



Temple Rodef Shalom

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Taking a Stand

If you're like me, this anniversary may have passed you by. On June 4th it was 100 years since Congress passed the 19th Amendment to the US Constitution, which guaranteed women the right to vote. The amendment was ratified by three fourths of state legislatures and became part of the U.S. Constitution on August 26, 1920.

*The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.*¹

This right, taken for granted by so many of us, was long fought and hard won. Groups of women picketed outside the White House. Some were arrested and jailed at the Occoquan Workhouse, where they were tortured and beaten by prison guards.²

These women were guided by principles established at the first women's rights conference in the United States— the Seneca Falls Convention in 1848. The convention culminated in a proclamation that began:

“When, in the course of human events, it becomes necessary for one portion of the family of man to assume among the people of the earth a position different from that which they have hitherto occupied, but one to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes that impel them to such a course. We hold these truths to be self-evident; that all men and women are created equal.”³

In addition to pushing for women's right to vote, these activists believed that women had a right to control their own bodies. Elizabeth Cady Stanton argued against the idea that a woman's primary function should be to bear children. Stanton took every opportunity to spread what she called “the gospel of fewer children.”⁴ Mary Ware Dennett, an official with the National American Woman Suffrage Association, became convinced that giving women more control over their reproductive health was essential. In 1915, Dennett helped found the National Birth Control League, which worked to increase knowledge of and access to birth control.⁵

As Jews, this issue is not new for us. Family planning has been a topic in Judaism for three thousand years. While Judaism is a religious tradition that places great emphasis on the importance of having children, there are numerous discussions in the Talmud and commentaries about whether birth control

¹ <https://www.ourdocuments.gov/doc.php?flash=true&doc=63&page=transcript>

² <https://www.washingtonpost.com/news/retropolis/wp/2017/11/10/night-of-terror-the-suffragists-who-were-beaten-and-tortured-for-seeking-the-vote/>

³ <https://www.history.com/topics/womens-rights/seneca-falls-convention>;
<https://sourcebooks.fordham.edu/mod/senecafalls.asp>

⁴ <https://www.theatlantic.com/health/archive/2019/07/did-suffragists-support-birth-control/593896/>

⁵ <https://embryo.asu.edu/pages/mary-coffin-ware-dennett-1872-1947>

and abortion are permitted when a mother’s physical or mental health—or her life— may be threatened by pregnancy. The mother’s health and life always take precedence.⁶

In Judaism there are few absolutes on complex issues such as family planning. Our tradition is one that encourages us to look at each situation individually, rejecting blanket rules that do not take individual circumstances into consideration. We rely on the wisdom of our tradition to help guide us in complex personal matters.⁷

Due to Jewish tradition’s general tolerance regarding contraception and abortion, as well as the American Jewish community’s insistence on the separation of church and state, the major non-Orthodox streams of Judaism in the US have long opposed governmental regulation of family planning and abortion. There are numerous Orthodox authorities who take a similar stand. Overall, Jewish thinkers concur that, decisions regarding family planning—including abortion—should be made by the woman, her partner, and her physician.⁸

Most of us are familiar with the controversy over the Supreme Court’s 1973 landmark decision in *Roe v. Wade*, which states that the U.S. Constitution protects a woman’s freedom to have an abortion without undue governmental restrictions. This ruling was the catalyst for a national debate focusing on whether abortion should continue to remain legal, what restrictions should be placed on abortion, and the role of religious and moral perspectives in political and legal decisions.

In the years following the 1973 Supreme Court decision, clinics opened across the country, and the procedure was covered by Medicaid. In 1976, a major change occurred when Congress passed the Hyde Amendment, which prevented Medicaid funds from being used for abortions. Its sponsor, Congressman Henry Hyde, wanted to prevent, “if I could legally, anybody having an abortion—a rich woman, a middle-class woman or a poor woman.”⁹ The Supreme Court upheld the Hyde Amendment, thus establishing that *Roe v. Wade* created a “negative right.”¹⁰ While women could not legally be denied an abortion, *Roe* did not guarantee their right to receive an abortion.¹¹

Over the next twenty years, several states passed restrictions that limited access to abortion. These restrictions included: waiting periods, parental and spousal notification requirements; rules that prevented insurance companies from paying for abortions; that required women to make multiple unnecessary trips to their abortion provider; and requirements that abortion clinics have the same standards as hospitals.

In 1992, the Supreme Court ruled that such restrictions were permissible so long as they did not impose an “undue burden” on patients.¹² In 2016, the Supreme Court clarified which burdens were permissible.¹³ The Court ruled that, for restrictions on abortion to be upheld, such laws must contain

⁶ <https://www.ncjw.org/wp-content/uploads/2018/02/Jewish-Perspective-on-Reproductive-Realities-FORMATTED11.pdf>

⁷ <https://www.womensrabbinicnetwork.org/resources/Documents/WRN%20Statement%20on%20Legislation%20limiting%20and%20banning%20abortion.pdf>

⁸ <https://rcrc.org/jewish/>

⁹ <https://www.nytimes.com/2019/06/13/magazine/abortion-mississippi.html>

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Planned Parenthood of Southeastern Pennsylvania v. Casey*

¹³ *Woman’s Health v. Hellerstedt*

“medical benefits sufficient to justify the burdens upon access.” For example, a state law that required abortion providers to have admitting privileges at local hospitals, which were often hostile to abortion, did not make abortion safer, so it was struck down. Last week, the Supreme Court agreed to hear a challenge to one such law in its current term.

In Virginia, a woman must have an ultrasound at least 24 hours prior to obtaining an abortion, necessitating two trips to the clinic. Health plans offered in Virginia’s health exchange under the Affordable Care Act only cover abortion when the pregnancy endangers a woman’s life, or in cases of rape or incest.¹⁴

Since the beginning of this year, five states have passed laws banning abortion after 6 weeks of pregnancy, when many women do not yet know that they are pregnant.¹⁵ The Texas legislature passed a law that would make abortion a crime punishable by death; the Alabama legislature passed a law that could put abortion providers in prison for up to 99 years.¹⁶ Such restrictions have forced approximately 25% of abortion clinics in the US to close¹⁷. Currently, six states have only one abortion provider.

A recent study found that, if Roe v. Wade were to be overturned by the Supreme Court, women living in eight states would immediately face abortion bans.¹⁸ In many other states, overturning Roe would mean that women will have to travel longer distances to find a provider. The authors of the study estimate that between 1 and 3 women would be deterred by these distances and restrictions from seeking an abortion.

Caitlin Myers, who co-authored the study, notes “that women seeking abortions tend to be at a particularly vulnerable time in their lives...”¹⁹

I was once one of these women. When I was in my 20’s, a graduate student working and going to school at the same time, I became pregnant. When I experienced problems with the pregnancy, I went to a clinic based at the hospital that was part of my health plan. After examining me, the doctor told me that I was certain to experience a miscarriage—it was just a matter of time. He explained that, because the clinic was part of a Catholic hospital, he could not perform the procedure necessary to end the pregnancy.

Although it was many years ago, I can still remember feeling panicked. How could I go home, continue with work and school, and wait for the miscarriage to occur? Fortunately for me, Roe v. Wade had recently been decided. Although there were no clinics providing abortions in the town where I lived, the doctor gave me the name and number of a clinic in a city about 40 miles away. The doctor told me that the clinic was run by a physician, Dr. Edgar Keemer, a pioneer in providing abortions for poor women.

¹⁴ <https://www.guttmacher.org/fact-sheet/state-facts-about-abortion-virginia>

¹⁵ <https://www.washingtonpost.com/lifestyle/magazine/>

¹⁶ ACLU Magazine, Summer, 2019

https://www.aclu.org/sites/default/files/field_document/aclu006_summer19_single_pages_lo.pdf

¹⁷ <https://www.washingtonpost.com/lifestyle/magazine/>

¹⁸ [https://www.contraceptionjournal.org/article/S0010-7824\(19\)30367-1/fulltext](https://www.contraceptionjournal.org/article/S0010-7824(19)30367-1/fulltext)

¹⁹ <https://www.nbcnews.com/think/opinion/trump-s-title-x-rule-defunding-planned-parenthood-yet-another-ncna1045471>

It was only in doing the research for this sermon that I discovered the depths of Dr. Keemer's commitment and courage.²⁰ In the years prior to *Roe v. Wade*, Dr. Keemer performed thousands of abortions, with the highest medical standards. His patients were primarily poor African American women.²¹ Dr. Keemer's fees were based on what a woman could afford. These procedures were illegal, and—in the late 1950's— Dr. Keemer served 14 months in prison for performing abortions.²² A year before *Roe v. Wade* was decided, police raided Dr. Keemer's clinic. A dozen patients, staff, doctors, and nurses were arrested and jailed.²³ I could have been one of the patients in the clinic that day.

I was lucky. In 1973, in the immediate aftermath of *Roe v. Wade*, there were few restrictions on access to abortion. The clinic was not far from where I lived. I had transportation to the clinic, I had the money to pay for the procedure, and I did not have anyone dependent on me for financial support.

Brandy was not so lucky.²⁴ A few years ago, two months after having her third child, Brandy became pregnant. A short time later she lost the retail management job she had held for six years. It was winter, and Brandy—a single mother— could hardly manage to pay her heating bill, let alone afford cab fare to the only abortion clinic in Mississippi, a twenty-minute ride from her home. By the time Brandy was able to save the money for cab fare and get to the clinic, she was one week past the time when abortion can legally be performed in Mississippi. The doctor told Brandy that the closest clinic that could legally perform an abortion was in Tuscaloosa, Alabama, 200 miles away.

You can imagine the obstacles this presented for Brandy. She did not own a car. The cost of the procedure was \$800, money that she did not have. Because Alabama, like Mississippi, mandates a waiting period before a patient can have an abortion, Brandy would need to stay overnight in a hotel. She would need to pay for an additional day of childcare. Brandy was in a terrible place. She didn't have the money to support another child, yet she didn't have the money for an abortion.

Fortunately, Brandy was able to receive help from the Mississippi Reproductive Freedom Fund, a grassroots organization. With their help, Brandy soon had an appointment at the clinic in Tuscaloosa, transportation to the clinic, and a place to stay overnight. Groups such as the Mississippi Reproductive Freedom fund try to close the widening gap between the legality of abortion and access to the procedure.²⁵

As Brandy's situation demonstrates, restrictions on access to abortion fall most heavily on low income women, who often have limited or no access to health care. Unfortunately, the situation for low income women is about to get worse.

Until recently, many low-income women were able to receive comprehensive family planning, related preventative health services, access to contraceptive services, supplies, and information through Title X. Title X, part of the Public Service Health Act of 1970, was designed to provide these services to women

²⁰ https://www.icl-fi.org/english/wv/1138/ed_keemer.html

²¹ "When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867-1973," p. 156, by Leslie J. Reagan

²² *Ibid.*, p. 188

²³ *Ibid.*, p. 243

²⁴ <https://www.nytimes.com/2019/06/13/magazine/abortion-mississippi.html>

²⁵ *Ibid.*

in low income families and in medically underserved areas.²⁶ In February, the Department of Health and Human Services announced a rule that prohibits clinics that receive funds through Title X “to perform, promote, refer for, or support abortion as a method of family planning.”²⁷

In response to this rule, medical organizations representing more than 4 million US health care providers issued a statement expressing their concern. The statement noted that the rule:

“... is the latest of numerous recent decisions—from rolling back insurance coverage for contraceptives to attempting to eliminate funding for evidence-based teen pregnancy prevention programs—that unravel the threads of this safety net. Together, these decisions compound, leaving women and families with increasingly fewer options for obtaining medically accurate, affordable, and timely access to contraception and preventive care.”²⁸

In August, Planned Parenthood, which serves more than 1.5 million women a year through Title X, announced that it would withdraw from the program, rather than abide by the new rule. While the rule permits organizations that receive Title X funding to talk with patients about abortion, organizations are forbidden to refer women to an abortion provider or to suggest where women can obtain an abortion.²⁹ The loss of Title X funds will have an impact on Planned Parenthood’s ability to serve low income patients.

The women Planned Parenthood served under Title X received services such as birth control and pregnancy tests, screenings for sexually transmitted diseases, breast and cervical cancer.³⁰ In Utah, Planned Parenthood is the only organization that receives Title X funding. In Minnesota, Planned Parenthood services 90 percent of Title X patients. Low income women needing care will likely face long waits for appointments, delay care, or go without care.³¹

There are ways that we can help. The Religious Action Center of the Union for Reform Judaism is actively engaged in legislative efforts to restore Title X funding.³² Planned Parenthood continues to provide women with essential health care services.³³ The National Network of Abortion Funds, through its state affiliates, provides financial and other assistance to low income women.³⁴ Their Virginia affiliate helps over 250 women each year, through direct funding and other logistical support.³⁵

In the years since my visit to the Keemer Clinic, I thought very little—if at all—about my abortion. The efforts to limit access to abortion over the last few years, however, have made me sad and angry. At the Keemer Clinic, I was treated with respect and kindness. The idea that the kind of care I received is

²⁶ <https://www.hhs.gov/opa/title-x-family-planning/index.html>

²⁷ <https://www.hhs.gov/about/news/2019/02/22/fact-sheet-final-title-x-rule-detailing-family-planning-grant-program.html>

²⁸ <https://www.acog.org/About-ACOG/News-Room/Statements/2019/Final-Title-X-Regulation-Disregards-Expert-Opinion-and-Evidence-Based-Practices?IsMobileSet=false>

²⁹ <https://www.nytimes.com/2019/08/19/health/planned-parenthood-title-x.html>

³⁰ Ibid.

³¹ Ibid.

³² <https://rac.org/reproductive-rights-and-womens-health>

³³ <https://www.plannedparenthood.org/get-care/our-services/womens-services>

³⁴ <https://abortionfunds.org/>

³⁵ Ibid.

increasingly less available to poor women is painful. **Our** sisters and friends and daughters and grand-daughters will not face these difficulties. They are likely to live in areas where abortion will remain available. If they live in places where access to abortion is limited, they will be able to get to a clinic. If their insurance does not cover abortion, they have the means to pay for the procedure.

When Roe v. Wade became law in 1973, Dr. Keemer received congratulations from all over the country. Although he must have felt his life's work justified, he issued a prescient warning.

"I can't believe that the struggle will be over and that they will just lie down and give up. We can expect them to resort to all kinds of means to bypass and to defeat this new-won freedom for women."³⁶

Tomorrow morning, we will read Moses' words to the Israelites as they stand on the brink of entering the Promised Land:

"You stand this day, all of you, before your God Adonai—you tribal heads, you elders and you officials, all the men of Israel, you children you women, even the strangers within your camp, from woodchopper to water drawer—to enter into the covenant of your God Adonai, which your God Adonai is concluding with you this day...."³⁷

Everyone in the community is present because each person is responsible for upholding the terms of this covenant and therefore receives its benefits and protections. This includes those who are particularly vulnerable: the stranger, and laborers who perform menial tasks such as chopping wood and carrying water, who were often not Israelites.

The Torah tells us over and over again that the most important lesson for us to take from our time as slaves in Egypt is that we must be mindful of those who live on the fringes of society. The vulnerable women for whom access to reproductive healthcare is becoming increasingly limited are many. Although we may not see them, they are present, and they need us. This year, may we open our hearts to them.

בן יהי רצון
Kein y'hi ratzon

³⁶ https://www.icl-fi.org/english/wv/1138/ed_keemer.html

³⁷ Deut. 29:9-11