

## A Created Being of Its Own: Toward a Jewish Liberation Theology for Men, Women and Everyone Else

by Rabbi Elliot Kukla

Rabbi Yose says: ‘An *androgynos* is a created being of its own.’ The Sages could not decide if the *androgynos* is a man or a woman. But this is not true of a *tumtum*, who is sometimes a man and sometimes a woman.

— *Mishna Bikkurim 4:5*

### How I Met The Tumtum

The first time I met the *tumtum* I was twenty years old and studying in an orthodox yeshiva. I was new to religious Judaism and I was falling in love with traditional texts fast and hard. I was captivated by the mysterious square Hebrew letters and the beautifully convoluted logic of the ancient rabbis. In a class on the Mishna, the earliest layer of Jewish oral tradition, I found a startling text buried in a sheaf of handouts. I learned about someone who takes an ascetic vow. This vow will be valid if, and only if, a son is born to him. However, if the baby turns out to be a daughter, a *tumtum* or an *androgynos*, he is not bound by this vow (Mishna Nazir 2:7).

As soon as I read this perplexing text I called over my teacher and excitedly asked her: “Who is this *tumtum*?” “Oh,” she answered, “The *tumtum* is a mythical beast that is neither male nor female – kind of like a unicorn – that our Sages invented in order to explore the limits of the law.” Even though I knew next to nothing about Jewish texts and traditions, I had a feeling that my learned teacher might be wrong. I instantly identified with the *tumtum*. I had spent a lifetime feeling homeless and adrift between the modern categories of “male” and “female.” When I met the *tumtum* I finally came home.

The rabbis of the Mishna who lived in the first two centuries of the Common Era, identify at least four possible genders/sexes:<sup>1</sup> the “*zakhar*” (male) and the “*nekevah*” (female), as well as two sexes that are neither male nor female, called the “*tumtum*” and the “*androgynos*.” They also had two other categories for gender identity that don’t appear at birth, but develop later in life. The “*saris*” is born male but later develops female traits; the “*aylonit*” is born female, but later develops male traits. All these genders appear frequently in classical Jewish texts – the

*tumtum* appears 119 times in the Babylonian Talmud alone! And yet gender diversity is seldom discussed as an integral part of Jewish sacred texts or as a spiritual resource of our tradition.

It has now been over a decade since I first met the *tumtum*. In a sense I have come a long way. Squat Hebrew letters are no longer mysterious to me they are now my intimate friends, my constant companions. In spring 2006 I finally came out as transgender and was ordained as a rabbi at the same time. However, in other ways, not much has changed since that first encounter. I still recognize the *tumtum* whenever we meet in the text and I am still surrounded by voices that deny that the *tumtum* and I really exist.

As both a rabbinical student and as a new rabbi, I have had the privilege to talk to numerous people who (in one way or another) can't or won't fit within modern binary genders. Each of these individuals has confirmed that we do exist both in Jewish sacred tradition and in contemporary communities. Every one of these encounters has pushed me to find Jewish textual and ritual resources that shed light on our struggles. I, in turn, have become more and more convinced that Judaism offers us the seeds of a liberation theology for men, women, transgender people, and everyone else.

## **What's at stake?**

The invisibility of both the *tumtum* and I is connected to the fact that modern society holds that there are two (and only two) ways of being human. From before we are born people ask “is it a boy or a girl?” From the moment of birth onward most facets of our life – the clothes we are told to wear, the activities we are anticipated to like, the careers and hobbies we are encouraged to pursue, the loving relationships we are expected to have – are guided by the answer to this crucial question. The past few decades of feminist organizing have deeply questioned whether we can (or should) see gender as an essential way to divide up humanity. And yet most of us 21<sup>st</sup> century people were still raised to believe that whether we are a girl or a boy is a simple, and unchangeable, fact.

There are countless people who are excluded in varying degrees and ways by this rigid understanding of gender. There is the eight year-old boy who was suspended from school for wearing his ballet tutu to class in upstate New York, the flight attendant in Atlanta who is currently suing her employer for firing her because of her refusal to wear make-up, the butch lesbian who was shouted at and harassed in a women's restroom in a synagogue in Los Angeles, and the more than 40 transgender people world-wide who were murdered in the past year alone in gender-based hate crimes.

The term “transgender” or “trans” can be understood as a broad category that encompasses

many different types of gender diversity. Anyone who can't or doesn't want to "match" the appearance, roles, or behaviors of the gender that they were assigned at birth might identify as trans. Some transgender people choose to undergo surgeries and/or hormone therapies so that their bodies better express their inner gender identities, others may want to take these steps but can't afford them, and still others have chosen not to modify their bodies at all. Some transgender people identify wholly with one preferred gender category (male or female) that is just not the category they were originally assigned. For example, they may have been considered "male" at birth, but clearly understand themselves to be female and want to live completely as a woman. However, there are also some transpeople who identify as neither male nor female, both male and female, or who inhabit an alternate, non-binary, gender identity.

All transgender people pay a high social price for living as the unique person that God made us. Transphobia, the fear of gender variance in society, impacts all parts of life. Children who do not gender-conform are often met with physical, verbal and sexual cruelty and are sometimes forced to drop out of school, while youth are frequently disowned by their families and lose economic support systems. Transgender adults face significant obstacles to accessing employment, healthcare, police protection and other essential services. Today, gender variant communities live in relative poverty habitually alienated from social services, spiritual care or support. And, as in the case with anyone experiencing multiple oppressions, transpeople who are also people of color, poor or working-class, disabled, etc. are exponentially affected and they have less access to resources (such as money) that can alleviate the effects of living in a transphobic society.

Gender rigidity impacts all of us even if we are not transgender. Ronnie Paris Jr., a three year old boy, was beaten to death by his father in 2005 for not acting "masculine" enough. This story illustrates the fact that the belief that there are only two ways to be human leads to multiple types of violence and oppression. It limits and circumscribes everyone's potential. "Who would you be," asks transgender activist Pat Califia, "if you had never been punished for gender inappropriate behavior? What would it be like to walk down the street, go to work or attend a party and take it for granted that the gender of the people you met would not be the first thing you ascertained about them? What would happen if we all helped each other to manifest our most beautiful, sexy, intelligent, creative, and adventurous inner selves, instead of cooperating to suppress them?"

## **A Created Being of Its Own**

Gender liberation activists have begun to create a different kind of world. On June 28, 1969, New York City police raided the Stonewall Bar in Greenwich Village. What began as routine violence against gay and transgender individuals turned into a full-scale uprising that continued through out the week. The ensuing post-Stonewall decades have led to major global social, political, and legal changes including gay rights legislation, media representation, and domestic partner benefits.

Transgender and gender non-conforming people have been central to this fight for human dignity from the beginning. Sylvia Rivera, a Latina transwoman, was at Stonewall that night and went on to dedicate her life to the struggle. In an interview with Leslie Feinberg, Rivera says: “I’m glad I was in the Stonewall riot... I thought: ‘My God, the revolution is here. The revolution is finally here!’ I always believed that we would have to fight back. I just knew that we would fight back.”

In 1970, Rivera scaled the walls of City Hall in a dress and spiked heels in an attempt to gain access to closed door votes on the New York City Gay Rights Bill. However, over the next decades the burgeoning gay rights movement increasingly distanced itself from transgender and gender non-conforming people to gain mainstream support. Rivera and other trans activists were forced to find their own ways to resist gender oppression. Rivera, along with Marsha P. Johnson, an African American transgender woman, went on to form Street Transvestite Action Revolutionaries (STAR) which provided safe housing for young transgender people. This and other safe houses that Rivera and her community formed, fought multiple forms of oppression by creating “homes” for those marginalized by lines of race, class, sexuality, and gender.

Today, transgender individuals are coming together at unprecedented numbers to demand a right to both literal and metaphorical “homes.” In New York City where I live, trans organizing has led to unprecedented advances for people of all genders including: “The Gender Identity Project” a service of the local LGBT community center that offers individual and group counseling for individuals questioning their gender, as well as training in transgender care for mental health care professionals; “The Sylvia Rivera Law Project” which advocates for the legal rights of all people to self-determine their gender; and “TransJustice” a local grass roots activist group that fights against police brutality and for political advances for transgender people of color.

These changes are not just good for transgender people, but create more options in the universe for all of us. On Kol Nidre I delivered a sermon at my synagogue on the power of diversity. Afterwards, in the swirling crowd I felt someone tug at my jacket. I turned around to find

a nine-year old boy in lavender shiny ‘Powerpuffs’ sneakers. “I really liked your sermon,” he whispered before disappearing into the crowd. During Sukkot his mom told me that he had been hassled about his shoes at school all week, but after hearing my sermon he had decided to keep wearing them. I don’t really think it was my words that impacted him, but the visual power of a gender non-conforming rabbi on the bimah. It took years of struggle by activists like Sylvia Rivera to allow that moment to happen. I couldn’t help compare the range of options that the boy in my congregation had to be a full person, with the limited scope of choices that had been available to Ronnie Paris Jr., the boy in Florida who was beaten to death last year for acting like a “sissy.” I also couldn’t stop dreaming of a world where everyone has the option to grow up with the ability to choose their clothes, hobbies, and behaviors without the threat of violence or humiliation.

Faith traditions have a role to play in the expansion of society that will create this new world. Religion grounds and contextualizes human experience, while congregational life offers individuals concrete sustenance and support. When I was in rabbinical school I organized with a group called Clergy and Laity United for Economic Justice (CLUE). One of the communities I had the opportunity to get to know was a congregation in East LA composed almost entirely of Episcopalian Latina Transgender women who use the power of their faith to come together and offer one another support in fighting for access to health care, housing and basic legal protections, as well as lobbying for other political advances that will improve the life of low-income people of color of all genders.

In general, Jews are much less comfortable framing our struggles for liberation in the language of faith or spirituality. However, I believe that Judaism offers us the resources to ground the growing gender liberation movement in a rich theology. Differently gendered individuals are integrated into the world of Jewish sacred texts and play leading roles in our spiritual history. The midrash teaches that Adam, the first human being, was an *androgynos* (Bereshit Rabah 8). While in the Babylonian Talmud (Yevamot 64a) the radical claim is made that both the first Jews, Abraham and Sarah, were actually *tumtumim* who later transitioned genders to become male and female. According to some of the most influential texts of our tradition, the first human being and the first Jews were gender-variant people!

The reason that my Mishna teacher told me that the *tumtum* was a mythical creature is that most modern readers approach Jewish sacred texts with the presumption of finding a system of binary gender that is virtually identical to today’s mainstream understanding that there are two (and only two) opposite sexes. According to this view, the *tumtum* must be either a mythical creature or a statistical aberration. However, as writers on the history of sex difference (like Thomas Laqueur, Alice Domurat Dreger and Anne Fausto-Sterling) have pointed out, a binary approach to sexing the body is relatively new.

Binary categories for the human experience grew in popularity in the 18<sup>th</sup> and 19<sup>th</sup> centuries, as a way to regulate and control society. The Victorian science of difference discovered “evidence” of binary differences between men and women; between working and owning classes; between white people and people of color. This evidence was used to justify and reinforce fundamental social and economic hierarchies at a time when these power structures were under siege by various emancipation movements. From this perspective, the idea that men and women are binary opposites is connected to other forms of oppression in society such as racism and economic injustice which justify subjugation by maintaining neatly contained categories for human experience.

Judaism speaks in a different voice. Although Jewish Sages often tried to sort the world into binaries, they also acknowledged that not all parts of God’s creation can be contained in orderly boxes. Distinctions between Jews and non-Jews; Shabbat and the days of the week; purity and impurity, are crucial to Jewish tradition. However, it was the parts of the universe that defied binaries that interested the rabbis of the Mishna and the Talmud the most. Pages and pages of sacred texts are occupied with the minute details of the moment between fruit and bud, wildness and domestication, innocence and maturity, the twilight hour between day and night. We read in the Babylonian Talmud: “Our sages taught: As to twilight, it is doubtful whether it is part day and part night, or whether all of it is day or all of it is night... Rabbi Yosi said: Twilight is like the twinkling of an eye as night enters and the day departs, and it is impossible to determine its length.” (Shabbat 34b)

We might have thought that the ambiguity of twilight would have made it dangerous or forbidden within Jewish tradition. But in fact our Sages determined that dawn and dusk, the in-between moments, are the best times for prayer. (Babylonian Talmud Brachot 29b) Jewish tradition acknowledges that some parts of God’s creation defy categories and that these liminal people, places and things are often the sites of the most intense holiness. After all, the word for holiness in Hebrew, “*kedusha*”, literally means set aside or out of the ordinary.

Chapter 4 of Mishna Bikkurim is a long discussion of the ways in which the *androgynos* is “in some ways equivalent to men, in some ways equivalent to women, in some ways equivalent to both men and women and in some ways equivalent to neither men nor women.” (Mishna Bikkurim 4: 1) Throughout this discussion, our Sages take care to define the ways that the *androgynos* deserves protection and the ways in which life is holy for the *androgynos*. Reuben Zellman, a transgender activist and rabbinical student writes: “Twilight cannot be defined; it can only be sanctified and appreciated. People can’t always be defined; they can only be seen and respected, and their lives made holy. This Jewish approach allows for genders beyond male and female. It opens space in society. And it protects those who live in the places in between.”

At the end of Mishna Bikkurim, Rabbi Yosi makes the radical statement that the *androgynos* is actually: “*bria bi’fnei atzmah*” (a created being of its own).

The term “*Bri’a b’ifnei atzmah*” is a classical Jewish legal term for exceptionality. The *koi*, an animal that is neither wild nor domesticated, is referred to by the same phrase (Tosefta Bikkurim 2). This term is an acknowledgement that not all of creation can be understood within binary systems. It is recognition of the possibility that uniqueness can burst through the walls that demarcate our society. It is also a theological statement – it is a proclamation that God creates diversity that is far too complex for human beings to understand. There are parts of each of us that are uncontainable. Every one of us must be appreciated as a “created being of its own.”

## **This Must Be the Place**

Home is where I want to be, but I guess I’m already there.

— *Talking Heads, This Must Be The Place*

Transgender people are often homeless both literally and metaphorically. Transphobic employment discrimination leads to rampant poverty and homelessness. Discrimination in the health care system means that many transpeople can’t afford the surgeries or medications needed to feel truly at home in their bodies. Transgender people also often feel spiritually homeless because our realities have been effaced from sacred traditions and human histories. I think that in order to create a just society for people of all genders we need to create new and infinitely diverse “homes” in the fullest sense of the word. Home as an ideal represents the place in the world where we are the safest. Home is a synecdoche for belonging. It is spiritually, as well as practically, significant to me that one of the first world-changing acts of resistance of the LGBT liberation movement was Sylvia Rivera and Marsha P. Johnson building a safe home for transgender youth.

Jewish gender diversity provides anyone who can’t or won’t conform to modern binary gender, a solid connection to another time, space and community – a spiritual home. I believe that gender multiplicity in the texts of Jewish antiquity do not just offer the reader more options for finding a home within a gender. The concept of “a created being of its own” indicates an opening towards infinite locations for belonging that are still authentically connected to our histories and communities.

The injunction to see one another as “created beings of our own” is the basis of a liberation theology for men, women, transgender people and everyone else. According to this theology, God wants and needs difference. Holiness comes from diversity, as opposed to sameness.

This theology can liberate all of us from the boundaries that circumscribe our lives. It asks us to throw away the expectations that our bodies or our souls are containable within two categories. It allows us to see each and every other person as a uniquely created being. And it commands us to move through the world embodying infinitely diverse manifestations of God's own image.

### **Acknowledgements:**

Most of these ideas were developed in partnership with my chevruta Reuben Zellman who offered inspiration, challenges, and limitless support. Many thanks also to Micah Bazant, Rabbi Julie Pelc, Rabbi Lisa Edwards, Jo Hirshman and Dr Rachel Adler who have read and edited earlier versions of this article and pushed me to read these texts in new and surprising ways over the past years.

### **NOTES**

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1 The term “gender” has been used to denote social roles and behaviors, while “sex” indicates physiological differences. Both sex and gender can be complex for transgender and gender nonconforming individuals. In recent decades, theorists such as Michel Foucault and Judith Butler have pointed to the shifting nature of sex, as well as gender, across lines of history and geography. Butler and other contemporary feminists have suggested that the borders around sex have been drawn and redrawn in various times and places to meet a variety of social and cultural needs. This view posits that the sexing of our bodies, as much as the gendering of our roles, is culturally and historically construed. This contemporary feminist position is where I situate myself. I do not mean to deny that there are sexual characteristics that unite and divide bodies in every epoch, but I believe that it is impossible to say anything about sex difference that does not also encode messages about gender relations and power. For more information see: Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York and London: Routledge, 1990); Michel Foucault, *The History of Sexuality*, translated by Robert Hurley. (New York: Vintage Books, 1985).

2 The *tumtum* appears 17 times in the Mishna; 23 times in the Tosefta; 119 times in the Babylonian Talmud; 22 times in the Jerusalem Talmud and hundreds of times in midrash, commentaries, and halacha. The *androgynos* appears 21 times in the Mishna; 19 times in the Tosefta 109 times in the Babylonina Talmud and countless times in midrash and halacha.

- 3 For a complete list of the victims of hate crimes against gender nonconforming individuals each year see <http://www.gender.org/remember/index.html>.
- 4 For information and statistics on the impacts of transphobia and the way that it intersects with other oppressions in terms of poverty, incarceration, access to healthcare, employment and other indicators see the website of the Sylvia Rivera Law Project, [www.srlp.org](http://www.srlp.org).
- 5 Pat Califia, *Sex Changes: The Politics of Transgenderism* (San Francisco: Cleis Press, 2003)
- 6 Interview with Sylvia Rivera by Leslie Feinberg, *Workers World*, July 2, 1998.
- 7 Dreger, Alice Domurat. *Hermaphrodites and the Medical Invention of Sex*. Cambridge: Harvard University Press, 1998; Fausto-Sterling, Anne. *Sexing the Body: Gender Politics and the Construction of Sexuality*. New York: Basic Books, 1990; Laqueur, Thomas. *Making Sex: Body and Gender from the Greeks to Freud*. Cambridge: Harvard University Press, 1992.
- 8 For a fuller discussion of the 19<sup>th</sup> century science of difference and the enforcement of social power see Fausto-Sterling, 1990, 30-45
- 9 From a sermon at Congregation Sha'ar Zahav, San Francisco, CA, Rosh HaShana 2006.
- 10 In the Tosefta and in other places this phrase appears in the masculine form: “*B'ria bi'fnei atzmo*” (a created being of his own)