

Shabbat shalom. I'm glad to be able to share some words this Shabbat, in advance of our guest speaker, CBE member Dana Sussman, Senior Vice President of Pregnancy Justice, who will be speaking during dinner this evening. As many of you know, this is the Shabbat on which we participate in the national Jewish conversation about reproductive justice in the context of Jewish tradition. Dana is not here right now, because she's speaking at two other synagogues this evening! And then she'll come home to us for dinner, like family always does. If you're not signed up, just let us know after the service and we'll hook you up - she is amazing and you don't want to miss this.

In the past several years on this Shabbat, we've had the sacred opportunity to hear the courageous stories of our own members whose lives have been touched by abortion in some way. We've created a space that refuses the stigma of shame around abortion and we have found that many of us have been touched by abortion at some point in our lives. *And* we have also said, and I will say it again, if you are a person that has complex feelings about abortion, that's okay - we are all welcome to grapple with the questions of life and death in the ways that align with our own beliefs and experiences. Here at CBE, we choose to show up with a gentle respect for one another - and to listen with compassion to the stories of those closest to the issue. And last year, we also heard from our teenagers, who have continued their work, a fact that makes us very proud. Tonight, my job will be to Jewishly tee us up for our conversation with Dana.

So I'll begin here: While we haven't seen nearly as many Executive Orders relating to abortion as we might have expected in the past month, on the first day of the new administration, there was an Executive Order about gender issued. It stated that the US government will now only recognize two genders, male and female. It says: "Female means a person belonging, at conception, to the sex that produces the large reproductive cell." Captivating language for sure, but what Dana will hone in on later tonight is how that word "person," coupled with the phrase "at conception," connotes what is called "personhood" to a fetus just as it is beginning to exist as a cluster of cells. While this Executive Order is very destructive to trans people, it may also end up being the whole ballgame when it comes to abortion rights.

Dana will help us understand the political, and even ethical, implications of this idea of personhood, what's behind it, how it might be used, how it's already being used, and what we might do about it. And as for me, I will do my best to explore the question Jewishly: In Jewish tradition, what is a person? When is a person? What makes a person, a person? And what might *that* mean for how we meet this moment as a Jewish community?

And I want to talk about this in two intersecting ways: they are the **what** and the **how** of this conversation.

The first is: according to Jewish law, "**what** is a person, when it comes to pregnancy and birth." The second, which will come after, is about a much broader, though I think deeply relevant, conversation about what makes a person, at all. Or: **how** do we person?

Okay, so in Jewish tradition, timing-wise, when does a fetus become a person? That's the question that's being debated when abortion bans are proposed and will be critical to Dana's teaching tonight as well as to how we might explain to others what Jewish tradition has to say about abortion.

So, there's a primary text from this week's parsha, parshat Mishpatim, that weighs in:

It says: "When [two or more] parties fight, and one of them pushes a pregnant woman *v'yatz'u y'ladeiha*, and a miscarriage results, but no other damage ensues, the one responsible shall be **fin**ed." Will pay a fine. What this immediately teaches us is that the fetus this person is carrying is not considered a person by Jewish law, for if it were, the penalty for the attacker would be death, and not financial compensation.

From here, a conversation through time unfolds. The Babylonian Talmud, in Tractate Yevamot, teaches that up until 40 days in utero, a fetus is considered "mere waters." And then, in Tractate Gittin, we learn that **after** 40 days, a fetus is considered part of its mother's thigh. So, not a person unto itself, but part of the person carrying the fetus. And finally, in Mishna Oholot, using fairly graphic language, our text teaches that a fetus is not considered a person until its head emerges from the body of the pregnant person.

In fact, **this** story is affirmed by coming back to the very beginning of **our** story. In the book of Genesis, we read that God "*Vayipach b'apav nishmat chayim*," God breathed into Adam's nostrils the breath of life, *vayehi Ha'Adam*, and Adam became a living soul, a person. And so we learn that it's not the presence of a cluster of cells, or even a heartbeat that changes the status of a fetus to a person in Jewish tradition, but rather it is the first breath taken outside the womb, because God gives Adam life through breath. And because the fetus does **not** have the status of "person," the pregnant person's life is paramount and abortion is permitted and sometimes required. In a Jewish context, *that* is the legal implication of personhood or not personhood.

We could say at this point that it's all wrapped up and it's so clear how to define this. But this question deserves more from us. Because human beings, **persons**, are more than our religious texts, we're more than scientific bodies - we are complex, we are emotions, we are relationships, and that's actually a good thing, and an extremely important thing to acknowledge as we talk about abortion and personhood.

For example, in early April, we'll observe a Shabbat that lifts up a sacred conversation about pregnancy loss. And we'll tell stories from this bima about the profound pain and grief a person often feels when they lose a pregnancy, whether it's just in the beginning days, or many months in.

So we might ask: how can we possibly hold both of these things as true? How can we assert that according to Jewish law, abortion must be legal in a democracy and also allow that a

pregnant person might mourn their loss as intensely as any other loss **of** a person, or more? Don't these contradict? Can both these things be true? They can be and they are.

And therein lies the second conversation about Jewish personhood. What is it to be a person in Jewish tradition? And we find that being able to embrace our human complexity, our full humanity, is part of our answer.

So we turn from our question of **what** to our question of **how**? How do we "person" in Jewish tradition? And why does that matter?

Pirkei Avot, which is a part of the Mishna, teaches: *B'makom sh'ein anashim, hishtadel l'hiyot ish*. In a place where there are no people, try to be a person. Or sometimes it's translated: in a place where there is no humanity, strive to be human.

Here, probably obviously, we're not talking about a fetus or the **legal** definition of personhood, but rather perhaps the **spiritual** definition. What does this **mean**?

When you are in a place, or find yourself living in a time, where no one, or no one in power, seems to be able to act like a person, or to see the humanity or the suffering of another, to hold multiple truths, to act with compassion and empathy, **try**, this text urges us, **try** to be someone who does that. That is what we call "being an *ish*," being a person." It is to live with humanity even at a time when it is hard to find. It won't help us with the legal definition of a fetus, but it might help us discern how we meet this moment as a Jewish community, when it comes to reproductive rights and also everything else.

It is easy to feel beaten down by the news right now. It's understandable to feel powerless, overwhelmed, despairing, a pinball in someone else's game. The administration continues to move at a feverish pace, planting this cynical personhood seed into an unrelated Executive Order, advancing policies causing injury to immigrants and trans kids, and trans adults, erasing diversity and inclusion programs, taking over the arts, and taking a hacksaw to funding for the most vulnerable, while our president unironically refers to himself as king. For us, it is overlapped by devastating news in Israel and Gaza, and there are ominous national and international "what if's" and warnings hanging out just on the horizon. It would be easy to let our anger or pain dictate our actions and demeanor, how we see this world and its dark spaces, or even to convince us to sit all this out.

But instead, perhaps this dual conversation about Jewish personhood, the what and the how, can lift us up a bit as we make our way.

With the **what**: when we are faced with an attack on someone vulnerable, whether we are talking about a woman or other pregnant person or anyone else, we are invited deeply into a 3,000 year old textual tradition to mine it for the wisdom it has to offer us, that belongs to us, that asks us to make it alive, to feel anchored by it - and challenged by it, not black and whited by it, but to embrace its complexities and know that these conversations have been happening for

thousands of years before us and that we can dip into this well of ideas, shaped by the ways that our ancestors tried to construct a compassionate world.

And the **how**: When we are most angry, most exhausted or tuned out, feeling most isolated or beaten down, we are invited to be drawn upward into our personhood - our responsibility to be an *ish*, to enact humanity, where none is found. In fact, in one explanation of the phrase "*hishtadel l'hiyot ish*," try to be a human being, a person, the text is interpreted to mean that where others won't lead, "a person should take the leadership upon themselves." Not just to feel elevated by the call to be a person when humanity is lost, but even to take the reins and bring us all forward - that is our legacy.

I pray that, together, tonight, as we press on into a specific conversation with our brilliant teacher, Dana Sussman, that we will bring both of these teachings with us - the depth of Torah that challenges us to understand with compassion what a person is, and the depth of humanity that challenges us to best try to live as one. Amen.