will resolve difficulties and problems,” which means not now, and maybe not in our lifetime. Rather than force a

resolution where there is none, the Talmud lets the question stand open for anyone who turns that page.

But teiku only comes after the Talmud has done the work. The rabbis do not say teiku on page one. They argue, marshal every source, and push the question as far as it can go, and only when they have exhausted the effort do they let it stand. That is the model for us. We do teshuva first, in full, and we save teiku for whatever remains.

Parker, without knowing a word of Aramaic, calls this “healthy heat,” the willingness to hold tension, with care, long enough for it to become clarifying. It asks what an argument for the sake of heaven asks: leave your ego at the door, listen, and value the relationship above winning.

Mussar, Jewish ethical thinking, has a concept called savlanut. We translate it as patience, but the root, sevel, means to carry, to bear. A sabal is someone who carries things, a stevedore, or a “shlepper,” as my mother in law would have said. Savlanut is the active capacity to bear the weight of something that did not resolve, without letting it crush everything else you are carrying.

Really living inside that unresolved space takes tremendous effort. I think of a relationship in my own life, one that keeps me up at night, where I did exactly what Rambam asks. I have gone to this person over and over, and I keep circling back, even when I do not get the answers I deserve, because the relationship matters more to me than what I deserve or who is right. A friend once told me that there is a solution to every problem. I do not know that there is, but if I do not act as if there were one here, I will never find it.

Savlanut was what finally let me set down the guilt without ever setting down the grief. Those turned out to be two different things, and I did not know that until I had lived inside that relationship for a while.

People who care for each other cannot afford to let a disagreement frozen in time paralyze the whole relationship. Sometimes people are proud of not backing down, and when a relationship stays frozen that way, there are only losers on both sides.

So how do we live in relationships that matter to us and are fraught with conflict? Can I be angry with someone and still be in a deep relationship with them? Yes. We can disagree with the people we love, even deeply, without requiring either total reconciliation or rupture. The spiritual task may be to accept that we cannot resolve every conflict and to develop the strength to live faithfully inside the ones that remain, to bear what we cannot fix, and to refuse to let the conflict become the whole relationship.

Ruth and Nino knew that. Their disagreement never resolved in twenty years of opinions and dissents, and it was still there the year Nino died. Ruth Bader Ginsburg put out a statement that began with a duet from the opera *Scalia/Ginsburg*, in which the two of them sing, “We are different, we are one.” “We were best buddies,” she wrote. “We disagreed now and then.” That is *teiku*, lived out in public for twenty years.

So this is what *Kol Nidre* asks of us tonight. If you have a conflict with someone you love, or work with, or are related to, go to them, tonight or tomorrow if you can. Ask plainly for the forgiveness you need to ask for, and if the answer is no, ask again. Do the work Rambam demands, in full, before you settle for avoidance and call it peace.

If you have done everything *teshuva* asks of you, you may say *teiku*, and you get to say it because you did not give up on repair. Carry what remains with *savlanut*, as what is left after trying everything the tradition could ask.

And channel Elijah the Tishbite. He lives in *bein hashmashot*, the boundary space between heaven and earth, past and future, and because he belongs fully to no realm or generation he carries no partisan baggage. He arrives as a third party, untethered to the ego and biases of either side.

In the Hebrew Bible he is uncompromising, a zealot, and God corrects him by putting the Divine Presence in the *kol demamah dakah*, the still, small voice, after the wind and the fire have passed. His zeal was refined into compassion, and he settles conflicts because he learned what force cost him. The power of Elijah can be used to untangle grudges, generational trauma, and unspoken distance that divide families. The

wise utilization of this skill can allow for emotional repair before a larger redemption can occur.

I wish all of us a year in which we learn how to strive and argue with love, compassion and deep understanding. And if we are unable to resolve all of our disputes, may we live in a world of teiku, in which we have the patience to speak civilly to one another, dine at the same table, and create space in our fractured world for unresolved dilemmas. The prophet Malachi said that Elijah will “turn the heart of the fathers and mothers to their children, and the hearts of the children to their mothers and fathers”.

May you and everyone you love be inscribed well in the Book of Life for yet another year. Gmar Chatima Tova.