

*** Dedicated to the memory of Esther Rome ***

Keep open the gate for us,

פתח לנו שער

at the time of the closing of the gate

בעת נעילת שער

for the day is coming to an end

כי פנה יום

When I was new in this country, I lived in Colorado Springs. I was married to a Welsh American guy named Llewellyn. I was learning very quickly things about this country I did not learn from watching American TV shows growing up. My parents came to visit and Llew and I took them to a program at a historic working farm by the Garden of the Gods. We would spend a day at the farm, learn about farm life in the pioneering days, and end with a communal dinner and some entertainment. It was very cowboyish and sweet. We were howdy'd a lot. As we got ready to eat, the host said "good folks. Let us take a minute to give thanks for the food we are about to eat. Please take your neighbor's hand." I did know enough from American TV to know that we were about to say grace. A look at my parents told me they knew too.

We were extremely uncomfortable. But Llew was furious. He got up and said "we're leaving. This is not okay." And we did.

It took me 12 more years to become an American citizen and a couple more to become furious, not just uncomfortable when others force their religion on me. It took a while but I finally understood that I am not an interloper. I am a member of a religious minority that is sometimes made to feel like an outsider in spaces that profess to be welcoming to all, but are welcoming mostly to Christians.

The United States is a religious country pretending it is not. It may be that we are trying to create a genuinely secular United States with a separation of church and state. But we still presume "religion" is by default, Christianity. Even the term "church and

state” speaks to the fact that there is a default religious organizational structure and that it is a church. The paradigm is Christianity. Otherwise, why not call it separation of religion and government, or something else?

Thomas Jefferson, who coined the term, wrote in a letter:

“Believing with you that religion is a matter which lies solely between Man & his God, ... I contemplate with ... reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”

The hope was not solely to limit the legislature but to create an actual atmosphere of religious freedom. And yet in 2021 the United States is still a deeply religious country and still pretending it is not. At best it makes the lives of religious minorities here uncomfortable like in the story I just shared with you, a version of which I am sure you all lived through. At worst the cost can be measured in human lives.

Before I continue, I want to apologize if some of what I say is triggering you. I recognize that the topic I am about to speak I'm about to speak of reproductive rights is a charged one some would even say taboo. I know what I am discussing is not theoretical to some of you but rather touches on your personal life experience. I know others are embarrassed when women issues are discussed. I tried to be mindful and careful with my words when writing this sermon. I am not taking this lightly. But especially in light of the Texas ban and other recent news, I feel called to speak up, and I hope by the time I finish this sermon, you might feel that way too, or at least understand why I think it is important enough to discuss on this holiest day of the year.

I have visited Planned Parenthood here in Boston three times. In all three cases I accompanied a friend for an abortion. All three times I had to push through people who were cursing and yelling at me. All three times someone shoved a sign or a flyer in my hand that had pictures of bleeding masses on it and included the word Murder. All three

times it was explained to me that it is okay for these protesters to be there because of the first amendment right to free speech. That it was basically okay for them to call all who enter Planned Parenthood baby murderers.

To enter I had to get through two glass enclosures. I had to show an ID. I was frisked and checked for weapons, and I, who grew up in a country where fear of terrorism leads to constant vigilance felt the kind of claustrophobia I've only encountered in Israeli embassies where security is extra hyped up.

Any of you who visited Planned Parenthood surely knows what I am talking about. Sitting in that waiting room, feeling a mixed sense of shame and comradery. Shame because we were all just told we were horrible people; comradery because we were all hoping to get home safely and not sure we will. I must wonder is this the best we can offer young women by way of reproductive health?

It is a rhetorical question because I know we can do better. I know this in part because I had an abortion at age 16 in Israel. And when it happened, it was in a hospital, with all the amenities one gets in a general hospital, with no protesters with nasty signs at the front gate, and no extra security measures. It was a tough decision for me and my family to make and we did not need others moral judgement crammed down our throats. American women don't need that either.

There are many reasons why any of us should care about reproductive rights. We should care because limiting these rights disproportionately hurts the poor, People of Color, and immigrants. We should care because it is another arena where the rights of LGBTQIA+ are pushed aside. We should care because the encroachment on Reproductive Rights endangers women physically and hurts them in so many additional ways.

But today I want to focus on one reason. That this is a matter of freedom of religion. That in this country we should be able to practice what we believe. That we should be able to do so without fear or discomfort.

When legislators push through anti-abortion legislation and “reproductive rights limiting measures” they are presenting as civil matters their own Christian religious norms. They are equating conservative Christian norms with moral ethics, and presenting them as applicable to everyone. But not all Christians, and certainly not all religions believe life begins at conception or other points before birth. Not all religious traditions view abortion as murder.

When we turn the norms of one religious group, the majority religious group into law, we are taking away the others’ freedom to exercise their own religion. We are giving away some of the rights reserved to us by the constitution. Worse yet, we are saying one religion is right, the others wrong. One is just, the others not. One is preferable to others. The rights of the those following that religion trump those of followers of other religions.

Those who know me, know it is a pet peeve of mine when people use the term Judeo-Christian to indicate we all believe in one God and have one set of moral principles, and are part of one big happy family of traditions, that is at heart Christian. I find the use of this term to add insult to injury. Not only are the norms of one tradition pushed on us, we also have to nod and accept them as if they were ours all along. But Judaism is not just Christianity minus Jesus. A synagogue is not a Jewish church. And we do not all believe the termination of pregnancy is by definition murder.

The Jewish view on this issue is far more nuanced. There is no overarching prohibition on abortions in the Tanach, Mishna or Talmud. These are the primary materials used by rabbis when writing halacha – the Jewish law for their time. The rabbis glean knowledge from mentions of the topic in the context of discussing other issues. These early discussions illustrate that a fetus is not considered a living being until the time during birth when the head emerges. They illustrate that until the fetus separates from its mother’s body it is considered a part of her body like any other organ.

If two men strike a pregnant woman while fighting each other, the consequential death of the woman calls for a death sentence of the offender – a soul for a soul; but the

loss of the fetus only requires financial compensation, because the fetus is not considered a “soul” yet. Exodus 21.ⁱ

If a woman is having difficulty giving birth it is permissible to remove the fetus in parts because the life of the woman is in dangerⁱⁱ. They say “as long as it did not breath air, it is not considered “living” and its removal is not considered killing.”ⁱⁱⁱ

If a pregnant woman is facing execution “we do not postpone the execution until birth.”^{iv} Rashi expounds: “we do not wait on her to give birth, because the fetus is part of her body.”^v In this case the rabbis further say that the mental anguish the woman will suffer by a postponed verdict – עינוי הדין - is more important than the potential for life of a fetus.^{vi}

That there is no prohibition in the main Jewish texts does not mean rabbis throughout Jewish history felt comfortable with abortions. They were not. They are not. Many felt like there is a reason why this should not be considered okay but were having trouble articulating the reasons. It was also not clear to them how severe the opposition should be and whether it comes to the extent of a prohibition. Which is why even in the Haredi world, today, rabbis advice on a case by case basis whether a woman may have an abortion, and in certain cases they allow it. In certain cases they call for it.

Among the expressed reasons for opposing abortions the rabbis list: that the abortion might cause physical harm to the woman (which is about the wellbeing of the woman and not the fetus); that performing an abortion will turn the father into a sinner because of the prohibition on spilling one’s seed in vein (Again, not about the fetus). that it will cause a loss of the future potential of keeping shabbat and mitzvot by the fetus (I don’t have anything to add to that one); That because Christianity opposes abortion, it might lead to hatred against Jews if Jews allowed it. As you see these reasons are not about the potential life of the fetus but various other things. They express discomfort with abortion but not flat-out conviction that it should be forbidden. And they avoid saying it is a sin.^{vii}

For the sake of completeness, I’ll add: There *are* rabbis who claim that an abortion is murder, among them the very prominent NY halakhic ruler rabbi Moshe

Feisntein z"l. There are also very prominent rabbis who claim that they do not believe an abortion falls within the prohibition of murder.

We can learn from this quick survey a few things about Judaism, and at least one thing about the relationship between Judaism and Christianity.

The Tanach Mishna and Talmud regulate in detail many aspects of women's life. The absence of such regulation regarding termination of pregnancy tells us that the rabbis didn't think such discussion was appropriate, useful, or necessary.

Furthermore, the intentionally vague and nuanced halakha on this topic is designed to allow rabbis to advice families on a case by case basis. It supports the understanding that there is more to making such decisions than the clear language of the law can address.

A religious view that looks at abortions in black and white terms is **not** the same as ours. And a one-size-fits-most legislation that follows the same religious thinking does not align with our writings on the subject.

Staggering among the reasons rabbis give for opposing abortions is the fear of religious persecution – it is a reasoning that has nothing to do with the act of terminating pregnancy and all to do with an atmosphere of religious persecution. It should have been a thing of the past. But only yesterday, the news reported a man charged with shooting prominent attorney in El Paso said he killed her because she was part of the Jewish Satanic abortion cult, murdering babies.^{viii} Equating pro-choice advocacy with Jews and with evil is a mainstay of conspiracy theories and something that quite a few Americans seem to believe. As long as that is the case, we find ourselves working harder to justify our worldview is moral, even if not Christian-normative.

Jews do not think the lives of babies do not matter. We so deeply value life that the entire claim is preposterous. We value the potential for life. And we value the life of the mother. We are not making light the decision to terminate a pregnancy. We are saying that since the fetus is a part of a person's body that person alone should have

the right to decide how to proceed. We are saying that any decision regarding pregnancy requires a delicate evaluation of the circumstances of a person's life. We are saying a person knows best their own circumstances. We are saying that people of different religious convictions will likely balance their values differently and should be able to continue to do so.

We are saying that women should not be villainized for making that choice. That members of different religions in the United States should not be villainized for balancing their values differently than the members of the majority religion. That these matters of religion lie solely between a person and their God and the legislature should make no law prohibiting the free exercise thereof. What Jefferson said.

I was with my boyfriend for over a year when I found out I was pregnant. I was on birth control so my monthly cycle continued uninterrupted. Instead, I started having headaches and fatigue. Nobody knew what was wrong with me. My parents took me to so many doctors. They ran all kinds of tests. By the time we figured out it was "just" pregnancy, it felt for a short while like a relief. But only for a short while.

This is what I remember about that week. I felt as if the gates to my future were rapidly closing in my face. I was not ready. I thought "it's not the life I am meant to have." I thought "it's not fair, I was careful." "I did everything right." I thought "this must be a bad dream". Except it wasn't a dream. Had abortion not been an option in Israel, I would have likely not been here today. My life would have looked very different.

And I had it good relative to most teen moms in this country. I was a privileged middle class kid, Ashkenazi, with college educated parents and a nice house in the suburbs. I would have had help with a child. My parents would have made sure I can finish school and go to college. And still the profound fear that I have no agency over my life never left me. It shaped my life from that day on. So I am here today to say, no person should have her agency over her own body taken from her.

The words written by the Boston Women's Health Collective in 1971 are still true today:

Abortion is our right – our right as women to control our own bodies. The abortion laws symbolize the oppression of women in America and the lies that support it: sex is beautiful; motherhood is the ultimate fulfillment of women; and poor black, brown, white women have the same opportunities as rich white women.”^{ix}

On this day when we speak of faiths being sealed, I hope we can acknowledge That sealing people’s faith should be reserved to God, not to the legislators.

As we gather here as a Jewish community, I hope we appreciate the religious freedoms accorded us in this country, and also keep in mind that those are not ensured unless ***we*** continue to work to ensure them.

In this moment of humility on the eve of Yom Kippur, I hope we can open our hearts to the plight of those who do not have the same opportunities we do, and accept as our responsibility ensuring they have better opportunities. Fighting to ensure their rights.

So we can all experience the freedom to follow our religious beliefs, the freedom to shape our lives to the best of our abilities, the freedom to pursue our own version of happiness, and the freedom to control our bodies. Our selves.

Gmar Chatima Tovah

ⁱ Ex 21:22-23.

ⁱⁱ Mishna Ohalot 7:6

ⁱⁱⁱ Sefer me’irat einayim on choshen mishpat 1:9

וזה טבעו של עולם, הוצרך לכתוב זה של"ת הולד הרי הוא רודף ויצילו את אמו בנפשו, קמ"ל כיון שאבע של עולם בכך, אין דין רודף עליו. ואעפ"כ בעודו במיעיה מותר לחתכו ואע"פ שהוא חי שכל שלא יצא לאויר העולם אין שם נפש עליו. והא ראייה דהנוגף אשה הרה ויצאו ילדיה ומתו משלם דמי הולדות ואין שם רוצח ומיתה עליו

^{iv} Mishna Arachin 1:4

^v ד"ה אין ממתינים Bavli 7a

^{vi} Ibid. Tosafot משום עיני הדין

^{vii} פרופ' אברהם שטינברג, הפלה מלאכותית – יסוד האיסור וטעמיו, בתוך אנציקלופדיה הלכתית רפואית 74-80

^{viii} <https://www.jpost.com/diaspora/antisemitism/man-who-murdered-jewish-lawyer-wanted-to-kill-jewish-satan-worshippers-679711>

Abortion is our right--our right as women to control our own bodies. The existence of any abortion laws (however "liberal") denies this right to all women. The abortion laws symbolize the oppression of women in America and the lies that support it: sex is beautiful; motherhood is the ultimate fulfillment of women; children are a full-time joy; and poor black, brown, white women have the same opportunities as rich white women.