



SERMON SEVENTH DAY PESACH:ⁱ TRANS RIGHTS ARE HUMAN RIGHTS

**Rabbi Gabriel Kanter-Webber, Saturday 19 April 2025
Brighton and Hove Progressive Synagogue**

[1] On Wednesday, our nation's most senior judges ruledⁱⁱ that trans women are not entitled to the legal protections which the Equality Act grants to women, with major implications for toilet cubicles, sports and many other areas of life.

[2] Let me say straight away that it will not have major implications for BHPS. We will not be relaxing our policy of trans inclusivity one iota. We are, and will remain, a safe space for trans congregants.

[3] Whether or not the Supreme Court's five justices were correct as a matter of legal technicality, something on which I am unqualified to express an opinion from the pulpit (but buy me a drink later and I'll happily share my thoughts 'offline'), there can be no doubt that their ruling has disempowered trans people and emboldened those who seek to delegitimise and stir up hatred against that vulnerable minority.

[4] Their decision stands in stark contrast to our Jewish values, which recognise that everybody is created **בְּצֶלֶם אֱלֹהִים**, in the image of the Divine.ⁱⁱⁱ We are the people who were commanded to be **תְּמִיִּם**, whole-hearted, before God.^{iv} How can we nurture the Divine spark in everyone while treating some people as 'not fitting in'? How can we deny our trans friends, family and fellow congregants the right to be whole-hearted before God by living full lives as their true and authentic selves?

[5] Helen Bencher, chair of the campaign group TransActual, said: *"This ruling has no real purpose beyond ideological objection to the*

ⁱ Exodus 12:29-40

ⁱⁱ *For Women Scotland v Scottish Ministers* [2025] UKSC 16

ⁱⁱⁱ Genesis 1:27

^{iv} Deuteronomy 18:13. For this link I am indebted to an undated responsum by Alexandra Rose Kohanski: <<https://perma.cc/44AR-UEF8>>

existence of trans people.^v She is absolutely right. Back in 2014,^{vi} three judges of the European Court of Human Rights warned that this day would come. Helplessly in the minority, they said:^{vii}

[S]ociety ill-treats transgender individuals while forgetting the fact that the moral failure lies in ... society's unwillingness to contain or embrace different gender identities and expressions, a mindset which we have to change [...S]ociety's [objection to transgender individuals is fuelled by a] problematic yuk factor [which...] is not a normative idea that should be supported by the law.

Their warning was not heeded.

[6] Now, I suppose that what I could do now is to hunt through Jewish sources from Torah, Mishnah, Talmud and beyond. I could search for texts in support of the proposition that, if society holds bigoted, stereotypical or intolerant views against a particular minority, the solution is not – is never – to appease society by marginalising the minority.

[7] But that would be like shooting fish in a barrel. Literally the whole of the Jewish ethical tradition is built on that idea, and I am using the word ‘literally’ correctly.

[8] Instead, I want to focus in on one particular verse from our parashah this morning: וַתִּחַזַּק מִצְרַיִם עַל-הָעָם לְמַהֵר לְשַׁלְּחָם מִן-הָאָרֶץ, *Egypt pressed the [Israelites] strongly, to send them out quickly from the land.*^{viii}

[9] The curious thing about this verse is that Pharaoh isn't involved. The whole way through the Exodus narrative, Pharaoh has been in charge, holding the negotiations, taking the decisions. Suddenly, “Egypt” as a whole is taking action and there's no sign of Pharaoh. What changed? The commentator Rav Zalman Sorotzkin explains:^{ix}

The Egyptians no longer relied on their king ... who had ... brought devastation upon the land. Therefore ... they took the initiative into their own hands. And even though the people did not typically interfere in politics – especially in autocratic Egypt – this time the Egyptians broke

^v Helen Becher, “Response by TransActual to Supreme Court ruling on Equality Act”, *TransActual* (16 April 2025): <<https://perma.cc/JN7A-7YDK>>

^{vi} *Hamalainen v Finland* (2014) 37 BHRC 55 (ECtHR)

^{vii} *Hamalainen* at p 84h-j (internal citations omitted)

^{viii} Exodus 12:33, adapted from Fox translation

^{ix} Oznayim la-Torah *ad loc*



character. For they said: “*We are all screwed.*” And in the terror of death, they no longer heeded the government.

In the context of the end of Israelite bondage, that was an important, indeed earth-shattering, moment. Finally – finally – the people rebelled against a government which was engaged in the slave trade and indifferent to the suffering its policies were causing.

[10] Where does this line of thought take us when we apply it to the Supreme Court’s ruling against trans rights? Let’s take it one step at a time.

[11] Firstly, and I say this with an enormous sense of sadness and regret, we now have proof positive that we can no longer rely on the state and on civil society as a whole to protect trans people. The Equality and Human Rights Commission has already pledged to “*pursue[]*” and penalise any NHS hospital that grants trans people equality and human rights.^x It has either bought into or bowed down before the pernicious myth that the conferral of rights on trans people comes at the expense of the rights of others.

[12] Although there were a few bright spots in yesterday’s judgment – the consistent use by judges of “*she*” pronouns to refer to trans women,^{xi} and clear recognition that harassment of trans women is unlawful^{xii} – for some mysterious reason these facets didn’t make it into the wall-to-wall press coverage at all, because the wall-to-wall press coverage has been impitiously focussed on the triumphalist ‘J K Rowling won the day’ narrative. *The Telegraph* even decided to publish^{xiii} a feature listing celebrities who have had the temerity to speak out in support of the trans community, for no obvious reason other than to sneer at them. Clearly, the media cannot be relied upon to perform its traditional role of social watchdog when it comes to this issue.

[13] Secondly, although we can no longer rely on the government and the judiciary and the press, the British population is not, yet, ready to “*break character*” and stand up to compel its leaders to do the right

^x Ruth Comerford, “NHS will be pursued if gender policies don’t change, equalities watchdog says”, BBC News (17 April 2025): <<https://perma.cc/FB3X-HNPZ>>

^{xi} *For Women Scotland* at eg [250]

^{xii} *For Women Scotland* at [249]–[261]

^{xiii} Fiona Parker, “The famous faces who insisted ‘trans women are women’”, *The Telegraph* (16 April 2025): <<https://archive.ph/RhyAJ>>



thing. Like most of the Egyptians during most of the years of Hebrew slavery, the general public as a whole is content to sit back and watch the marginalisation go ahead. That's galling and deeply upsetting, but let's not be fatalistic: it isn't permanent and it certainly isn't irreversible.

[14] Opinion polling shows that younger people are consistently more supportive of trans rights than older people, and that women are more supportive than men.^{xiv} The culture war and its proponents are doing their best to dupe the populace into intolerance, but there are sub-groups within society who are not so easily fooled. The tide can change, and in the absence of a state willing to protect this vulnerable group, we must hope and pray that a time will come when **ותחזק בריטניה**, Britain as a whole will push for trans people to be granted the same rights, protections and recognition that the rest of us enjoy.

[15] We need to do more than pray, though. We need to do what we do here at BHPS – inclusion and celebration of everybody, whatever their gender identity – and shout it from the rooftops. We already have a reputation as a safe space for trans people, but we need to broadcast that further and open our door wider.

[16] Quite simply, as Rabbi Xava de Cordova has explained it: *“Trans women are women. This is non-negotiable in any halachah worth living.”*^{xv} Whatever the Supreme Court says from its ivory tower, we know that here, we have a halachah worth living. Nobody can, and nobody will be allowed to, take that away from us.

[17] Our ancestors didn't manage to escape Egypt until there had first been a **צַעֲקָה גְדֹלָה**, a *great cry*.^{xvi} So let us give a **צַעֲקָה גְדֹלָה**, a great cry, about how inclusive our Liberal Jewish sanctuary is, about how we refuse to be drawn into the prevailing narratives of hatred, odium and exclusion. **כֵּן יִהְיֶה רָצוֹן**, may this be God's will.

^{xiv} Matthew Smith, “Where does the British public stand on transgender rights in 2024/25?”, YouGov (11 February 2025): <<https://perma.cc/7QCY-WWA8>>

^{xv} Rabbi Xava de Cordova, “Are trans women obligated in niddah? (Jewish menstrual law): embracing halachah that was not addressed to you”, Evolve (7 August 2023): <<https://perma.cc/U3K3-AFYU>>

^{xvi} Exodus 12:30

