

**High Holy Days 5782**  
**The Right to Choose is a Jewish Value:**  
**the battle for choice, autonomy and progress in America**  
**Rabbi Mara Nathan**

Larry and I always wanted three children.  
We each come from families of five.  
With our first two children we agreed not to find out their gender.  
Larry wanted our 3rd to be a surprise too. Not me.  
After having two boys,  
This time around, I was hoping for a girl...  
and I did not want to be disappointed....even for a second...  
when our child came into the world...  
if in fact it *was* a boy.  
So I found out and Larry didn't.  
Somehow I managed to keep the secret from him  
and everyone else until Miriam arrived.

When most people hear this story they think it is insane.  
But truthfully, we both got what we wanted  
and I am forever grateful for those months  
when I had the idea of my daughter all to myself.  
Of course I fantasized about ponytails, unicorns, and flouncy dresses  
but I also enjoyed savoring the idea of a girl  
who--like me- -could do and be whatever she wanted.

Growing up in the 70s

The Free to Be You and Me album was on constant rotation.

I played sports, had my bat mitzvah,  
went out of state for college and assumed my gender  
would in no way impact my choice of profession.

My mother had graduated from law school when I was in 9th grade  
and she went on to be a judge.

I assumed that **I, too** would go to graduate school,  
work, get married, and have children.

I assumed women's **autonomy** was a given  
and I assumed that progress always moves forward in a straight line.

It turns out...some of those assumptions were wrong.

If we take the long view of history,  
there is no doubt that women- in general-  
have opportunities that were unthinkable 100 years ago:  
the right to vote, the right to have a credit card issued with our own  
name on it, even to fly to the moon if we want to.

But this progress has disproportionately benefited upper class women.  
Educational, professional and economic opportunities  
remain out of reach for many women in our own country  
and around the world.

Living in the age of COVID has certainly heightened these disparities.

Yet no matter what our educational level,  
economic status or geographic locale  
there is one thing all women have in common:  
our freedom to make decisions about our own bodies is under attack.

Today we see this most clearly in the fight over access to abortion.  
And as we all know,  
the 1970 Supreme Court Case *Roe v. Wade* is at its center.

In 1970, Jane Roe (a fictional name) filed a lawsuit  
against Henry Wade, the district attorney of Dallas County,  
challenging a *Texas* law that made abortion illegal  
except by a doctor's orders to save a woman's life.

In her lawsuit, Roe alleged that the state laws  
were unconstitutionally vague and abridged her right of personal  
privacy.

Justice Harry Blackmun, appointed by President Richard Nixon,  
delivered the opinion for the 7-2 majority  
focusing on the **due process clause of the 14th amendment**.  
He wrote that State actions that limit the right to privacy  
violate this clause,  
and a woman's right to choose to have an abortion  
**falls within that right to privacy**.

The court held that state laws could NOT broadly prohibit abortion  
BUT DID have *legitimate interests*  
in protecting the health of pregnant women  
AND the “potentiality of human life.”<sup>1</sup>  
What those interests entailed was left purposely vague.

Roe Vs. Wade set in place historical protections for women,  
Bolstering their right--as human beings--  
to make thoughtful decisions about their own bodies.  
But, to be clear, it did NOT make abortion at ALL stages of pregnancy  
permissible.

But in creating this dichotomy....  
between the HEALTH of a pregnant woman  
and the ‘potentiality of human life,’  
Roe v. Wade left an opening  
for an insidious debate that continues today.

Just last week, Texas Law SB8 known as the Heartbeat bill took effect.  
It bans all abortions after six weeks of pregnancy  
regardless of the circumstances including sexual assault.  
The Supreme Court decided not to block it.  
But they have agreed to hear a Mississippi case:  
Dobbs vs. Jackson Women’s Health Organization  
which questions current definitions of viability...  
without considering the rights of pregnant women at all.

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<sup>1</sup> Roe v. Wade, *Oyez*, [www.oyez.org/cases/1971/70-18](http://www.oyez.org/cases/1971/70-18).

It's shocking to me that opponents of abortion access routinely ignore the rights of the person within whose womb that fetus resides.

There is no recognition that she has or should have any control over what happens to her own body.

There is also no discussion about what might happen when that previously unplanned for child emerges into the world.

Once a woman is pregnant, these laws rob her of practically any agency.

Any woman who does not want to remain pregnant is now considered at war with her body and she is the perpetual villain.

The pre-text is always to save unborn lives.

But the rarely spoken sub-text is that women cannot be trusted to control their own sexual lives.<sup>2</sup> Or even worse, that what they think or want or need is inconsequential.

Jewish tradition sees this argument the opposite way.

The rights of the fetus are secondary to the rights of the mother up until the moment of birth.

In the Talmud, Rav Hisa states:

“If a woman was giving birth and her life was being endangered by the fetus, the life of the fetus may be sacrificed in order to save the mother.

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<sup>2</sup> <https://newrepublic.com/article/153942/criminalization-womens-bodies-conservative-male-power> (Judith Jarvis Thomson)

[In this case,] the fetus is a pursuer who is endangering his mother's life<sup>3</sup>.

Later teachings go beyond danger in childbirth and permit abortions in any situation that might cause a woman significant distress.<sup>4</sup>

Until the baby is born, Judaism considers the fetus to be part of the woman's body. She is *never* the villain when difficult choices need to be made.

That's not to say that all Jewish communities are comfortable with women having autonomy, authority or public power. We know this is not the case in most traditional religious communities.

**But the fact** remains that the Torah, the Mishnah, the Talmud and later rabbinic sources consider the woman's physical and emotional health before that of the fetus. In other words, Judaism has *always* been pro-choice.

It turns out that a majority of Americans agree with traditional Jewish law. Polls show that 79% of people living in the US think Roe. Vs Wade should NOT be overturned.<sup>5</sup>

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<sup>3</sup> Talmud Sanhedrin 72b & Mishnah Oholot 7:6

<sup>4</sup> Responsa She'elat Ya'vetz 1:43- Rabbi Jacob Eden 1739-1759

<sup>5</sup> Planned Parenthood

So how is it that 21% hold such sway?

Beth Allison Barr, a medieval history professor at Baylor University and a conservative evangelical Christian explains:

*Complementarianism* is the concept that, though men and women have equal value in God's eyes, the Bible ascribes them different roles at home, in their families and in the church.

We see similar social constructs in traditional Jewish communities too.

However, Barr argues, the modern version of complementarianism was invented in the 20th century,

As a reaction to an increasingly *effective* feminist movement,

It was reintroduced to reinforce cultural gender divisions.

"Women think all of this is in the Bible," said Barr recently

"because they learn it in their churches.

But it's really a post-second world war construction of domesticity, which was designed to send working women back to the kitchen."<sup>6</sup>

For those concerned about the continued shift in gender norms.

For those women and men who DO NOT feel comfortable with a world where women can decide

To go to college or not; marry or not; have children or not;

Constricting women's sexual freedom

under the guise of marriage and morality is a powerful controlling tool.

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<sup>6</sup> (The Unmaking of Biblical Womanhood, Eliza Griswold, The New Yorker, July 25 2021)

The irony of course is that most women will never seek an abortion.<sup>7</sup>  
And unless abortion is banned outright,  
even the strictest laws  
would not impact the vast majority of women seeking an abortion  
since according to the CDC over 92% of abortions  
are conducted at or before 13 weeks.<sup>8</sup>  
But the encroaching reality that a woman's life plans  
**could be** derailed by an unplanned pregnancy  
is not only terrifying but purposefully controlling.

Which seems to be the point.

2021 Texas valedictorian Paxton Smith  
made international news this spring  
with her fiery speech protesting Texas Senate Bill 8 .  
Smith said, "I have dreams and hopes and ambitions.  
Every girl graduating today does.  
And we have spent our entire lives working towards our future.  
And without our input and without our consent,  
our control over that future has been stripped away from us.

"I am terrified that if my contraceptives fail,  
I am terrified that if I am raped,  
then my hopes and aspirations and dreams and efforts for my future  
will no longer matter.  
I hope that you can feel how gut-wrenching that is.

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<sup>7</sup> <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>

<sup>8</sup> [https://www.cdc.gov/reproductivehealth/data\\_stats/abortion.htm](https://www.cdc.gov/reproductivehealth/data_stats/abortion.htm)

I hope you can feel how dehumanizing it is,  
 to have the autonomy over your own body taken away from you....  
 There is a war on my body and a war on my rights.  
 A war on the rights of your mothers, a war on the rights of your sisters,  
 a war on the rights of your daughters. We cannot stay silent.”<sup>9</sup>

Paxton is right.... We cannot stay silent.

I look at Miriam and still savor the idea  
 that she can be who she wants to be and do what she wants to do,  
 but I also have great fear  
 As I witness her choices become more limited BECAUSE of her gender.

And that those who are terrified  
 to relinquish a white male establishment,  
 will do whatever it takes to deny her- along with every other woman-  
 the autonomy we all deserve.

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For some, having your female senior rabbi  
 talk about an assault on women’s autonomy and influence  
 might seem ironic.  
 Clearly in my role as your spiritual leader I possess them both.  
 But I do not often speak explicitly about gender roles from the pulpit,  
 That’s been a conscious decision on my part.  
 I am PROUD to be a woman and a feminist  
 But my gender does not fully define me.

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<https://www.npr.org/2021/06/03/1002831545/high-school-valedictorian-swaps-speech-to-speak-out-against-texas-new-abortion-l>

I am a rabbi who is also a woman!

But at this moment,  
the stakes are just too high for me NOT to speak up.

SB8 not only denies women the ability  
to make thoughtful decisions about their own bodies  
and their own futures.

It turns neighbor against neighbor  
allowing one person's beliefs to control the life of another.  
The very notions of privacy,  
autonomy and freedom for all of us are at **risk**.

We need to have candid conversations with our daughters and sons  
about their sexual lives.... about birth control and consent....  
about privacy and self care.

We have to help them understand the stakes  
and what they must do to protect themselves.

And we must let our elected officials know  
This is not about politics-  
It is about women's autonomy and the right to choose their own path.

Call the Governor's office.....

Call your State Representatives...

Call your State Senators...we'll provide you the links this week.

Call Cruz and Cornan, Castro and Roy,  
Gonzalez and Cuellar and Doggett...

Be a Democrat, be a Republican.  
As a Jew you should also be pro-choice.

We cannot stay silent.

I want a world for our daughters that is deep enough  
to engage and challenge them  
And wide enough for them to have the space they need  
to learn and grow into the people they are meant to be.  
They deserve to have all the opportunities they can muster  
Through their talent and ambition and heart.

During the Days of Awe  
we pray to God to be written into the book of life  
with the expectation that the Holy One  
will consider our intentions and aspirations....our deeds and actions.  
Will we be deemed worthy in God's eyes?  
Will we be deemed worthy in our daughter's eyes?

We cannot stay silent.

Cain Yehi Ratzon....May it be God's will.

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