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תזריע - מצורע תשפ"ו

Gender Inside and Outside the Camp

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Most benei mitzvah would do anything to avoid having to talk about Parashat Tazria-Metzora, a section of the Torah that focuses communal attention on intimate changes in human bodies. In Leviticus 13, God orders Israelites to notice and monitor intimate changes in one another's bodies—menstruation, discharges, eruptions, inflammations, hair growth, "swelling, rash, discoloration," and so on. For example, Leviticus 13:2 commands:

> When a person has on the skin of his body a swelling, a rash, or a discoloration, and it develops into a scaly affection on the skin of his body, it shall be reported to Aaron the priest or to one of his sons, the priests.

The idea that others would examine and report on intimate details of our bodies—that such things would be of communal concern, and subject us to institutional regulation—may seem archaic. But as transgender people know, when it comes to gender, this kind of surveillance is alive and well.

Every trans person has experienced gender surveillance—the ongoing scrutiny of bodies, clothing, voices, and gestures to determine if we are male or female. Gender surveillance happens in stores, on the street, in the work place; it is conducted by strangers and friends, bosses and employees, police and people who are homeless, doctors and accountants. Wherever we go, whomever we encounter, others, consciously or unconsciously, are looking at us to determine whether we are male or female—which is why the therapist who helped me through gender transition instructed me to always carry a letter, addressed "To whom it may concern," in which she assured whoever was reading it that I was not presenting myself as a woman in order to defraud or otherwise harm others.

I am not only an object of gender surveillance; I participate in the communal monitoring of gender. When I see someone, I immediately try to determine if they are male or female, because so many of my habits of understanding and relating to others are premised on determining who they are in terms of binary gender. I have lived my entire life engaging in gender surveillance, subjecting everyone—myself included—to that binary-enforcing gaze.

The spate of "bathroom bill" legislation in North Carolina, Texas, and elsewhere—laws designed to force trans people to use the restrooms that correspond to the sex on our birth certificates—has drawn national attention to gender surveillance. "Bathroom bills" require people whose bodies visibly vary from the norm to undergo intensive, intrusive examination and, if our differences are officially found to be defiling, to be expelled from communal spaces and publicly stigmatized.

Leviticus 13 commands similar responses to bodies whose differences are officially deemed "leprous":

> As for the person with a leprous affection, his clothes shall be rent, his head shall be left bare, and he shall cover over his upper lip; and he shall call out, "Impure! Impure!" He shall be impure as long as the disease is on him. Being impure, he shall dwell apart; his dwelling shall be outside the camp (vv. 45-46).

In Numbers 5, the Torah expands the range of bodies that are to be expelled because they are considered defiling:

> The Lord spoke to Moses, saying: Instruct the Israelites to remove from camp anyone with an eruption or a discharge... Remove male and female alike; put them outside the camp so they do not defile the camp of those in whose midst I dwell. The Israelites did so, putting them outside the camp (vv. 1-4).

The image of organized searches for those whose bodies may "defile" their society may seem like an outgrown relic of Iron Age notions of ritual purity. But as Jews found out during the Holocaust, and, as Latino communities in the U.S. targeted for immigration "sweeps" can attest to today, human beings have never left such practices behind.

To my knowledge, trans people have never been subjected to this sort of formal "removal" process. Until recently, most of us have lived in hiding or "below the radar": too few and too scattered to inspire formal searches and "removals." But many trans people know what it's like to be seen as defiling our families, homes, workplaces, and communities, and forcibly removed as a consequence—expelled, sometimes violently, because the "eruptions" of our transgender identities are seen as a threat to communal health, harmony, religious life, or social order.

The removals of defiling bodies commanded by the Torah are in many ways less harsh than the removals many transgender people endure. The Torah's commandments target temporary physical conditions that may affect anyone, rather than singling out a specific minority for discrimination. Unlike today's gender-based removals, the Torah's laws don't stigmatize those who are removed from the camp, or suggest that they are guilty of moral failing, sin, or crime. (While leprosy was later interpreted and stigmatized as divine punishment, "eruptions and discharges" are common events.) And while the Torah allows those who have been removed to rejoin the community after completing rituals of purification, such as those detailed in Leviticus 15:13-31, many transgender people are exiled for years, decades—sometimes for the rest of our lives.

The Torah is often cited as the basis for religious communities to exclude, exile, and stigmatize transgender people—and even to deny us urgent medical care—but the Torah never commands, approves, or encourages such things. Even when Moses declares that those who cross-dress are "abhorrent" to God, he does not claim that God demands that they be "removed from camp." Though there have always been people who do not fit into the categories of male and female, the Torah says nothing about us. It does not portray us as a threat or an abomination; it doesn't declare us unclean or unfit to participate in communal worship or activities; it doesn't demonize us, curse us, punish us, relegate us to the margins or the shadows, order gender surveillance to guard against our entry into the community or the Tabernacle, or organize searches to locate and expel us.

The Torah's silence opened the door for the rabbis of the Talmud to adapt halakhah to enable intersex Jews to participate in Jewish communal life, and, more recently and locally, for Yeshiva University to tolerate my presence as an openly transgender professor. But because the Torah does not acknowledge that there are human beings who are not simply male or female, it shrouds us in silence and incomprehensibility.

The Torah's detailing of defiling physical differences ensured that these differences could be recognized, spoken of, and understood by communities as part of being human. In order to fully include transgender people, Jewish communities have to follow the Torah's example—to speak frankly about transgender identities, to recognize and pragmatically address our differences, and to face up to, and change, the communal policies, practices, and habits that, intentionally or not, lead so many of us to be removed, or to remove ourselves, from the camp.

Authors Note:

When this d'var Torah was first published in 2017, so-called bathroom bills—laws criminalizing trans people's use of public restrooms that fit the gender with which we identify—were relatively new and, to me, surprisingly unpopular. Now, nine years later, this kind of anti-trans legislation has metastasized. Thousands of trans people and their families have become internal refugees, moving from state to state in search of health care, equality, and safety; others, including me, have either fled or are preparing to flee the country. All of us are waiting to find out if we will be subject to the invasive processes described in Leviticus 13 and Numbers 5: inspecting our bodies, officially designating us as "unclean," and forcibly removing us, as lepers and other "unclean" Israelites were, from American society.

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