



How to Defend the Rights of Americans Whose Identities Do Not Fit Traditional Gender Norms

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Republican control of the federal government during the presidency of Donald Trump has thrown into question the rights of transgender Americans and others who do not follow traditional gender norms. Before the 2016 election, the federal government required that North Carolina defend the rights of people to use the bathroom aligned with their gender identity, but in 2017, President Trump rescinded that order. He cited the security of women's bathrooms as the reason, claiming that men could easily claim new gender identities in order to enter bathrooms and threaten women. But men are not likely to do this – and, in fact, the removal of protections and rights for people who claim non-traditional gender identities has made bathrooms less safe for them, the very ones most vulnerable to abuses.

Harassment in bathrooms is a serious problem, but it is not women who have the most to fear. Trans people and people that are gender non-conforming experience are the most likely to experience this type of violence. Although recently repealed, North Carolina's House Bill 2 – which required people use the bathrooms associated with their birth sex, rather than their gender identity – made bathrooms less safe for people in the state. The same problems would recur if other states introduce similar strictures.

The Realities of Bathroom Harassment

In more than 100 interviews for my forthcoming book, *Where The Millennials Will Take Us: A New Generation Transforms the Gender Structure*, I spoke to many people who had been harassed or had experienced violence in bathrooms. Not one story came from a woman harassed by a man disguised as transgender person. Instead, the reports of harassment I heard came from young people who do not conform to gender stereotypes.

- Fifteen of the people I interviewed were raised as girls but now do not neatly fit within norms that most people would call male or female. Some are straight and some gay. My interviewees described frequent encounters with women who would challenge them if they entered women's restrooms because they looked boyish.
- At the same time, many reported that they did not want to use men's rooms because they feared violence. For example, one respondent told me that she did once use the men's room in a bar because she felt it matched her appearance, but she was followed in and attacked.

Harassment is often based on stereotypes about how men or women are supposed to look. People often get harassed when others think they are using the "wrong" bathroom according to their clothing or appearance. A former student of mine, a heterosexual mother of two who dresses androgynously, told me she has been harassed when entering a women's room because of her clothing choices.

The six transgender people my team interviewed have experienced so much bullying in restrooms that they are frequently too afraid to use them at all. One trans man described developing what he called a "transbladder" – having to train himself to hold it for hours until getting home. Just as disabled persons in wheelchairs are barred from full use of public space unless facilities are wheelchair-accessible, transgender citizens do not have full access to the public sphere if there is nowhere safe for them to go to the bathroom.

How to Make Bathrooms Safe and Available for Everyone

To protect gender non-conforming people – while also reassuring those concerned about any form of harassment – why not simply introduce legislation that every bathroom stall have a door that locks? After all, in airplanes, homes, and coed dorms, everyone uses the same toilets. Indeed, all over Europe there are public toilets with stalls that everyone uses next to a shared area where everyone can wash hands. On most American campuses, there are also dormitories with shared bathrooms. No increases in assaults have been reported in bathrooms that include both private stalls and shared spaces for people to wash their hands.

Shared bathroom spaces are the best solution for policymakers trying to ensure everyone has equal rights. It would be easy to follow the lead of airlines, private homes, dormitories, and the many public spaces in Europe with coed restrooms. Policymakers concerned with equality should also respect security concerns by requiring that all bathrooms have stalls with locked doors, where only one person sits or stands at a time.

People may at first find the idea of sharing bathrooms with other genders unsettling; but it was not so long ago that many white people could not imagine sharing bathrooms with people of color. Separate and *unequal* bathrooms for white and black people persisted in many states through the 1950s. When straightforward solutions are available, the rights of transgender and gender non-conforming people should not be held hostage by outdated traditions of bathroom construction.

Only when bathrooms become open to all transgender and gender nonconforming people, will people like those in my study – people all over the country – finally be free from bathroom harassment. Only then will they be free from the fear of public bathrooms and from the disadvantage of having nowhere to relieve themselves while they work or study or shop.

Universally available bathrooms can ensure individual privacy and security while at the same time offering appropriate shared facilities for handwashing to everyone. If these facilities seem unusual at first, one should remember that a bit of social discomfort and adjustment often accompanies steps forward in legal rights and social protections for everyone. The federal government and the fifty states have the opportunity to protect transgender people and others who identify in ways that depart from traditional gender categories. Doing so will ensure their freedom to move through public spaces and enjoy the same rights and protections as all other Americans.

Research for this brief is drawn from the author's forthcoming book, *Where Will the Millennials Take Us: A New Generation Transforms the Gender Structure* (Oxford University Press, 2017).