

RBG Sermon  
September 25th, 2020 - Shabbat *Shuvah*

This time, last week, our world lost a true intellectual giant. As the sun was setting on the day and we were preparing to open ourselves for the Days of Awe, the sun was setting as well on the life of Ruth Bader Ginsburg, the first Jewish woman to be elected to the Supreme Court of the United States.

And while we all know about the landmark cases that she argued and that she presided over, and the changes she has made to the rights of Americans and the fabric of our country, it's been some of the lesser known stories and ideas that I've come to hold close to me and that I've enjoyed discussing and thinking about.

Over the last several days, I've had plenty of people ask me about this notion about whether someone who dies on Rosh Hashanah is a *tzaddik* - a righteous person. The story as I learned it is from a teaching built upon a discussion in the Talmud of the "who shall live, who shall die" concept of who is written in the book of life for the year to come at the High Holy Days, and who is not. (BT Rosh Hashanah 16b, I believe.) A truly righteous person, too, must eventually die (as death is the inevitable conclusion of life). But God does not want to let this precious, righteous person go; God wants to cling on to every second of having this person on earth. But, God is God... and God knows that this person's name is not written in the Book of Life for the year to come. So God waits until the very last possible moment of the year, on the eve of Rosh Hashanah, to allow the Angel of Death to descend. And finally that truly righteous person breathes her last and her soul departs.

But what makes a person righteous? Is it kindness and compassion? Is it their relentless pursuit of justice in the face of adversity? Is it the ability to stand tall and dissent, even when other disagree with you fervently? I think the answer is - yes. And Justice Ginsberg had all all of those qualities and more.

One of my favorite stories that has emerged from the last few days comes from my colleague, Rabbi David Stern, out of Dallas. He recounts the story how, back in 2016, the Beehive class at Temple Emanu-El (consisting of 3 and 4 year olds) adopted a fish. And they decided to name this fish Ruth BETA Ginsburg, in honor of Justice Ginsburg. They sent her a letter of tribute, with a picture of the fish, of course, and you

know what she did? She wrote back, on Supreme Court Stationary and she said: "Dear Beehive Class - I loved receiving your letter and reading all about the fish you named after me. I am so honored that you did that. Cheers, RBG."

I also think about the story I heard that when her husband was in law school and got too sick with cancer to continue on, she went to her classes and his classes, took notes for both of them and typed up his papers for him, so he could continue on as well. All while caring for their young daughter Jane, and oh by the way, making the Harvard Law Review.

These stories reminds me that with all the seriousness and depth of character that she had and attention to the importance of the law, she also had a great sense of integrity and valued caring for others - showing kindness and compassion to them. She was known for mentoring the law clerks who worked with her, and she was never too busy to stop and help. Her kindness knew no bounds.

The thing that I've been thinking about so much over the last few days, was the connection between Justice Ginsburg's famous dissent arguments and the notion of how very Jewish it can be to dissent. I want to share with you a few textual pieces from our tradition that emphasize not only the Jewish nature of disagreeing, but the imperative of it in our lives.

The first text comes from Mishna Eduyot 1:5 and addresses why there is dissenting opinions at all. It reads:

And why do they record the opinion of a single person among the many, when the halakhah must be according to the opinion of the many? So that if a court prefers the opinion of the single person it may depend on him. For no court may set aside the decision of another court unless it is greater than it in wisdom and in number. If it was greater than it in wisdom but not in number, in number but not in wisdom, it may not set aside its decision, unless it is greater than it in wisdom and in number.

What this is teaching us is that it records the dissenting opinion even if it's only that of one person. So that, over time, if more and more people have that dissenting opinion, it leaves the door open for the NEXT court to be able to say that the law could be reversed. It also is pointing out to us that law, even Jewish law, isn't about defining the truth. Majority doesn't always define truth, it simply solves the problem in front of it. But the importance of dissent is in letting us know that the law has to be flexible,

especially for the future when, if enough people dissent, the law can be humble enough to change itself. And the majority can be humble enough to know that it can leave the option open in case there is ever a majority dissent in opinion.

Now - this is my favorite part. And it's so Jewish. There's actually a dissent or disagreement with THAT interpretation of why we allow to write the dissenting opinion in Halakah. Rabbi Judah argues, in Edyut 1:6 saying

"If so, why do they record the opinion of a single person among the many to set it aside? So that if a man shall say, 'Thus have I received the tradition', it may be said to him, 'According to the [refuted] opinion of that individual did you hear it.'"

What he means is that we record the minority opinion so that, if in future generations, people want to say that it could go the other way, we have proof that someone argued that, and we didn't use that ruling! So we should bury it and the argument should be over. I just love it - a dissent on why we dissent.

Later on, Moses Maimonides, the RAMBAM, had another very compelling reason for dissent. He referenced Sanhedrin 89a which said

"it was incumbent upon Zedekiah to discern between actual prophecies and false prophecies, in accordance with the statement of Rabbi Yitzhak, as Rabbi Yitzhak says: A prophetic vision relating to one and the same subject matter [sigenon] may appear to several prophets, but two prophets do not prophesy employing one and the same style of expression"

What the Rambam concluded was that it's important to have different interpretations of the same thing. Just as we expect students to not just spew back material verbatim on a test, but rather take it in, think it through, and critically answer questions in their own words, we want the law to be held in the same way, and that never leads to the same answer - it will always lead to different interpretations. Rambam is saying that unanimous views and opinions should be totally thrown out or discounted because it's clear they never really thought about it or interpreted it to begin with. If everyone comes to the same conclusion, then the conclusion must be wrong. It is in our dissent and discussion that we fully begin to understand the complexities of the law and of human nature.

Why do I bring all of these textual teachings up? Well, because so much of Justice Ginsburg's passion for the law was rooted in her Judaism. She had, in her law chambers, an artistic hanging of the famous words from Deuteronomy 16:20 "Tzedek,

Tzedek, Tirdof - Justice, Justice, you shall pursue.” Her connection to Judaism was fundamental to how she saw herself and her role in the world. At a Commencement Address at Brown University in 2002 she quoted verses from the 'Birth is a Beginning' words written by Alvin Fine in the Yom Kippur liturgy of Gates of Repentance, explaining that 'these lines are recited in some synagogues on Yom Kippur.' and then imparted that wisdom on those going on in their journey ahead. She told Rabbi Rick Jacobs, President of the Union for Reform Judaism, in an interview just a few years ago, “*Tikkun Olam* is about repairing tears in our community. And that is what the law does as well.” She was even known for having said the following: “I am a judge born, raised, and proud of being a Jew. The demand for justice runs through the entirety of the Jewish tradition. I hope, in my years on the bench of the Supreme Court of the United States, I will have the strength and the courage to remain constant in the service of that demand.”

Was Ruth Bader Ginsburg a tzaddik - a righteous person? Only God can truly know. But what we do know is that she was a woman who fought for what she believed in, who lived with kindness and compassion toward others, who valued her family and her relationships above all else, who worked hard to ensure that others could have their rights known, who was unafraid to dissent and speak her mind so that she could help keep the law flexible and malleable, who respected those who disagreed with her, and who kept pushing even when others told her no. No matter your political leanings or beliefs, there is no denying that she was an incredible Jewish role model and that she showed us all the way to be able to intelligently engage in civil discourse for the betterment of our country.

Tonight, she continues to lie in state at the Supreme Court. When a Jewish person dies and they have not been buried, they are often in a place with a *Shomer*, someone who physically stays with the body until the time of burial, often reciting psalms and helping to bring comfort to their soul and body as they transition into the next realm.

I would like to conclude with a psalm, this evening, in honor of Supreme Court Justice Honor Ruth Bader Ginsburg. May we all act as her *Shomrim*, helping her ease from this world into the next.

From Psalm 15: Adonai, Mi Ya-gur b'ah'halecha, mi yiskohn b'har kodshecha?  
Adonai, who may abide in Your House? Who may dwell in your holy mountain? Those  
who are upright; who do justly; who speak the truth within their hearts; Who do not  
slander others, or wrong them, or bring shame upon them;  
Who scorn the lawless, but honor those who revere God; Who give their word, and  
come what may, do not retract; Who do not exploit others; who do not take bribes.  
Those who live in this way shall never be shaken.

On this Shabbat *Shuvah*, as we all contemplate life and death and all the meaning in  
between, may we take her life as a shining example of what can be and teach future  
generations about the ability to live life in such a way that it leaves room for all that is  
possible.

Shabbat Shalom