

Back in the old country, back in the day of our great-great-grandparents, they knew the word “America”, but more often than not, the term that they used for this country was the *goldinah medinah*. The golden land, a place so rich that the streets are paved with gold.

But when they arrived in this country, they found that it was not so. Many ended up working in sweatshops under grueling conditions, or as peddlers in far-flung rural places, literally carrying large sacks of wares on their backs.

While our ancestors discovered that the streets were not paved with gold, that does **not** mean that America was not a *Goldinah Medinah!*

What made this country so special, what made this country truly golden, were the inspired words of the first amendment of the Constitution:

*Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

The United States was the first nation in history to build its society on the foundation of separation between church and state. The First Amendment to the Constitution is the cornerstone of American religious freedom, ensuring through the Establishment Clause and the Free Exercise Clause that the government does not support religious practices, favor one religion over another, or unnecessarily interfere with the private practice of religion. The founders of our country recognized that what makes religion so powerful is the unique and diverse ways in which people practice it. Separation of church and state is not only a moral issue but also a practical, legal, and political one. When church and state are mixed, it harms them both. When the government imposes on religion, religion loses the independence guaranteed to it by the Constitution. No people has a greater appreciation of this lesson or the blessing of the First Amendment than the Jewish people.

Much of the credit for the writing of the constitution goes to James Madison, who wrote in this regard:

*Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects?*

Reading these words hundreds of years later, I am struck by how prescient James Madison was.

When looking at the attempts to roll back Roe v. Wade, and with it the right of a woman to have an abortion, we normally hear people speak in terms a woman's right to choose. In rallies, the words "My body, my choice" are often chanted, only to be countered with arguments regarding the sanctity of life and questions of when life begins, replete with pictures of fetuses. Neither side listens to a word uttered by the other. As a Rabbi, I believe that there is another argument to be made.

As state after state enacts laws to deprive a woman of even having the right to choose, what at we are witnessing is an assault on the Establishment Clause of the First Amendment. I serve as the Mara D'Atra, the religious authority, of our congregation. As a result of the efforts to curtail the availability of abortion, to prohibit its practice outright, my first amendment rights are under attack

I stand before you today as someone who believes that Judaism is neither pro-life nor pro-choice. The wisdom of Jewish beliefs about abortion cannot be encapsulated by these weaponized slogans. Judaism both embraces the sanctity of life and supports the necessity of abortion in certain cases. Today, our congregation joins with the National Council of Jewish Women to protest the legal tsunami which seeks to strip Roe v. Wade of its power to grant women the right to choose; we stand with the National Council of Jewish Women on this Shabbat because our right to practice our religious law is threatened. The Establishment Clause of the

Constitution is under attack and with it, that which made this *Goldinah Medinah* – Golden Land!

In the Torah portion of Mishpatim, we find the key verse upon which the Jewish view of abortion is based:

*When men fight, and one of them pushes a pregnant woman and a miscarriage results, but no other damage ensues, the one responsible shall be fined according as the woman's husband may exact from him, the payment to be based on reckoning.*

וְאִם-אֶסֶן יְהִי וְנִתְּתָהּ גֹּפֶת תַּחַת גֹּפֶת:

*But if other damage ensues, the penalty shall be life for life.*

In other words, if men are fighting and a pregnant woman is injured in the mêlée and has a miscarriage as a result, the husband of the woman may exact a fine from the assailant as to the worth of the fetus. But if the woman dies as a result of her injuries, then it becomes a capital crime, and the guilty party must be punished with the death sentence. *Nefesh Tachat Nefesh*: a life for a life.

The rabbis understand these ancient verses to mean that the life of the fetus does not carry the same value as the life of the mother. After all, the assailant only pays a fine for the death of a fetus but is put to death if the mother dies. Rabbinic literature extrapolates from this that when the mother's life is threatened during a pregnancy, the fetus is seen as the assailant and Jewish law requires an abortion to save the life of the mother. Even in the third trimester; even when giving birth.

In time, the definition of threats against the mother's life was extended beyond the physical to the psychological, which can be equally painful and similarly pose a threat to her life. Rape and incest would most certainly be included on that list of permitted abortion circumstances.

Here, it is important to note that phrases like “A woman’s right to choose” and “My body, my choice” are compelling, powerful, and meaningful, but they are **not** Jewish ideas. Our bodies are recognized as a gift from God, and ultimately, our bodies do not belong to us to do with as we please. The focus of Jewish law regarding abortion is on the life and wellbeing of the mother, both physically and mentally.

For those focused on the sanctity of life from a religious perspective, Judaism most certainly shares that idea...but not in all cases: not when the mother’s life is threatened. The Catholic Church may favor the life of the fetus over the mother in abortion cases; they may prohibit abortions of every kind for their constituents, to insure the religious salvation of the baby’s soul. Evangelicals can focus on when life begins, when there is a heartbeat; they may refuse an abortion after 6 weeks; they may outlaw abortions in the third trimester. They are most certainly allowed to interpret their Christian tradition in any way they choose for their co-religionists, but they have no right to impose their theologies on Jews, Muslims, Hindus, or those who are secular. This act of depriving Rabbis of the right to make religious rulings regarding abortion in the Jewish community, or an Iman for his, is a breach of the establishment clause of the Constitution of this country.

The rash of state abortion bans spreading throughout the United States has captured the nation’s attention, but in order to stop this trend, those who are fighting back should also see the path of destruction goes beyond *Roe v. Wade* and represents a breach in the wall of separation between church and state.

The First Amendment prohibits the government from imposing one set of religious beliefs, or religion at all, on others, but that is undeniably what these bans are doing.

Listen to the words of Governor Kay Ivey after signing Alabama’s uncompromising abortion ban into law on May 15:

*This legislation stands as a powerful testament to Alabamians' deeply held belief that every life is precious and that every life is a sacred gift from God.*

Explaining the ban's rationale, Alabama Sen. Clyde Chambliss asserted:

I believe that if we terminate the life of an unborn child, we are putting ourselves in God's place.

In Missouri, Rep. Holly Rehder expressed her support for that state's abortion ban, which, like Alabama's, lacks a rape or incest exception:

*To stand on this floor and say, 'How can someone look at a child of rape or incest and care for them?' I can say how we can do that. We can do that with the love of God.*

Really? Each of these people are welcome to their personal religious beliefs, but as public officials, they must not be permitted to impose them on others who do not share them.

When my relatives first came to this country, when members of your family first walked the streets of America, I am sure that some were surprised that the streets were not paved with gold. But all of them came to understand that they and their descendants would enjoy something far more precious through the freedoms of America. For the first time in Jewish history, they were living in a country where their religious rights were protected by a document called the Constitution, and the visionary genius of James Madison. Those rights are being threatened in the very way that James Madison mused about at the time of the founding of this nation:

*Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects?*

On this Repro Shabbat, I ask you to get check the website of the National Council of Jewish Women and get involved in this fight as Americans who takes the constitution seriously; as Jews who appreciate the value of Jewish law and our right to practice as we see fit in this *Goldinah Medinah*. To fight for the stranger in America; for those who will bear the brunt of this legislation; for those who live on the margins of our society. It is what our Torah demands!

I close with the words of those who organized this effort:

*Repro Shabbat is an opportunity for congregations, organizations, and communities to celebrate the critical importance of reproductive health access, reproductive rights, and reproductive justice, and to learn more about Judaism's approach to these issues.*

***Reproductive freedom is a Jewish value.***

*Our communities should be places where anyone impacted personally by these issues feels loved and welcomed. They should be places where people understand what our tradition teaches. And they should be places where we understand the importance of fighting for reproductive health, rights, and justice for everyone.*

With your help, we will ensure that Anshe Emet continues to be such a place, and America remains the America envisioned in our founding documents.

Amen.