

Transgender Bathroom Bill Sermon

By: Rabbi Ahuva Zaches

When I was in middle school, I remember being surprised to learn that one of my sister's friends missed school quite frequently. I was a nerdy kid who begged my mom to go to school even when I was sick. But my sister's friend missed school a lot for a reason I could not fathom. She simply didn't feel comfortable using the restroom at school. So for eight hours every day, between her bus ride to school and her bus ride back home, this little girl would hold in everything. Her avoidance of public restrooms led to medical complications, such as kidney infections and digestive issues that caused her to have significant pain and to miss school.

Recently in the news, there has been a lot of discussion about public restrooms, like the school facility that my sister's friend did not feel comfortable using. States like North Carolina and Mississippi have newly passed laws that make it illegal for transgender people to use a public restroom corresponding to their gender. I believe the reason that these bills passed may lie in this week's Torah portion.

This week's Torah portion, Acharei Mot, discusses an ancient ritual that was once part of Yom Kippur. In this ritual, a priest casts the sins of the whole Israelite community onto a single goat, which is then sent into the wilderness to die. This Torah portion is where we get the term "scapegoat." And scapegoating seems to be a significant part of the recent debate over who can use which public restrooms.

Many individuals have suggested that allowing transgender people to use public restrooms will increase the number of sexual assaults in our society. Instead of imagining an actual transgender woman using a restroom the way any other woman would use a restroom, these individuals imagine that heterosexual men will suddenly put on dresses in order to sneak into women's restrooms and commit sexual assault. This mental picture does not reflect reality. It is based on the false assumption that sexual assault is committed primarily by strangers who trick others in public spaces. It is also based on the false assumption that sexual offenders are easy to spot among a crowd. That is, unfortunately, not true.

According to statistics, the majority of women who are sexually assaulted are not attacked by creepy-looking men hiding behind the bushes or sneaking into bathrooms. Nor are the majority of children who are molested, attacked by mustachioed strangers with big white vans. Despite what many of us imagine, the majority of sexual violations such as rape and molestation are not committed by strangers with unusual appearances. They are unfortunately committed by people we know and thought we could trust. Statistics show that it's far more likely for a straight, gender-conforming male friend or relative, such as one's boyfriend, uncle, or longtime family friend, to assault a woman or child.

In other words, it is the people we all know, not the stranger we don't know. It is the community of human beings who are committing the sins, not the goat who is unfairly punished for the people's sins.

Nearly two thousand years ago, we replaced the ritual of the scapegoat with the ritual of self-reflection and admission of our own shortcomings. As a result, the holiday of Yom Kippur has become much more meaningful. American society would likewise improve if we stopped scapegoating transgender people and reflected instead on how we can better address the more significant issues in our society.

Now some might argue that public restrooms are one of these significant issues. There are certainly parts of the Torah that would support this point of view. For example, in Deuteronomy 23:14, the Torah teaches that before the advent of plumbing, all people should carry around a special tool, so that they can bury their bodily waste properly when venturing outside of their homes. Now that we have plumbing and public restrooms, we might take this Torah teaching to mean that every person, regardless of gender, should be able to relieve themselves in a dignified manner, not only at home, but also in public spaces.

The Talmud also has something important to say about public restrooms. By the Talmudic era, there were established privies, which people would use instead of the tool described in Deuteronomy. In Brachot 62b, the Talmud tells a story about a famous student named Ben Azai who followed his rabbi (Rabbi Akiva) into the privy. Ben Azai claims he secretly followed Rabbi Akiva into the restroom in order to learn the rules of bathroom conduct.

Later Ben Azai tells another man named Rabbi Judah that he learned to wipe with his left hand while spying on Rabbi Akiva in the privy. Rabbi Judah cannot believe Ben Azai's intrusive and inappropriate behavior. "How could you have been so brazen as to follow him into the restroom?!" he asks. This story teaches us that it is no one else's business what an individual does in the restroom. That is a private space, even if it is technically a public facility. That is why the restroom used to be called a privy, as in private.

Without knowing this story from the Talmud, my sister's childhood friend still believed in this story's core message of dignity and privacy. She was a young, straight, non-transgender girl, but she still felt uncomfortable in the restroom at her public school because there was not enough privacy.

When it comes to public restrooms today, there is a simple solution that incorporates the Talmud's ancient wisdom and the modern experiences of people like my sister's childhood friend. As we discovered long ago, it is possible to create a gender-neutral, single stall facility. Many of us even have such facilities already at home. We call them bathrooms.

As a sacred community, we have the power to maximize every individual's dignity, privacy, and safety by creating these single stall, gender-neutral restrooms in public spaces.

By working towards this goal, we would embody the prophetic spirit of Moses, who famously said, "Let my people go!"

May there soon be a time when we can say together, "Let all people go, in safety and in peace!" Thank you and Shabbat Shalom!