

**Choose Life:
Remarks on Reproductive Justice
after the repeal of Roe**

**Parashat Chukat;
July 8, 2022**

It is summer, and a buzz of excitement is in the air. After these past two years it feels like a kind of freedom, even with the pandemic still around us.

My friends, it is only my second service with all of you. The warm reception of last week, the welcome you extended to my family and to me remain with us. And we are in Margate next week! It is a time for introductions, and a light touch, as we get to know one another. My most important mission right now is to convey a way of lifting us up, of bringing us together! I am excited, I am energized, I am eager for a new chapter in my life, and in the life of this congregation.

The last thing I wanted to do, then, was to tackle tough topics right away. We don't know each other that well yet, my sense of the consensus and comfort level of this community is not fully formed, it's too soon! Plus, the beach beckons, barbeques and sand and surf and just having fun.

But the news of the day does not go away, divisions do not disappear because of the calendar, and we live at a time of tension and turmoil and seismic change.

At the end of last summer, in a High Holy Day conference call with rabbis of all denominations, President Joe Biden spoke about his early and

extensive exposure to the Jewish community of Wilmington. At one point, he said, because of that synagogue's involvement with social justice and its role in the community, he spent more time at Congregation Beth Shalom than almost anywhere else. Then he quickly added: "well, I always went to mass, first."

This is only the second time we have had a Catholic president of the United States. Whatever else you may say about him, Joe Biden's sincerity, devotion and commitment to his faith are quite clear.

But what does our faith mean when we struggle with traditional teachings – or even with the contemporary representatives of a religion? At the time of that call, I watched in fascination – and trepidation – as American bishops grappled with whether communion might be denied to this faithful, practicing Catholic, because of his position on one issue.

What would be a Jewish equivalent? I can't imagine intentionally turning people away – we are too few to begin with, we need all of you. But what would this be for us? The excommunication of Baruch Spinoza? Denying an aliyah to a person known for, well, all the wrong reasons? Reading someone "out" because of their views on Israel?

Less than two weeks ago, with a court decision years in the making yet still shocking in scope, that "one issue" the bishops were so focused on burst forth again, crashing into our collective awareness as an unwelcome guest, a source of rancor and anger and fear.

The portion this week, Chukat, opens with one of the strangest sections in the entire Torah. It is the ritual of the red heifer, the procedure when one comes into contact with death. The ashes of an animal purify those who were impure, and make impure those who handle them. There was a kind of awe in the ancient world around issues of life and death, an awareness of mystery -- and an impulse to respond to it.

And then, later, in the book of Deuteronomy, there is this:

הַעֲדֹתִי בְּכֶם הַיּוֹם אֶת־הַשָּׁמַיִם וְאֶת־הָאָרֶץ הַחַיִּים וְהַמּוֹת נָתַתִּי לְפָנֶיךָ
הַבְּרָכָה וְהַקְּלָלָה וּבַחֲרָתָּ בְּחַיִּים לְמַעַן תִּחְיֶה אַתָּה וְזַרְעֶךָ:

I call heaven and earth as witness:
I have placed before you this day life and death, blessing and curse.
Therefore choose life, that you and your descendants may live.

These words, read as part of the Yom Kippur liturgy in Reform congregations, may be familiar to us – but not just from our own tradition. You see them again, on bumper stickers and placards held by those who would tell others what to do with the most painful and personal choices in their lives – and who call themselves “pro-life.”

But what does it mean to choose life? And what does it mean to be pro-life?

I have seen the murderous hand and bone-chilling hate of the so-called pro-life movement up close. I have seen real blood spilled by those who are filled with righteous rage and absolute certainty that God is on their side.

The phone rang late on a Friday night years ago in Buffalo. Julie answered, then handed it to me with a look of great concern. It was a Shomer Shabbat Conservative rabbi at the shul down the street, and Julie knew he would not be calling unless it was a real emergency. I took the phone and heard my colleague tell me “One of your congregants has just been shot.”

I stepped out and heard the helicopters, blades chopping the air and lights roaming the street. It would be years before the murderer was caught, but even as I was walking the short few blocks to the Slepian home, I knew it was a moment which would change our lives.

Barnett Slepian was an OB-GYN, shot through a window in his home after Shabbat services. And he was a fertility specialist! He loved bringing babies into the world. He often explored alternative options with patients asking about abortion. His work in saving women’s lives by terminating pregnancies never exceeded two percent of his practice. And all the large font headlines managed to say about him was “Abortion Doctor Killed!”

A few days later I took another call. This one came after all the religious school assemblies comforting kids whose classmates had lost a father, helping them make sense of what was going on. It came after a funeral pushing past

thongs turning beet red from screaming, spitting, shaking in fury and holding signs saying he got what he deserved. It came after the cameras went away and the celebrity politicians who came for shiva went back home, when the community began to take stock of who it was, and what came next.

The call was from a young woman who identified herself as a member of a local Catholic church. And she wanted to know about the Jewish position on abortion. She seemed sincere, with no apparent rage or rancor. I was being asked a question of Torah. And I remembered that I was a rabbi.

So: what is the Jewish view on abortion? Or must we ask about Jewish views?

The *Catholic* position on this subject is well-known: life begins at conception. What is less well-known is that the Church only came to that conclusion in the year 1588, but never mind that.

Our position is quite different. If we had more time, I would tell you the funny and borderline NSFW way in which I figured this out based on... um... certain other Jewish Shabbat practices. Ask me later if you want to hear that.

And if this were a class, or text study, I would show you the passage in Exodus in which two men in the midst of a brawl bump the belly of a pregnant woman, causing her to miscarry – and the man who shoved the other is fined for the damage. Fined, that is. *Not* charged with accidental manslaughter. Or

I would point out the passage in the Mishna, which states that when a woman in labor has life-threatening difficulty, the mother's life takes precedence, up until the point of delivery.

A threat to the life of the mother? The most ultra-Orthodox authorities agree that in such a case, abortion is *required*. Not may be. *Must* be.

This is starkly different from the position held by other faith traditions. There are those who want to make it state law here -- that the fetus comes first. So: let us be very clear. If this happens, the state would be choosing one religion's view of morality over another's. A direct conflict between religious traditions exists here -- even in the classic "extreme" case.

But what about other circumstances? Just what exactly does it mean that the fetus poses a "threat" to the mother.

Here, we could share rabbinic rulings from the past two centuries allowing abortions in cases of lesser injury, even impact on older children of a continued pregnancy. Even emotional state and psychological factors are cited in permitting the procedure, as were difficult diagnoses from pre-natal tests, as well as conception arising from coercive circumstances.

It is true that now, today, many ultra-Orthodox authorities would limit the procedure to maternal distress, to the point of mortal peril. But if the answer is based on *where you draw the line* then we have something fairly rather rare in Jewish life: actual agreement. There is a bottom line on a tough

topic. For us: *circumstances count*. (In more sophisticated terms, we are utilitarian, or a consequentialist moral system, not an absolutist one.)

And if circumstances count, then, whatever your views on what *you* might do, we must make sure that these difficult decisions in tragic times are made between a woman, her caretakers, her health providers, supported by whatever moral and spiritual guidance she seeks out.

By the way I'm aware – as I am sure most of you are as well -- that the entire emphasis on reasons and circumstances is frowned upon in activist circles now. As a rabbi, I would still say it is very widely held view in our tradition that Judaism supports a woman's right to make this choice -- as a result of weighing and balancing competing concerns and considerations.

But Roe is gone, and the world has changed. **What, then, can we do?**

The biggest gathering of humanity I have ever been in – before COVID, of course – was the Women's March on the Mall in 2017. I will never forget... not just the crowd, but also the signs. Some were clever and some were crude, but, again and again, variations on the theme, held up by older women: "I can't believe we have to do this all over again."

The implications of Dobbs are staggering. There will be lives lost from ectopic pregnancies, fertility procedures narrowed for those who desperately want to expand their families, and many other rights at risk by the same reasoning, and the same forces that led us to where we are now.

What can we do? Each of us will respond in our own way, whether supporting organizations – Planned Parenthood, NARAL, or others. This morning the National Council for Jewish Women put out a new call for all hands on deck, and you can sign up to learn more at 73 Forward, jewsforabortionaccess.org.

Also this morning, the South Jersey Board of Rabbis and Cantors issued a statement of our own. Although new here, I am not new to this issue, and they graciously accepted my suggested edits:

Statement from the South Jersey Board of Rabbis and Cantors (SJBRC)

In solidarity with a broad collective of Jewish organizations including the ADL (Anti-Defamation League) and all of the Jewish Movements of which our membership serves, the South Jersey Board of Rabbis and Cantors (SJBRC) condemns the recent U.S. Supreme Court decision in *Dobbs v. Jackson Women’s Health Organization* to overturn *Roe v. Wade*. This decision not only sets our collective civil rights clock back more than a generation but will cause extensive pain and suffering to many, especially those of color and without financial resources.

While we understand that other traditions may view the issue of abortion differently, Jewish law is very clear that abortion is not only allowed, but also mandatory in certain circumstances. Rabbi Abby Michaleski, President of the SJBRC, states, “not only is the SCOTUS ruling on *Roe* an assault on women's constitutional and moral right to privacy and autonomy, it is also a violation of our first amendment right to practice our religion as Jews. While restricting access to needed reproductive care is unacceptable under any circumstance,

state laws that restrict a woman's choice regarding abortion is also a restriction on our ability to follow and practice our faith."

As a unified group, the SJBRC is committed to Jewish values of equality, justice, and personal and religious freedom with accountability. We will continue to support efforts that affirm these rights. We will condemn any attempts to restrict democratic principles in our country and in our state.

For now, I hope that all of us, no matter our exact position on these issues, can appreciate – and articulate – that we are facing a reality of one religious view being applied in a way which infringes on the religious liberty of others!

“*Hinei yamim ba'im*,” say the prophets. “Behold, days are coming...” We may be called upon for new kinds of assistance, aid in transportation across state lines, support for clinics under fire – even advocacy to preserve medical education and training in specific procedures.

And I believe we must remain, for reasons too numerous to repeat now, vocal voices in our own community for frank talk and full communication about health. *Real* education about health and social support, and non-coercive information about all alternatives all work to bring about outcomes which everyone at least claims to want.

וּבְחִרְתָּ בְּחַיִּים לְמַעַן תִּחְיֶה אֶתְּהָ וְזָרְעֶךָ

What does it mean, to choose life? Put me in a room with a person of a different faith who is anti-abortion, but also pro-gun control, against capital

punishment, skeptical of military spending and supportive of social services for after a baby is born, well, I can at least have a conversation with such a person, even if we may disagree about the first point. To choose life has to mean caring about what happens *in* this world, not just restricting the rights and options of others before a new life emerges into it.

But what we see now, in passionate advocacy extending only to the moment of a child's first breath, and not one moment beyond that, then something else is going on here.

We face a true inflection point, a fork in the road, a parting of the ways. There are two vastly different visions and sets of values before us now. The talk is so hot, because the stakes are so high. Life, and death; blessing, and curse.

Let us come to a space where we can share pain and listen with love instead of pointing fingers, where we can lift each other, even hold each other up, instead of tearing each other down.

I want to see a world in which we cherish children, support families, and craft a culture in which no woman feels forced, coerced, or trapped. I want to see a world in which love is real, commitment flows from deep relationship, and intimacy is expressed in joyous and reciprocal ways. And I pray for a place where comprehensive and accurate health education serves as a bottom line, and a common ground.

There are blessings of the season, to be sure. But having a good time cannot come at the expense of grappling with what it means to be a good person.

The freedom of summer calls. May we, all of us, remain free, free to practice our faith, free to struggle with it as we see fit, and free to live the way we believe is just and good and right.

Shabbat Shalom.