

Whose Rights Remain Untroubled and Whose Rights Are Devoured?

Rosh HaShanah II, 5783

Each year, during these Days of Awe, part of our communal worship and service of the heart includes moments where we rise together to offer confessional prayers. So, in the spirit of the holiday, I have a confession to make: I never liked school. Now, that may sound like a strange confession for a person to make who spent more than twenty years learning in nine different educational programs, who has earned a high school diploma, three bachelor's degrees, two master's degrees, rabbinic ordination, and runs a school, but it is nevertheless a profound truth of my life and experience. During my time as a student, I felt either unseen by my teachers and the adults responsible for me, or shamed for making mistakes and failing to meet what was expected of me.

I have a vivid memory, actually, of being in elementary school, maybe third grade or so, playing cards and my grandparents house, and my Poppy (my grandfather) asked me, just casually, "How is school going?" He was a wonderful man, the kind of grandparent who always showed up to baseball games or piano recitals and wanted nothing more than to cheer on and celebrate with his family, and I loved him so much for his kind touch. But on this particular day, I was so frustrated with school I just screamed at him, "School is stupid. I hate it! I don't know why we even have school!"

And then I noticed it got very quiet in my grandparents' apartment. When I finally stopped seething, I turned my head and saw a look I had before

seen on my Poppy's face and one that had never appeared thereafter. He looked shocked, and hurt, almost to the point of anger.

He stood up from his chair and quietly came over to where I was standing. He gently, but firmly, grabbed my shoulders and bent down so that his eyes were locked on mine, and he said, "You cannot know how valuable it is to learn. Being able to learn is the greatest gift for your life."

I stood there, staring at my Poppy, puzzled and a little frustrated by his reaction. And then he told me this story:

My Poppy, Morrie Paley, was born one of the youngest of eight children in what was then a small town in Russia. And he told me he never had a chance to go to school. When he and his siblings managed to find their way to the United States, he wasn't even ten years old. Some of his elder brothers and a few other relatives managed to open a grocery and liquor store, and so he helped out where he could: stocking shelves, cleaning up, running errands. Eventually, he owned and ran the store until he sold it and retired.

I asked him how he could have learned to read, to speak English, to run his own business without the benefit of any real schooling. He said, "I never had a chance, so it just wasn't possible. I learned what I needed to live, and then got to work."

The reason that he never got to learn, I found out later, was because he was barred from learning. He grew up with pogroms regularly disrupting his

life. His parents realized it wasn't safe to send him to school, even in their small town, and so they kept him home. Even six decades later, as he was relaying his life to me, he could still recall the feeling of powerlessness and oppression that these experiences ingrained in his mind.

That town in what is now Ukraine no longer exists. The entire population of a few thousand mostly Jewish residents vacated the area for either the United States or Israel (then the British Mandate of Palestine) between 1925 and 1935 because they had been so deprived of rights and freedom that leaving was the only viable option. And so coming to this country, my Poppy's only job, in his eyes, was to work to help his family live and thrive, and to enjoy the freedoms that were available to him.

I can still feel the weight of this story more than three decades later. I would love to tell you that it made me forever appreciate school and treasure my privilege, enjoying my opportunities to learn and grow without complaint forever, but sadly that is not true. I can definitely say, however, that I never again complained about school to my Poppy.

One thing *has* stuck with me from that exchange: I have grown to appreciate the freedoms I enjoy every day. I love being able to choose the work I want to do or how I spend my days. While formal education was always an uncomfortable place for me, I love learning and knowing new things, being free to ask questions, finding answers, looking at something new with wonder, and simply the joy of exposing myself to ideas, subjects, perspectives, and facts I had never thought of before. And I know that I am blessed to have parents who never EVER compromised or limited my

freedom and ability to try new things or to learn and grow through my experiences.

The way life was in my house growing up made so many things seem not only possible, but easy:

Do you want to read that book? Read it!

Do you want to play soccer? Let's sign you up for a league!

Do you want to learn music? Piano lessons start next week!

Do you want to go to college and study Economics or Psychology or Near Eastern and Judaic Studies or Musicology? GO AND LEARN!

Do you want to dedicate your life to business or teaching or theater or law or medicine or botany? Find a job and do it well!

That freedom, that encouragement, that feeling that the pursuits which enlivened my curiosity were not only efforts worthy of praise but an essential way for me to evolve into the best version of myself is an incredible gift that I have used and treasured every day of my life.

On this Rosh HaShanah, I find myself thinking about these treasures, the joys and freedoms that have so defined my life. Not only the freedom to learn but, more importantly, I was blessed with the ultimate freedom my Poppy had dreamed of for most of his life: the freedom to make choices for myself. You see, it's not only that hateful individuals were offended to see my grandfather in school; it's that they didn't want young Jewish children gaining access to the power to make informed decisions by growing in wisdom and experience. Ultimately, the freedom to choose for ourselves

what we want our lives and destinies to be is the greatest form of power, and the most essential right, that any of us possess.

This is the time of year, as I push myself to examine my life and try to cultivate a sense of gratitude for the plethora of gifts I have been given, for the many freedoms I enjoy, I also find myself simultaneously urged to consider my responsibilities, as well as all of the things that are awaiting me in that uncertain future.

No piece of liturgy better summarizes the anxiety and painful uncertainty that await in the year ahead better than the Unetaneh Tokef. Part of the additional Musaf service for both days of Rosh HaShanah, as well as Yom Kippur, it lays out for us the stark reality of our lives, namely that the future is uncertain for each of us, but we know that some will have a harder road ahead than others. Some will live, some will die. Some will be impoverished, some will be enriched.

But this year, one phrase jumped out at me from the Unetaneh Tokef:

מִי יִשְׁקֵט וּמִי יִטְרַף

מִי יִשְׁלֹוּ וּמִי יִתְיַסֵּר

Mi yishaket umi yitaref

Mi yishalev umi yit'yaser

Our machzor translates these phrases as:

“Who will be serene and who will be disturbed;
Who will be tranquil and who will be tormented;”

But I think a better translation might be:

“Who will be undisturbed and who will be devoured?

Who will live peacefully and who will be made to suffer?

When we read these words, we may think of ourselves and see our lives and futures in their prophetic call. What will allow me to lie in peace, and what will make me suffer? What moments of calm and safety await me, and what harms will pursue me?

But in the last year, I have noticed a very different phenomenon all around us. I have seen that the rights of a very few people or groups left untouched, while the rights of so many millions have been stripped away bit by bit. For the first time in my life, this past June, a fundamental, Constitutional right, one that has endured for five decades, was callously stripped away when the Supreme Court handed down its ruling in the case of *Dobbs v. Jackson Women’s Health*. In one fell swoop, the highest bastion of justice in America declared that the bodies of women and all who may become pregnant were not, in fact, fully within their control, but that the state had the right and authority to act on their lives and bodies in ways that might contradict their values, their wishes, and even their health and safety.

To speak plainly, I am an advocate for all people’s rights to their own body and health autonomy. What a person chooses to do with that body is a matter of their own conscience, and decisions about a person’s health should be shared only with the people they choose, whether that be their loved ones, their community, or their physicians.

There is no scientific or medical reason to ban abortions out of hand. Contrary to what some lawmakers have claimed, neither a fetus nor an embryo is the same as a person. An embryo has more in common biologically to an amoeba or another single-celled organism than it does a person.

In addition, banning or excessively restricting abortion actively infringes on the religious rights of many, including my own. While there is no one Jewish opinion on abortion or most other weighty ethical issues, the majority of the texts, from Torah to modern legal commentators, agree that an embryo or fetus is not considered its own person. The Torah (Exodus 21:22-25) speaks of damages to the fetus, even those that result in a miscarriage, as liable for monetary compensation, much like cases of personal injury or property damages. The most well-established Jewish legal opinion is that life begins when a child enters the world and takes its first breath,¹ and before then, it is considered to be a part of the mother, just as her arm or leg might be.²

More than that, there are situations, such as those in which a fetus is not viable and/or threatens the life of the mother, where Jewish law would not only advise an abortion, but might mandate it to save the mother's life or mitigate undue harm to her body or mind.³ Because make no mistake;

¹ Babylonian Talmud, Tractate Sanhedrin 72b

² Babylonian Talmud, Tractates Gittin 23b, Sanhedrin 87b, Gittin 23b; Mishnah Oholot 7:6, Mishneh Torah, Laws of Injury or Property 4:1; Mekhilta d'Rabbi Yishmael 21:12.

³ Mishneh Torah, Laws of the Murderer and the Preservation of Life 1:9

having to carry a child to term who cannot live or for whom a parent cannot care is actively harmful for the pregnant person. It harms their body, leads to more potential complications, and may do irreparable damage to their mental health.

To highlight these harsh realities, the National Council of Jewish Women (NCJW) published a new version of the Unetaneh Tokef for this Rosh Hashanah after the *Dobbs* decision was published, in order to put an even finer point on the travesty we now face:

Who will live and who will die
Who by fire and who by water
Who by ectopic pregnancy and who by infection after her water broke
Who pushed into poverty and who denied the chance to escape poverty
Who trapped in an abusive relationship and who murdered by her abuser
Who disabled by an unwanted pregnancy, who disabled by an unwanted birth
Who forced into dysphoria, who forced into ICE detention
Who stripped of dignity
Who stripped of agency
Who stripped of autonomy
Who by trauma
Who by trauma
Who by trauma
Who by death
And who by trauma

It is not only the rights of certain zealous individuals, groups, and leaders who are cannibalizing the rights of those who may become pregnant. So

many more fundamental rights have come under attack in this country, whether for specific, usually marginalized groups, or for all of us collectively.

Last week was National Banned Book Week. While sadly this was the fortieth year this event was sponsored by the American Library Association, this past year had a record breaking 1,597 individual books that were challenged or banned from library shelves in schools and communities across the country. All of the top ten most frequently challenged books either deal with the experiences of People of Color or LGBTQIA+ persons.

More and more topics of inquiry are being challenged or banned from school curricula because their facts do not accord with the feelings and opinions of some parents and school leaders. Accurate history is being attacked because parents fear that having their children learn about the sins of our ancestors would challenge the narrative that America is perfect, the land of the free and the home of the brave. I am a proud American, and I feel that it is not only ok to love this country while acknowledging our past mistakes and criticizing current policies, but that constructively criticizing our leaders is an essential quality of a patriot. As Thomas Jefferson once wrote, “No government should be without its critics. If its intentions are good, it has nothing to fear from criticism.”

Teaching accurate and essential information about human biology and health is threatened because parents don't want kids thinking about sex or figuring out where they fit, or don't fit, on the spectrum of gender or sexual preferences.

The rights of trans kids and their parents, who just want to give them the compassionate and gender-affirming care they need, are being openly attacked and even mocked by those who would call themselves leaders, but don't have any notion of the vast research into the realities and complexities of gender identity, don't know these children and families personally, and haven't the foggiest notion of what is right or fair or just, other than their dimly perceived notions that "boys should do this" and "girls should do that."

In each of these situations, those who have access to political and social power are wielding it to take away rights, freedoms, and security from others, notably from others they see as different from them. Is this the type of world we want to live in, a world in which ideals are divorced from the real impact they inflict on people's lives, a world in which opinion and position matter more than life, liberty, and the pursuit of happiness of our neighbors and friends.

It is tempting to look at the travesty of the rights we have already lost and those that are under attack in our country and give into despair. You could be forgiven for throwing up your hands or shaking your fists at the sky or letting off a string of expletives and or just crying. It brings to mind the words of the ancient prophet Ezekiel, who looked around his own world and lamented:

The officials [of your cities] are like wolves rending prey in her midst; they shed blood and destroy lives to win ill-gotten gain. Her prophets, too, patch [the holes in] the wall for them with plaster. They prophesy falsely and divine deceitfully for them; they say, “Thus said the Lord GOD,” when the LORD has not spoken. And the people of the land have practiced fraud and committed robbery; they have wronged the poor and needy, have defrauded the stranger [in a world] without justice. And I sought anyone among them to repair the wall or to stand in the breach before Me on behalf of this land, that I might not destroy it; but I found none. [Ezekiel 22:27-30]

But today, at the dawn of this New Year, I want to affirm that there is still hope, the glimmer of a hope that is as true today as it was in the days of our ancient prophets. In the haftarah we read this morning, we are confronted with the words of Jeremiah, a prophet also living in a time of calamity, who was looking toward a distant and possibly troubling future much as Ezekiel had and much as many of us are today. The Temple and all of Jerusalem have been destroyed, the Jewish People are in exile in small bands strewn throughout the world. Jeremiah described the scene, saying, “A cry is heard in Ramah—wailing, bitter weeping— Rachel weeping for her children. She refuses to be comforted for her children, who are gone.” And yet in the very next breath, God, in the voice of the prophet, calls out, not in anger or in despair, but with hope, saying:

Restrain your voice from weeping, your eyes from shedding tears; for there is a reward for your labor. They shall return from the enemy's land, and there is hope in your future [Jeremiah 31:16-17]

Jeremiah, who could have looked around a world destroyed and fallen to hopelessness, is reminding all of the people of his own time, and all of us today, that there is no situation that is bereft of hope.

How can he say this?! In what hidden place did Jeremiah find his hope? The hope he sees came from the people gathering together, standing strong with one another, uniting under one banner and saying no to the tyranny of this moment and yes to the hard work of building a better future. Jeremiah, like Ezekiel, looked around and saw a world utterly ravaged, people desolate and brutalized, but rather than seeing no one who would stand in hope, he envisioned a world where people came together en masse to rise up and repair the world. And for that, Jeremiah tells us to hold on to our tears, tells us there is hope for us in all of our futures.

Many of you may know that over the past year, I have served as the Rabbinical Assembly's liaison to the National Poor People's Campaign, an organization dedicated to ensuring the rights and freedoms of all people, especially the 150 million poor and low-wage people in this country. Three days ago, I watched colleagues, mentors, and faith leaders from every background testify, on the record, before a Congressional committee regarding the travesty that is the stripping away of our rights and freedoms. It took me back to last June, when I too stood proudly in Washington DC, along with 150,000 people, in a march led by the Poor People's Campaign

to decry the moral crisis of our times and to call on our leaders for change. We declared together our intention not only to hope for a brighter future, but to work together to ensure it.

When we chant the Unetaneh Tokef, we do not end in hopelessness at the weight of the hazards that may lie in the year ahead. Instead, we end with a line inserted to give us hope that the future will not be as bad as we envision it might be, and then we move directly into the Kedushah, gathering together as one community, one people, to sing of God's mercy, and to praise God's name and the work of creation. It is as though acknowledging the trauma of the words of this prayer, and then vowing to do something about that pain, brings God closer into our world and lived experiences. In fact, the entirely somber tone of Unetaneh Tokef is in many ways flipped by those final words, which come originally out of the great midrashic collection, Bereishit Rabba (44:12):

וּתְשׁוּבָה וּתְפִלָּה וּצְדָקָה מְעִבִירִין אֶת רַע הַגְּזֵרָה

“But repentance, prayer, and justice/righteousness can transform the harshness of our destiny.

The original words of this classic commentary on the Book of Genesis, explain this idea using a quote from Chronicles II, saying:

וַיִּכְנָעוּ עַמִּי אֲשֶׁר נִקְרָא שְׁמִי עֲלֵיהֶם וַיִּתְפַּלְּלוּ וַיִּבְקְשׁוּ פָנַי וַיִּשְׁבּוּ מִדְּרֹכֵיהֶם הָרָעִים וְאֲנִי אֶשְׁמַע מִן־הַשָּׁמַיִם וְאֶסְלַח לְחַטָּאתָם וְאֶרְפָּא אֶת־אֲרָצָם:

“When My people, who bear My name, humble themselves, pray, and seek My favor and turn from their evil ways, I will hear in My heavenly abode and forgive their sins and heal their land.” [II Chronicles 7:14]

The authors of this midrash are trying to paint a picture of our agency in the world, our partnership with the creator of all things. In the mind of the Rosh Hashanah liturgist, we are called upon to act in order to mitigate the worst of the possible futures we imagine for ourselves and our world. The text is telling us that turning away from harmful ways (or *teshuvah*), prayer toward God (*tefillah*), and seeking to walk God's path by acting with our best and most just actions (*tzedakah*) can help push us toward a better future for ourselves.

But if we read the prayer differently, if we see it as an indictment of the world and the systems that uphold the rights of a few at the expense of the many, that keep some unbelievably comfortable while others are persecuted, that leave untroubled the rights of some while the rights of many others are wholly devoured, we can see the call of the midrashist differently as well.

Because I believe that the purpose of the Unetaneh Tokef is not merely to provide us a recipe for inner reflection with the hope of understanding and learning from your mistakes. I think it is also a call to action for everyone who looks at the world and sees it as unfair, unjust, and unsustainable.

וְתִשׁוּבָה וְתַפִּלָּה וְצִדְקָה מְעִבִּירִין אֶת רַע הַגְּזֵרָה

“But repentance, prayer, and justice/righteousness can transform the harshness of our destiny.

It is saying DO TESHUVAH: don't let rights be blocked or stripped away but return them to each and every person who is being denied them. Return to

women and those who may become pregnant the rights to make individual choices about their own health, safety, and potential parenthood. Return the pathways to learning for all those who seek it, and give them the opportunity and access to the accumulated knowledge of the 21st century without censoring history or banning books that conflict with your ideals. Return to every citizen of this great nation a voice in the decisions that affect their lives and daily realities by dismantling barriers to voting and encouraging each and every person who is able to register and vote.

It is saying CALL OUT WITH THE CRIES OF YOUR SOUL: Speak to others and tell them about the hurts you experience. Share your story and listen without judgment to the stories of others. Cry out in the face of injustice and real harm that is being done to all of us and to the fabric of our democracy. Raise your voice in meetings, with phone calls, letters, emails, or texts to those who hold the levers of power again and again and again until they are moved or forced to make a change.

It is saying ENGAGE ACTIVELY IN THE CALL OF *TZEDEK*, JUSTICE. Give your time and help elect people who will make a difference. Give your money to fund the efforts that will safeguard our rights and protect those in need. Give your power, however much you may have, in joining with other people to ensure that this backward march of stripping away the rights that had been promised to all of us in generations past will be enshrined in law so that they may endure for the generations to come.

וּנְתַנֶּה תִּקְוָה קִדְּשַׁת הַיּוֹם כִּי הוּא נוֹרָא וְאִיּוֹם

Unetaneh tokef kidushat hayom, ki hu nora v'ayom

We are called to tell the power of this day's holiness, for it is awesome and frightening.

This is the call of the New Year, compelling us not to wait for some other day, but rather to recognize that the awesome responsibility of being here together in this sacred convocation is that when we leave here we not forget the power of our gathering, that we take the message of our hope for a better future with us in our everyday lives.

Yesterday, and again today, we cry out together יוֹם הַדִּין (Hinei Yom HaDin) "Behold, this is the Day of Judgment!" Today is the day. There is no tomorrow, when we can wait for things to change. There is no one coming to save us or do the work for us.

If we want today to be better than yesterday, we must make it so.

If we want the future of our children and all future generations to be better than our present, we must work together to create the world our Torah and our values call us to build.

If we want people to have control of their bodies and their lives, we must use our voice, our time, our money, and our votes to enshrine those protections in law forever.

If we want to live free, in a free world, we must do the work (and work and work and work) in order to safeguard the rights of all of our siblings created in the image of the Divine.

For as the great Sage and poet, Maya Angelou wrote, “The truth is, no one of us can be free until everybody is free.”

Shanah Tova.