

**Transcript:** This is an automated transcript and may contain some inaccuracies.

I am a private person. I'm a very private person. I pick the wrong job. But when it comes to personal matters, to family matters, I don't really like discussing them in public.

But the message that we seem to be receiving from the highest institutions of government in our land is that certain matters which we thought to be personal. Private family matters are not so. And so now that it's public, I want to say at least this, which is that in the long history of my family there have been abortions. They were all difficult decisions, from what I understand.

And those of us who are here in the family is grateful for that. We were wanted. We were also decisions. And now it seems these things are not necessarily our decisions, not necessarily family decisions. So how - how do I respond to that? I can't respond as a woman. I can't speak for women. And certainly, there are things that I will never understand about how a woman processes this kind of decision. But I can respond as a man because it implicates me as well, and I can respond as an American. In fact, I feel I can respond as a student for a long time of American law.

But mostly, I have to respond as a Jew and as a religious Jew. So this is just one perspective, just one perspective on the issue. But I find myself asking, "Does Jewish tradition offer wisdom? Has Jewish tradition thought about this issue?" And of course, it has. Of course, it has. Because this issue raises questions of the essential meaning of life and death and personhood. It is impossible to answer those questions with any real certainty because they are philosophical questions. But for me and in my tradition, these are theological questions as well.

I turn to my spiritual tradition. I turn to my faith. So on the question of personhood, what is a person? When does not just life, but a human life begin? How would I answer that question? How would I know? Perhaps I would turn to the great sage of the 11th century, Rashi, who, commenting on a case of abortion due to a medical emergency, explains that Cosmas Angelo Yes, I love your alarm. Love Nefesh. All the while that the fetus has not gone out into the air of the world. It is not enough. It's not a life. Not a soul. Not by the definition of our tradition. Not a full person. The leaked Supreme Court opinion refers again and again, quoting the law at issue to the unborn person, a full person, it seems, just not born yet.

Well, that's a different definition of life and personhood.

So to whom shall I defer? Who do I trust to answer the most basic questions of existence to Rashi, the greatest Talmudic scholar in history? Or to my state legislature?

I choose Rashi. But now I have no recourse to Rashi. The state will decide for me what a person is. There are many reasons why abortion is sometimes considered under Jewish law from mental anguish, to financial hardship, rape or infidelity, or the detection of some problem with the health of the fetus. So if I and a partner had some reason to consider an abortion and we consulted a rabbi. We trusted that the rabbi might advise in accordance with the Talmud in your Vamos, to try to have the procedure right away before 40 days after learning of the pregnancies. Because the Talmud says that before 40 days of our time, it is merely fluid. Now, that's not an exact

science, but that is their way of attempting to describe this process. And how there's a difference between different phases of this process.

So the rabbi might advise that before 40 days would be a preferable way to approach this issue. But Mississippi's Gestational Age Act, the law at issue in this case suggests 15 weeks. Well, that's longer than other states. I'm presuming that this is the Supreme Court decision that will outlaw it altogether. So whose guidance will I choose? The Talmud? My tradition's second holiest book. Or the state legislature that I happen to live in?

If the leaked opinion is indeed the Supreme Court's decision, I have no recourse to the Talmud, to my tradition's wisdom on this terribly difficult question. I must defer to the state. It's said in many cases that in Jewish law, abortion is considered but supreme above them all, and this is explicit in a Mishnah. If a woman's life is in danger, her life always takes precedence over the life of the fetus. A witness is the mistress here? Could mean the case of her life comes first. Up to the moment that the fetus begins to emerge in such a case, abortion in Jewish law is not permitted. It is mandated. This is the earliest rabbinic code formulated in the second century. This is my religion. This is my religion's primary and most declarative statement on the question of abortion. I personally feel I must follow the wisdom of my sages, of my religion, and of my sacred texts. But if the leaked opinion is indeed the Supreme Court's decision, then state by state, pro-life activists will be pushing for the most restrictive abortion laws they can formulate. One of these activists, Matt Sande, legislative director of pro-life Wisconsin, said What we are calling for is a total ban, no exceptions. We don't think abortion is ever necessary to save the life of the mother.

So who do I turn to? Who do I trust? The Mishnah or Matt Sande of Wisconsin?

But if I live in Wisconsin and he has his way, I will have no choice. I will have no recourse to the Mishnah, no recourse to my religion, no recourse to my own beliefs. But here's the thing. Here's the real thing. The pro-life activist movement in this country is driven and directed by folks who don't want me to have access to my religion.

Because of the place where they get their answers to these major questions of life and death, personhood and autonomy. Will they get their answers from the same place? Do I get mine from their religion? It's no secret that it's a particular religious orientation that forms the platform of the pro-life movement in this country and gives its own answers to the question of when personhood begins and what is or isn't allowed. So it's their religion or my religion. The difference is that these people think that their religion should be everyone's religion. And make no mistake. They are not stopping at abortion. They have opinions not just for these family matters, but also indeed for questions of who you can marry and what prayers you ought to be saying, and what God you ought to be worshiping. This movement is not a one-movement issue. It is an attempt, among other things, to erode religious freedom in this country.

The leaked opinion quoted an earlier opinion: *Planned Parenthood v Casey*.

“At the heart of Liberty,” said Casey, “Is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life.” The author of the Opinion brushes

this aside as just so much errant nonsense. But I will say that this quote from Casey is about the truest and noblest thing I've ever heard in a Supreme Court opinion. And this is not just any liberty. This is about the best definition I could summon for religious liberty, the right to define one's own concept of existence, of the meaning of the universe, and the mystery of human life. The author of the leaked opinion left off the next sentence from Casey.

Beliefs about these matters could not define the attributes of personhood. Were they formed under the compulsion of the state? And this is also true. The state cannot compel morality because that is no choice at all. And so it is not a moral choice.

The state is not the entity that we turn to for the answers to these questions. It's not the entity I turn to.

I turn to my faith. And others turned to theirs. And in this country so far, protection of the free exercise of religion includes protection for those who have no particular faith, but have beliefs. They, too, have a right to a concept of existence. They, too, have a right to think about the mystery of human life. No one, no one thinks that these are easy questions to answer.

And no one really wants the state making those decisions for them.

It's just that some want to use the state as a mechanism to push their answers on everyone else.

The leaked opinion, dismissing these concerns and deliberately ignoring the context in which these cases are brought forth points again and again to the gold standard of our nation's history and traditions. To whose history and to whose particular traditions, one must wonder, does he refer? Certainly not mine. My ancestors on both sides won in the 16th century and won in the 20th. Came to this country fleeing religious persecution. And we understood that this country was founded by people who had also fled religious persecution and that it was founded with the deep understanding that one of the primary guidelines for society was a mix of all kinds of people a for a society like that to be just was that it make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Look out for this, because the leaked opinion does not just dismiss a right to an abortion. It is dismissive of the right to privacy.

And I am a private person.

I'm a religious person.

And I'm a private person.

And so I find myself asking on this day: what will be the next private matter that we turn over to the state? That is just one of the questions that face us as we move into what I'm sure will be a long and difficult national conversation.

Shabbat shalom.