

“You Don’t Have the Votes”: Talmudic Perspectives on Negotiation and Compromise

Rabbi A. Brian Stoller

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We’re big fans of the *Hamilton* soundtrack in our family, so a post on Facebook the other day by one of our congregants caught my eye and made me laugh.

It said: “You don’t have the votes; you don’t have the votes. You’re gonna need congressional approval and you don’t have the votes.”

His choice of these *Hamilton* lyrics to poke fun at the drama unfolding on Capitol Hill this week was pitch perfect.

As we’ve been hearing people say all week, “democracy is messy.”

In one sense, what we’re seeing play out on the House floor is what democracy ought to be.

Think about how critical we generally are when politicians just reflexively “fall in line” behind a leader just because they have the same letter by their name. It feels tribalist and petty, and unthinking—even cultish.

So, in that sense at least, I think it’s kind of refreshing to see some of them refuse to just go along to get along. I’ve never been one who thinks that you should “play ball” just because everyone else is doing it or because the popular kids or the big bosses say to do it.

But in another respect, I think what we’re seeing is something that is potentially quite threatening to democracy.

You know by now that I am deeply committed to the value of pluralism. And I fear that what we’re seeing in the battle over the speakership is but one symptom of a strong and growing strain of anti-pluralism in our country—one that makes no room for disagreement and brooks no compromise.

That strain has infected not only our politics, but also, sadly, so many other spheres of American life.

So, this this Shabbat—which is also January 6, because of course it is—presents an opportunity to explore the topic of “compromise” through a Jewish lens.

The French-Jewish philosopher Emmanuel Levinas said that if you massage the text of the Talmud hard enough, it will inevitably speak to you and produce some insight that you need to learn.

Well, it turns out that, when it comes to the question of compromise, we don’t have to massage all that hard to find what we’re looking for.

On page 6b of the Talmudic volume *Sanhedrin*, we find a discussion of two sages who held drastically different views on the topic of compromise, which are not unlike the two schools of thought represented in the current House-speaker drama.

On one side, we have Rabbi Eliezer.

He was known as a brilliant rabbi and scholar. He's sometimes called Rabbi Eliezer the Great because of his incomparable knowledge and ability to discern the true meaning of "the Torah in its perfection and purity."¹

As the modern scholar Rabbi Adin Steinsaltz describes him, Rabbi Eliezer "zealously believed in the integrity of ideas and was unable to reach a compromise of any kind."²

And perhaps in part because of his brilliance, but mainly because of his temperament and personality, he was the kind of person I talked about in my Yom Kippur sermon: He believed he was always right, and he left no room for differing viewpoints.

So, in a famous Talmudic story where the sages are discussing a particular question of *halakhah* and 90 percent of them end up voting one way, Rabbi Eliezer is the only holdout.

And like the dwindling number of House members who oppose McCarthy's bid for speaker, Rabbi Eliezer kept insisting, against the consensus of the group, on ballot after ballot, that they were wrong and he was right.

Needless to say, he didn't win a lot of friends. In fact, after that whole episode, they ended up kicking him out of the sages' club altogether.

So, as incisive and brilliant a Torah scholar as he was, Rabbi Eliezer ended up, as Steinsaltz puts it, "the lonely man whose principles made him powerless to influence others."³

Not surprisingly, Rabbi Eliezer argued that "It is prohibited to compromise, and anyone who compromises is a sinner, and anyone who blesses the compromiser is cursing God."⁴

Sounds familiar, right?

It feels like we've gotten to this place in our politics and our society where, for some people, "compromise" is a dirty word, and anyone who believes you should listen to the other side and take their opinions seriously, let alone try to negotiate and find common ground with them, is weak or evil or a sellout—insufficiently committed to the cause, and therefore untrustworthy.

Not a good way to get things done. Not a good way to make friends and have good relationships. And not, in my opinion, a very healthy outlook on life.

On the other side of the debate, we have Rabbi Yehoshua ben Korcha.

We don't know as much about his personality, but we do know he was highly regarded as a teacher and "lived to a prodigious old age."⁵

Rabbi Yehoshua ben Korha taught that "it is a mitzvah to find compromise."⁶ This means that when two sides are in a dispute over something, they are *obligated* to negotiate and make every effort to reach a compromise solution.

Basing his view on a biblical instruction that leaders should pursue both the rule of law *and* peace in their communities,⁷ Rabbi Yehoshua says:

“Isn’t it true that in a place where there is strict rule of law, there can be no peace; and in a place where there is true peace, there can be no strict rule of law?”

Meaning: Applying the law in a strict and unfeeling way, like a machine, won’t lead to peace; it will actually create resentment and hostility. But similarly, if you pursue peace exclusively without any rule of law, that will lead to chaos and conflict.

So, says Rabbi Yehoshua, when the prophet says to pursue both the rule of law and peace, he must mean that they should pursue a rule of law that has peace *within* it.

And what does that mean? It means compromise.

Compromise is about upholding principle and order, but in a way that is both peaceful and leads to peaceful outcomes.

To do this, we have to be genuinely interested in finding what the leadership expert Thomas Gordon calls “no-lose” solutions. Here’s how he describes this approach:

“You and I have a conflict of needs. I respect your needs, but I must respect my own, too. I will not use my power over you so I win and you lose, but I cannot give in and let you win at the expense of my losing. So let’s agree to search together for a solution that would satisfy your needs and also satisfy mine, so no one loses.”⁸

This is really hard to do.

It’s the opposite of Rabbi Eliezer’s unyielding fight-to-the-death to get his own way, because he’s absolute sure he’s right and the other side is wrong.

I know I keep saying this, but I think it has to be repeated for as long as it takes, because our society, our democracy, our communities, our relationships are in peril right now:

The only way to get there is to make room for other opinions, even when you disagree with them.

It means being willing to learn from those who see it differently than we do, and then to find a way to blend the best of their ideas with the best of our own to arrive at something *mutually beneficial* that neither of us had thought of before.

It means that if you don’t have the votes, instead of digging in even deeper, you’ve got to work with sincerity and an open mind to win them over.

In the midst of all the fury and outrage and venom and schadenfreude, this, I believe, is the higher spiritual calling of our time.

This Shabbat, we finish reading the *Book of Genesis*, which marks a close to the patriarchal and matriarchal phase of the Jewish story.

By the end of this week’s parashah, Abraham, Isaac, Jacob, Sarah, Rebecca, Rachel, Leah, Bilhah, Zilpah, and Joseph have all passed from the scene.

It will now be up to the next generation to carry forward what they have started.

A midrash describes Jacob on his deathbed, feeling anxious about his children's ability to meet this challenge.

"Are they up to it?" he asks himself. "Can I trust that they will honor our legacy and keep this thing going?"

As he's surrounded by his children, Jacob is literally holding his breath.

But then, his children surprise him: "Don't worry, dad. Everything you taught us is in our hearts and in our bones. We got this. *Sh'ma Yisrael Adonai eloheinu Adonai echad.*"

And with that, Jacob breathed a sigh of relief and died peacefully.⁹

I feel like we in America are in a similar transitional phase.

The age of the founders is long gone, but they passed on the tradition of democracy to the generations that came after them and, eventually, to us.

And that tradition can only survive and thrive if we embrace pluralism and compromise.

Are we up to this—to keeping this thing they started going?

Will we choose the path of Rabbi Eliezer or the path of Rabbi Yehoshua ben Korcha?

We stand on the shoulders of giants.

And tonight, I have a feeling those giants are holding their breath.

Can we find a way as a society to get out of this polarized, tribalist mess we've created and give them a reason to exhale?

1 Rabbi Adin Steinsaltz, *Talmudic Images*, "Rabbi Eliezer ben Hyrkanus," 42

2 Ibid., 37

3 Ibid., 41

4 Babylonian Talmud, Sanhedrin 6a

5 Sefaria, "[Rabbi Yehoshua ben Korha](#)"

6 Babylonian Talmud, Sanhedrin 6b

7 Zechariah 8:16

8 See Thomas Gordon, *Leader Effectiveness Training*, 190

9 See Babylonian Talmud, Pesachim 56a