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## Investigating All-Gender Bathrooms in Ontario Schools: A Multi-Sited Case Study

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A thesis submitted in partial fulfillment of the requirements for the Doctor of Philosophy degree in Education

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## Abstract

This integrated article thesis presents a multi-sited case study that investigates how the space of the all-gender bathroom is constructed by trans-affirmative policy, education stakeholders, and students. Specifically, through four interconnected articles, I draw primarily on trans-informed theoretical frameworks and scholarship to address questions about how the all-gender bathroom is constituted and written into policy discourse, which is subsequently enacted (or conversely, not at all) by education stakeholders in one school board. I conduct a *paradigmatic* and *instrumental* multi-sited case study which details specific policy analysis and entails interviewing a policymaker, administrators, educators, and students to engage numerous perspectives about the possibilities and limitations of trans inclusivity vis-à-vis the space of the all-gender bathroom in schools. I examine the extent to which trans-affirmative policy and education stakeholders fail to confront broader systems of cisgenderism, which ultimately affect the liveability and viability of transgender and gender non-conforming students in schools, regardless of the presence of an all-gender bathroom. Ultimately, the findings highlight the need for more intentional confrontation of these oppressive cisgenderist systems that would minimize the necessity of trans students advocating for their own rights to ensure their liveability and conceivability in the education system.

## Keywords

all-gender bathrooms, trans-affirmative policy, bathroom problem, trans inclusion, cisgenderism, cisnormativity, trans-activism, qualitative case study, critical policy analysis, transgender studies, trans liveability, precarity of bathroom spaces

## Summary for Lay Audience

This thesis reports on the role of the all-gender bathroom in schools in Ontario. In particular, it provides a case study of one of the first school boards in Ontario to develop a specific transgender-inclusive policy that supports the implementation of all-gender bathrooms in all of its schools. The research involved conducting interviews with principals, teachers, and students to learn more about these bathrooms and the extent to which they support transgender and gender diverse students in schools. The thesis is comprised of four interconnected articles that examines how numerous schools have created these all-gender bathroom spaces and the response from the school community in light of their creation. It also critically looks at the school board policy that has encouraged schools and their administrators to create these spaces. The purpose of this research study is to learn the extent to which such policies impact the experiences of transgender and gender non-conforming students who utilize and access the all-gender bathroom in their schools. The findings of this research reveal that simply implementing an all-gender bathroom does not necessarily translate into supporting transgender and gender diverse students and in itself is not able to ameliorate broader systemic barriers that impact on this population. The implications of the research are outlined and highlight the need for broader interventions from school boards, administrators and teachers which address the systemic barriers that impact the access of transgender and gender non-conforming students so they are not required to engage in acts of advocacy in order to procure spaces (i.e., all-gender bathroom) that should already be made available to them in their schools.

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# Table of Contents

Abstract.....	ii
Summary for Lay Audience.....	iii
Acknowledgments.....	iv
Table of Contents.....	v
List of Tables.....	ix
List of Appendices.....	x
Introduction and Overview: Research Questions, Theoretical Framework and Methodology.....	1
Introduction.....	1
Theoretical Framework.....	3
Embracing Transgender Studies and Critical Trans Politics.....	5
Confronting the Limits of Queer Theory.....	11
Livability and Precarity.....	19
Foucault and the Politics of Bathroom Spatiality.....	23
Methodology.....	31
Research Design.....	32
Participant Sample.....	35
Methods.....	36
Analysis of Data.....	41
Trustworthiness.....	43
Dissertation Format.....	46
References.....	48
Article #1.....	57
The bathroom as an interrogative site of identity and embodiment: A critical review of the literature.....	57

Abstract .....	57
Introduction .....	58
Trans-Informed Interpretive Frameworks .....	61
Theorizing the Space of the Public Bathroom .....	68
The (In)Accessibility of the Public Bathroom and the Curtailment of Trans Voices ..	76
Interrogating the “Bathroom Problem” in School Sites .....	82
Interrogating the Role of <i>Trans Panics</i> in Transphobic Policy Articulation .....	90
Implications and Conclusion .....	97
References .....	101
Article #2 .....	107
Transgender affirmative policy articulation in Ontario: A critical policy analysis of one school board’s commitment to supporting trans students and staff .....	107
Abstract .....	107
Introduction .....	107
A Trans-Informed Approach to Policy Articulation and Critical Policy Analysis ....	109
Ontario’s Socio-Political and Legislative Context .....	113
The School Board Policy Text .....	116
James’ Insights into the Policymaking Process .....	122
James’ Reflections on the Polemic of Requesting Bathroom Access .....	125
Implications and Conclusion .....	131
References .....	132
Article #3 .....	138
Interrogating administrator and educator impressions and configurations of the all- gender bathroom in schools: A case study analysis .....	138
Abstract .....	138
Introduction .....	138
Framing the Bathroom Problem: Trans-Informed Theory, Power, and Resistance...	140

About the Study .....	145
Discussion and Analysis .....	148
The School Office as a Panoptic Space: Regulating and Monitoring Bathroom Access .....	148
All-Gender Bathrooms as an Illusion of Inclusion .....	154
Implications and Conclusion.....	171
References .....	172
Article #4 .....	177
Confronting “Basement Boys” in the all-gender bathroom: A case study of the possibilities and limitations of trans-activism in one urban school .....	177
Abstract .....	177
Introduction .....	178
The Significance of Space and the Problematics Presented by the Bathroom.....	180
Centering Trans-Informed Frameworks.....	181
About the Study and Framing the Case .....	184
Contextualizing Underwood High as a Case Site .....	187
Data Analysis .....	191
Education as Mobilization for (Trans-)Activism.....	191
The Emergent Limits of Trans-Activism: The All-Gender Bathroom as a Social and Illicit Site .....	197
Male Privilege and the White Cis Colonization of the All-Gender Bathroom ...	202
Implications and Conclusion.....	207
References .....	209
Conclusion: Beyond Performative Inclusion .....	214
Introduction .....	214
Implications and Impressions of the Research.....	214
Intersectionality: Racialized Transphobia and the Colonizing Influences of Whiteness .....	220

Research Obstacles and Limitations .....	221
References .....	224
Appendices.....	227
Curriculum Vitae .....	248



## List of Tables

Table 1: Participant Demographic Information .....	147
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## List of Appendices

Appendix A: Semi-Structured Interview Guide.....	227
Appendix B: Student Letter of Information.....	228
Appendix C: Teacher and Principal Letter of Information and Consent (School Site) .....	232
Appendix D: Teacher and Principal Letter of Information and Consent (Off Site) .....	235
Appendix E: Board Official Letter of Information and Consent .....	239
Appendix F: E-Mail Script for Recruitment (Principal) .....	242
Appendix G: E-Mail Script for Recruitment (Board Official) .....	243
Appendix H: E-Mail Script for Recruitment (Teacher) .....	244
Appendix I: Student Recruitment Form .....	245
Appendix J: Facebook Advertisement .....	246
Appendix K: Ethics Approval Forms .....	247

# Introduction and Overview: Research Questions, Theoretical Framework and Methodology

## Introduction

This thesis is concerned to investigate the all-gender bathroom in one of the largest school boards in Ontario. It presents significant insights into the space of the all-gender bathroom in schools and the extent to which education stakeholders are able to critically reflect on the successes (and limitations) of these spaces in their schools with respect to their capacity to address *cultural cisgenderism*<sup>1</sup>. Such a topic is important given the existing literature in the field which highlights that transgender<sup>2</sup> and gender non-conforming<sup>3</sup> people encounter significant barriers in accessing the public bathroom, where these gender-segregated sites become locations of symbolic and physical exclusion and discrimination, especially in schools (Human Rights Campaign, 2018; Kosciw, Greytak, Zongrone, Clark, & Truong, 2018; Taylor & Peter, 2011). Taylor and Peter (2011), in their research on the first National Climate Survey on homophobia, biphobia and transphobia in Canadian schools reported that 78% of transgender students feel unsafe at school, and that 56% of these students feel unsafe using their school bathroom. More broadly, Cavanagh (2010) reveals that “the threat of physical assault and harassment by security guards or arrest by the police was described as a relatively consistent worry” among transgender individuals (p. 70). Safe bathroom access, therefore, is not always an option for transgender and gender non-conforming students who are constrained by a long school day but offered only bi-gendered bathrooms to

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<sup>1</sup> Kennedy (2018) refers to *cultural cisgenderism* as “a detrimental and predominantly tacitly held and communicated prejudicial ideology, rather than an individual attitude [which] represents a systemic erasure and problematizing of trans’ people and the distinction between trans’ and cisgender people” (p. 308).”

<sup>2</sup> *Trans* folks are individuals who feel that their body is misaligned with the gender assigned at birth (Beemyn & Rankin, 2011), thereby calling into question the dominant culture’s assumption of symmetry between biological sex and social gender (Williams, Weinberg, & Rosenberger, 2013)

<sup>3</sup> *Gender non-conforming* persons are individuals whose gender expression does not match their society’s prescribed gender roles or gender norms for their gender identity (Teich, 2012).

choose from. Moreover, when students are presented with an all-gender bathroom as an “alternative to what already exists” (Ingrey, 2012, p. 812), this often requires that they submit “to the scrutiny of a public who can choose to accommodate or not” (Ingrey, 2018, p. 787; see also Omercajic & Martino, 2020), placing them in a particularly *precarious* position thereby serving to intensify cisgenderist and cisnormative surveillance of trans and gender non-conforming bodies in school spaces.

These structural barriers to public bathroom access for transgender and non-binary people, in addition to the alarming statistics, inspired me to investigate how transgender and gender non-conforming students are constituted in one school board’s trans-affirmative policy, but more specifically, how they are constructed by their teachers and administrators with respect to the creation of an all-gender bathroom in schools. Literature around the space of the bathroom has focused on the effects of gendered bathrooms and the “complex relationships between toilets, embodiment and identity” (Slater, Jones, & Procter, 2018, p. 962), which have had the critical capacity to “inform educational practice, both about school toilets, but also in teaching around wider issues of diverse forms of embodiment” (p. 962). Scholars, such as Cavanagh (2010) and Ingrey (2012), have deployed Foucauldian and Butlerian frameworks to reflect upon and interrogate the bathroom’s “regulatory and dividing practices of gendered bodies within disciplinary space” (Ingrey, 2012, p. 802) in order to “theorize how and why the public washroom is a site for gender-based hostility, anxiety, fear, desire, and unease in the present day...” (Cavanagh, 2010, p. 5) that ultimately dictates “who gets to count as a gender-normative subject, under what conditions, [and] through whose estimate” (Cavanagh, 2010, p. 53).

Nevertheless, scant literature has interrogated the public bathroom in the space of schools (Ingrey, 2012; Millei & Cliff, 2014; Slater et al., 2018; Stiegler, 2016). More specifically, only Ingrey (2018) has discussed the implications of the *all-gender bathroom* in relation to policy rhetoric and its constitutive effects. In this sense, this research study extends an analytic focus on the space of the all-gender bathroom and further informs literature about how it is constituted through trans-affirmative policy (Ingrey, 2018), but more significantly, contributes *new* knowledge on how it is conceived

as a disciplinary space by education stakeholders, such as administrators, educators, counsellors, social workers, and most significantly, students. Moreover, it points to broader questions about how the space of the all-gender bathroom addresses and (in)effectively confronts broader systems of cultural cisgenderism. In this regard, this study addresses the following three central research questions:

1. How does the all-gender bathroom as is constituted in policy affect its enactment in schools?
2. To what extent do all-gender bathrooms in schools contribute to trans-affirmative understandings about binary systems of gender and the broader impact(s) of *cultural cisgenderism*?
3. What are the long-term implications of continuing the implementation of all-gender bathrooms for the school system more broadly?

## Theoretical Framework

This research is primarily informed by transgender studies and trans scholarship (Connell, 2012; Namaste, 2000; Nicolazzo, 2017b; Radi, 2019; Rubin, 1998; Serano, 2013; Spade, 2015; Stryker, 2004, 2006), while also employing Foucauldian (Foucault, 1977, 1980, 1990) and queer conceptual frameworks to understand the disciplinary space of the bathroom (Ahmed, 2007, 2016; Butler, 2006, 2009, 2015). Below, I elucidate my alignment with transgender studies which provides me with an onto-epistemological awareness and foundational understanding of gendered personhood and gender embodiment that challenges dominant systems of cisgenderism and cisnormativity<sup>4</sup>, which is particularly significant when considering the space of the all-gender bathroom that has the capacity to disrupt a traditional gender segregated bathroom system that

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<sup>4</sup> Cisgenderism is defined by Lennon and Mistler (2014) as “the cultural and systemic ideology that denies, denigrates or pathologizes self-identified gender identities that do not align with assigned gender at birth, as well as resulting behavior, expression and community” (p. 63), while Frohard-Dourlent (2016) explains cisnormativity as “the belief that gender is a binary category that naturally flows from one’s sex assigned at birth” (p. 4).

prioritizes strict categorization of gender identity (Browne, 2004; Cavanagh, 2010; Ingrey, 2012; Millei & Cliff, 2014). Equipped with this epistemological frame, I also engage in an analysis of how the bathroom functions as a disciplinary space of regulation and subjugation (Foucault, 1977), but just as importantly, how a possibility for resistance exists and is exemplified by the students in my study who are not just docile bodies (Foucault, 1977), but rather, invested in advocating for spaces that account for their gendered personhood. In this sense, I rely on a Foucauldian *analytic toolbox*<sup>5</sup> to elucidate how I theorize bathroom spatiality. Importantly, I also detail my reliance on Butlerian notions of *precarity*, *livability*, and *viability* (Butler, 2006, 2009, 2015) in order to interrogate how all-gender bathroom spaces have the capacity to enhance the livability and viability of transgender students in schools, or conversely, how they very well might be rendered precarious spaces that undermine their livability and viability in these cisgenderist institutions. I draw on trans and queer scholars here and throughout the thesis in productive ways that are aligned with my understanding of theory as toolbox. However, in this chapter, I also reflect on the epistemological tensions between transgender and queer studies specifically as they relate to “problematizing assumptions about bodies and identities” (Elliot, 2010, p. 1), and ultimately, how “experiential or embodied knowledge” (Radi, 2019, p. 48) is often misappropriated (Stryker, 2006) by queer scholars in order to “accommodate the privileged terms of queer rhetoric” (Rubin, 1998, p. 275). This is necessary as it does not preclude an engagement with queer theory given its usefulness in confronting the restrictive nature of binary systems, but it is important to interrogate and elucidate the limits of the antinormative logics<sup>6</sup> at the heart of queer theory and, therefore, its incapacity to account for trans people’s lived and embodied experiences of gender identity.

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<sup>5</sup> Foucault has described his work as “little tool boxes” (as cited in Patton, 1979, p. 115) as opposed to a catalogue of theoretical ideas, encouraging the use of his ideas or concepts as instruments. In this sense, I engage Foucault’s concepts and ideas for practical, analytic purposes in explicating bathroom spatiality.

<sup>6</sup> Antinormative logics is understood as “a deconstructive analytics” (Martino & Cumming-Potvin, 2018, p. 690) that is predicated upon a “refusal of institutional forms of all kinds” (Wiegman & Wilson, 2015, p. 4). I elaborate further on the limits of antinormativity later in this chapter.

## Embracing Transgender Studies and Critical Trans Politics

My research is primarily aligned with and informed by *transgender studies*' commitment to disrupting, denaturalizing, rearticulating and making visible

the normative linkages we generally assume to exist between the biological specificity of the sexually differentiated human body, the social roles and statuses that a particular form of body is expected to occupy, the subjectively experienced relationship between a gendered sense of self and social expectations of gender-role performance, and the cultural mechanisms that work to sustain or thwart specific configurations of gendered personhood. (Stryker, 2006, p. 3)

In this sense, “epistemological concerns lie at the heart” (p. 8) of transgender studies, predicated upon a commitment to creating spaces and possibilities for the embodied experiences and perspectives of transgender and gender non-conforming people that disrupt *cultural cisgenderism* (Kennedy, 2018). This commitment works to disrupt the categorization imposed by the “pathological model” (Elliot & Roen, 1998, p. 235) of *conformity/deviance*, which pits transgender people who identify as gender fluid as *gender outlaws* against those who identify as men and women as *gender defenders* (p. 239). Such a model preserves and solidifies binaries that are reductionist and do not account for the particularities and specificities of how many trans people understand and account for their own embodied and lived experiences of gender.

It is thus the epistemological commitment of transgender studies to draw attention to onto-epistemological questions of embodiment, and, as Stryker (2006) explains, “to correct the all-too-common critical failure to recognize ‘the body’ not as one (already constituted) object of knowledge among others, but rather as the contingent ground of all our knowledge, and all of our knowing” (p. 12). Therefore, transgender studies prioritizes a “‘knowledge with,’ knowledge that emerges from a dialog that includes trans people who bring an additional kind of experiential or embodied knowledge along with their formal, expert knowledges” (Radi, 2019, p. 48). The embodied experiences of transgender people must therefore be centered given their own “know[ledge] about becoming legibly gendered subjects” (Rubin, 1998, p. 265). This is precisely why this research was concerned to prioritize the accounts of transgender and gender non-

conforming participants and their embodied and lived experiences when elucidating their understandings about the space of and access to the all-gender bathroom. Such a prioritization of these embodied experiences is necessary given Namaste's (2000) explanation of the history of "institutional erasure" of transgender bodies and experiences. Resultantly, transgender studies is necessary for "pushing the boundaries of how trans\* people have been previously understood, envisioning new futures and disrupting notions of one clear, solid, or stable 'LGBT community'" (Nicolazzo, 2017b, p. 212). Such revisioning and disruption requires a particular focus on how the space of the all-gender bathroom *accounts* for and supports these "various forms of embodiment" (Nicolazzo, 2017a, p. 20).

Unlike queer theory, transgender studies effectively accounts for various forms of embodiment as they "resonate with disability studies and intersex studies, two other critical enterprises that investigate atypical forms of embodiment and subjectivity that do not readily reduce to heteronormativity, yet that largely fall outside the analytic framework of sexual identity that so dominates queer theory" (Stryker, 2004, p. 214). Kennedy (2013), for example, ascertains that it is actually "the effects of cisgenderism [that] probably represent a much more significant hurdle for trans children than heteronormativity" (p. 5). It is cisgenderism far more than heteronormativity that "results in a lack of vocabulary available" for trans folks to "understand and communicate their experiences" (p. 5). Therefore, centering my approach to this research with an embrace of transgender studies provides ample opportunity to question and to disrupt the "institutionalized regimes of cisnormativity and cisgenderism and their harmful impact, which affect all individuals with respect to the constraints that they pose for embracing more creative and independent gender expansive understandings and practices" (Martino & Cumming-Potvin, 2018, p. 689).

Transgender studies "extends complexity and ambiguity to all identities and all human experience" (Elliot & Roen, 1998, p. 237) and therefore foregrounds a commitment to addressing the harmful institutionalized regimes of cisgenderism and cisnormativity and how they affect and constrain embodied possibilities. How the all-gender bathroom – in its deviation from a strictly bi-gender bathroom system – affords



recognition to the complexity of gender identity is of particular interest and which is precisely why transgender studies offers key considerations for investigating this space. Due to a vested interest in disruption, Stryker (2006) stresses that trans scholars are interested in power relations, such as those that take place in *ontoformative* acts that govern bathroom access and subsequent policing.

*Ontoformative* acts are those that are linked to established social realities and can create these realities. Connell (2012) explains that gender is *ontoformative* due to its social practice, which “continuously brings social reality into being, and that social reality becomes the ground of new practice, through time” (p. 866). In this sense, gender does not “repetitively cite its starting point” (p. 866) but rather, gender is determined through a structure but also through social reality, where ultimately, “[i]ndividuals articulate their existence in relation to both the structure and dynamics of the apparent ‘reality’ we inherit when we are born into the ‘gender order’ of our historical moment” (Rudy, 2020, pp. 353-354). In this sense, gender is a self-constituted bodily position predicated on one’s own understanding of their own gendered personhood and in relation to “the historicity of the gender structure” (Connell, 2012, p. 866).

As an example, Connell (2012) looks to the *ontoformative* practice of gender where transsexual women try to make sense of “having a man’s body and a woman’s body at the same time, or one body merging from the other, or (most traditionally) being trapped in the wrong body” (p. 867). In this sense, Connell (2012) also understands the expansive dynamics of embodiment that ultimately point “to the agency of the body” (p. 867). My ontological position is guided by Connell’s elucidation of *ontoformativity* that understands gender as agentic, self-constitution of bodily understanding and not one imposed on transgender and gender non-conforming folks by others as conditionally “performative and citational” (Connell, 2012, p. 866). It was therefore my intention to investigate how this agency might inspire advocacy or recognition of the need for a space such as the all-gender bathroom in schools, but also how the all-gender bathroom has the capacity to account for “social embodiment as constantly engaging bodies and bodily agency” (p. 867) that challenges the broader system of *cultural cisgenderism* (Kennedy,

2018) that readily discounts or fails to account for “multiple narratives of embodiment” (Connell, 2012, p. 867).

It is precisely this dedication to interrogating broader hegemonic cisgenderist systems by foregrounding embodied knowledges and experiences that compels me to embrace a “polyvocality” that is predicated upon prioritizing and “focusing on voices, narratives, and stories” (Nicolazzo, 2017a, p. 5) of trans folks who share their embodied experiences and their commitment to disrupting specific cisgenderist systems that perpetuate the erasure of their lived experiences (Namaste, 2000). My research is therefore committed to “creating spaces for the embodied experiences and perspectives of transgender, genderqueer and non-binary to be articulated in ways that allow for their diversity to be acknowledged” (Martino & Cumming-Potvin, 2018, p. 688). Creating such spaces is predicated upon the necessity of a politics and ethics of “trans ‘desubjugation’” (Stryker, 2006, p. 13). In this sense, my research centres trans onto-epistemological concerns about embodiment and how these concerns contribute to a politics of (de)subjugating the space of the bathroom through the implementation of all-gender bathroom spaces that have the capacity to account for more expansive gender representation and understanding of embodiment.

Stryker (2006) engages with Foucault’s (1977) idea of *subjugated knowledges* which are “whole series of knowledges that have been disqualified as nonconceptual knowledges, as insufficiently elaborated knowledges: naive knowledges, hierarchically inferior knowledges” (p. 7). Stryker (2006) reasons that these knowledges can be (de)subjugated through the “embodied experiences of [trans] speaking subjects” (p. 12) which are “absolutely essential to contemporary critical inquiry” and “also central to the methodology of transgender studies” (p. 13). This set of knowledges speak to the politics of embodiment and how transgender and gender non-conforming people understand their own embodied experience, their *felt sense of gender* (Salamon, 2010; Stachowiak, 2016) and “their relationships to the discourses and institutions [and structures] that act upon and through them” (Stryker, 2006, p. 13). Much of these experiences have become medicalized and psychiatrized, where such embodiment is not viewed as valid, but as something that is in need of reparation. Stryker (2006) asserts that the field of transgender

studies works to (*de*)subjugate “previously marginalized forms of knowledge about gender subjectivity and sexed embodiment” (p. 13). In this sense, I found transgender studies and Stryker’s (2006) discussions of the possibility of (*de*)subjugation useful when interrogating the conditions under which teachers and students might have managed to question normative knowledges and structures in an effort to (*de*)subjugate them, and make them valid and situated, through the creation of all-gender bathroom spaces and also through trans-activism. Such acts are rooted in a form of resistance to interrogating hegemonic, cisgenderist systems for regulating gender identity and bodies in public spaces in favour of embracing trans-informed knowledges and understandings of gender expansiveness and its materialization in schools.

While significant, these individualized forms of resistance and political action require what Spade (2015) refers to as a *critical trans politics* that “shift[s] focus from individual framing of discrimination and ‘hate violence’ and [to] think more broadly about how gender categories are enforced on all people in ways that have particularly dangerous outcomes for trans people” (p. 9). Such an approach contributes to and compounds with building upon an individualized approach to (*de*)subjugation to address broader systems of “administration of gender norms [which] causes trans people the most trouble” (Spade, 2015, p. 16). This approach scrutinizes “how the administration of gender norms impacts trans people’s lives and how administrative systems in general are sites of production and implementation of racism, xenophobia, sexism, transphobia, homophobia, and ableism under the guise of neutrality” (p. 73). A devotion to a *critical trans politics* is useful in challenging and unearthing the mechanisms of *cultural cisgenderism* (Kennedy, 2018) that “permeate our lives, our ways of knowing about the world, and our ways of imagining transformation” (Spade, 2015, p. 6).

It is therefore especially productive to rely on *critical trans politics* to interrogate how the all-gender bathroom may present or serve as an ineffective (or limited) resolution to a deeply entrenched cisgenderist logics that impinges on the capacity of such spatiality to facilitate embodied access for trans and gender diverse students in schools. Specifically, *critical trans politics* depicts transphobic violence as that which is rooted not only “in individual acts by intentional perpetrators, but in the enforcement of

gender norms broadly on everyone, shaping everyone's field of action, existence, and self-understanding" (Spade, 2013, p. 43). We are therefore required to rethink "power and systems of meaning" (p. 15) and which entails moving beyond approaches of mere "recognition and inclusion" (p. 1). In doing so, we can move away from "an uncritical call [for trans folks] to 'be counted' by the administrative mechanisms of violent systems and instead" begin "to strategize... interventions on these systems with an understanding of their operations" (Spade, 2015, pp. 86-87). Resultantly, I find *critical trans politics* especially useful as a framework to question and challenge intersecting systems of domination and power. In this sense, Spade (2015) reasons that a *critical trans politics*, in "following the traditions of women of color" (p. 1), interrogates and confronts the root causes of "despair and violence facing intersectionally targeted populations and in doing so engages with the law differently than rights-seeking projects do" (Spade, 2013, pp. 1031-1032). In this sense, a *critical trans politics* approach provides an interventionist entry point into "thinking about subjection and control beyond the realm of intentional, individual bias or violence, and instead interrogates empty declarations of 'equal opportunity' and 'equality'" (Spade, 2015, p. 15) that disproportionately harm "native people, women, people of color, people with disabilities, and immigrants" (p. 2) and "trace how the administration of life chances through traditional gender categories produces trans vulnerability" (p. 15).

In light of these hegemonic systems, *critical trans politics*, in effect, also takes into account intersectional accountability given that "leadership and decision-making come from these disproportionately white, upper-class" (Spade, 2015, p. 29) and cisgender men who contribute and maintain a white cisgenderist system. In this sense, I perceive a *critical trans politics* to be useful in confronting the limitations of the all-gender bathroom space and trans-affirmative policies by holding broader systems of *cultural cisgenderism* (Kennedy, 2018) accountable for preserving and exacerbating violence and vulnerability. Thus, I find Spade's *critical trans politics* useful in its capacity in "identify[ing] purportedly neutral administrative systems as key vectors" that perpetuate "intersectional violence" (Spade, 2013, p. 1047). However, I understand, as Nicolazzo (2017a) points out, that while Spade's work is important in terms "of (re)positioning trans\* people at the nexus of systemic racism, classism, trans\* oppression, and sexism

that continues to diminish our life chances” (Nicolazzo, 2017a, p. 4), there is also a necessity of understanding how trans folks “come to know” and create “truth and knowledge” through a “reflection of the very historical, political, and social legacies that Spade traced” (p. 4) and which queer theory has undermined and misappropriated<sup>7</sup>.

In this sense, transgender studies offers productive reconciliatory frameworks and an epistemological basis for understanding and accounting for gender identity and embodiment that transcends the limits of queer theory’s antinormative emphasis on the apparent emancipatory and radical embrace of gender fluidity which is conceived as an act of defying conservative forces of gender essentialism. In this sense, I view notions of gender fluidity as productive, but in turn, reject the totalizing logics of queer theory’s antinormative politics and its implications for thinking about embodiment and gender personhood (Rubin, 1998). While queer theory provides a basis for contributing knowledge about gender expansiveness through a deconstructive analytics, it also relies on a position that is built upon the interruption of heteronormativity, which is discussed in more detail below. Conversely, my concern regarding gender expansiveness is aligned with challenging and disrupting cisnormativity and breaking down gender hierarchies and not completely abolishing or discrediting a desire for a particular gender identity.

## Confronting the Limits of Queer Theory

While my research is primarily informed and guided by transgender studies, I also employ conceptual frames from queer theory, despite the “rift” that “develop[ed] between members of the trans community and this emerging scholarship” (Rubin, 1998, p. 275; see also Radi, 2019; Serano, 2007). I do not believe transgender studies and queer theory to be “homogenous fields [but actually] each of them offers an array of contributions and concepts” (Radi, 2019, p. 46) which I found useful in my conceptualization and approach

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<sup>7</sup>Butler (1990, 1993), in her earlier work, has utilized transgender people as an epistemological tool to extend her theorization of performativity and gender as citational, undermining their *felt sense of gender* (Salamon, 2010) and foreclosing their bodily ontology. Kaufmann (2010) has also enacted epistemological violence on her participants by erasing their embodiment of gender through her very own deployment of queer theory to deconstruct their identity. These considerations are explained in further detail below.

to conducting and writing this research. In this sense, I find engagement with scholars in both of these fields to be conducive to a “theoretically informed empiricism that places the data research yields in constant conversation with theoretical arsenals of powerful concepts” (Anyon, 2009, p. i). Such a transdisciplinary approach aligns with Anyon’s (2009) assertion that each of these fields and the concepts within them “imbricate and instantiate one another, forming and informing each other as the inquiry process unfolds” (p. 2). However, there are significant epistemological tensions between these two fields.

Queer theory emphasizes and pursues a politics of antinormativity, which has resulted in the weaponization of trans identities “as tools to serve their own projects of criticizing the sex/gender binary” (Elliot, 2010, p. 35) which effectively “obscures transsexuals’ concern with social and political processes involved in becoming and living as the other sex” and therefore “their refusal of an original or (mis)assigned gender is mistakenly assumed to represent a *critique* of the binary sex/gender system instead of a ‘different embodied position within that system’” (p. 36). Namaste (2005) has taken issue with this narrow definition and deployment of trans identities, suggesting that stating that “one is neither a man nor a woman, or that one is a third gender, or that gender is only a social construct so one is, in fact, nothing, ignores the very fundamental reality of being in the world” (p. 22) (see also Rubin, 1998). Such theorizing contributes to the erasure of the transgressive history and very being of trans folks “whose lives are profoundly affected by genderism and transphobia” (Grace, 2015, p. 46). Even, Butler (2004), in her later work, has conceded that “categorization has its place and cannot be reduced to forms of anatomical essentialism” (p. 8). In this sense, Butler has acknowledged the limits of queer theory in its commitment to antinormativity, indicating the significance of bodily ontologies that Rubin (1998) discusses.

Rubin (1998), in particular, problematized queer theory’s deployment of trans identities by explaining that “our lives have been appropriated to demonstrate the theories of gender performativity, but only to the extent that they fail to reproduce the normative correspondence between body morphology and gender identity” (p. 276) while also acknowledging that queer theory has “provided many trans folks with more options and fewer regulations about the ‘right’ way to pursue their life projects” (p. 275). This

highlights Radi's (2019) point that queer theory "has functioned as a label that both guarantees the inclusion of trans\* people as objects of inquiry and hinders their very participation" (p. 44), and in doing so, demarcates the tension that cannot be ignored. Stryker (2004) shared her own hopefulness about the possibilities of queer theory which seemed "an anti-oedipal, ecstatic leap into a postmodern space of possibility in which the foundational containers of desire could be ruptured to release a raw erotic power that could be harnessed to a radical social agenda" but has actually evolved into a field where "all too often transgender phenomena are misapprehended through a lens that privileges sexual orientation and sexual identity" (p. 214). Ultimately, this has resulted in transgender studies "following its own trajectory and has the potential to address emerging problems in the critical study of gender and sexuality, identity, embodiment, and desire in ways that gay, lesbian, and queer studies have not always successfully managed" (p. 214). Consequently, I employ a foundational deconstructive logics that has emerged from queer theory as it imbricates with transgender studies, while also providing and acknowledging the "critical consideration of the antinormative limits of queer theory in its capacity to attend to the complexities of embodied understandings and experiences of gender in ontological and phenomenological terms" (Martino & Cumming-Potvin, 2018, p. 689).

In this regard, I acknowledge the limits of queer theory, and in particular, "the centrality of antinormativity to the political imaginary and analytic vocabulary of queer theory" (Wiegman, & Wilson, 2015, p. 2). In effect, this commitment to antinormativity fails to account for the complexity of bodily ontology and abandons "the phenomenology of embodied experience, invalidating the categories through which the subject makes sense of its own experience" (Rubin, 1998, p. 265). Queer theory instead assumes a reductionist position that seeks to "undermine norms, challenge normativity, and interrupt the processes of normalization" (Wiegman & Wilson, 2015, p. 4) without taking into account the fact that seeking gender congruence is not an indoctrination into cissexist systems as queer scholars accuse (Mackenzie, 1994). Specifically, if queer theory's goal is to "unsettle" norms (Berlant & Warner, 1998, p. 548), then antinormativity fails to account for the fact that transgender people have already done so, whether seeking gender congruence or not. Antinormativity does not acknowledge or understand that gender

expansiveness does not equate with merely refusing identification as a boy/man or a girl/woman as if such an identification is somehow a manifestation of subscribing to gender oppression (see Martino & Omercajic, forthcoming). Such a position is a ciscentric manifestation of an antinormative politics that establishes gender hierarchies (Connell, 2009). In this sense, antinormativity also overlooks the very fact that “the norm is already generating the conditions of differentiation that antinormativity so urgently seeks” (Wiegman & Wilson, 2015, p. 16). Wiegman and Wilson (2015) therefore inquire “[w]hether queer theorists can return with some curiosity, to the logic of norms”, which is precisely what Butler (2006) is effectively able to do when considering the idea of livability and viability, suggesting that the “desire to become a man or a woman is not to be dismissed as a simple desire to conform to established identity categories” (p. 8). Resultantly, I employ Butler’s concepts of livability and viability, as they account for bodily ontologies where her earlier explication of queer theory (Butler, 1990, 1993) does not. Revisiting these logics of norms opens up the possibility of *gender justice* and *gender democratization* that confronts and problematizes the aforementioned gender hierarchies that are established by antinormativity (Connell, 2009).

In acknowledging antinormativity’s limits, when approaching questions about the space of the all-gender bathroom, I found it useful to begin with the foundational underpinnings of queer theory given its emphasis on a deconstructive analytics that is required when thinking about the binaric bathroom structure and revisioning new possibilities that are more gender expansive and gender inclusive (see Sanders & Stryker, 2016). From that point, I depart from queer theory and its logics of antinormativity just as Butler (2004, 2006) does with her engagement with livability and viability as a basis for addressing questions pertaining to trans personhood and doing justice. In this sense, I rely on Butler’s (2004, 2006, 2009, 2015) later works to address the broader question of “how can we have more viable and livable lives” (Loizidou, 2008, p. 145). These concepts of livability and precarity will be further explored in the subsequent section.

However, it is important to point out that queer theorists, including Butler’s (1990, 1993) earlier work on gender performativity and embodiment, have not served the interests of many trans people. For example, while queer theory is and has been useful in



its analytic capacity to provide frameworks for questioning broader hegemonic systems that systemically foreclose the viability of gendered personhood outside of rigid binary understandings, there have also been limits to the ways in which queer epistemologies have been deployed and which have also weaponized transgender persons as tools – as means to an end – to demonstrate the social constructedness of gender as foregrounded above. Resultantly, as Martino & Cumming-Potvin (2018) point out:

there is evidence that epistemological violence (Teo 2010) has been enacted in the inappropriate use and application of queer theory in imposing a heteronormative lens to make sense of a transgender person’s own embodied understanding of their gender identity and personhood. (p. 690)

Such applications of queer theory are imposed by those queer scholars who do not seek to live as the opposite sex, but rather, to obscure the rigidity of gender and support the idea of its fluidity (Butler, 1990, 2006; Bornstein, 2013; Halberstam, 1998; Mackenzie, 1994). Some queer scholars go so far as to controversially accuse transgender people of having been “indoctrinated into essentialist gender beliefs that insist on body and gender matches” (Mackenzie, 1994, p. 24). Radi (2019) signals that transgender epistemologies must therefore “find ways to struggle not only with their obvious enemies, but also with those who present themselves as natural allies [queer scholars]” (p. 59) Kaufmann (2010), for example, enacted epistemological violence on her participant by relying on a heteronormative lens in order to explicate a transgender individual’s embodied experience of their gender identity. In particular, Kaufmann (2010) employed queer theoretical frameworks to deconstruct gender at the expense of eroding her participant’s embodied experience and bodily ontology, leading the participant to ask Kaufmann: “You have taken away the identity I have worked all my life to build . . . Who am I if you take this away” (p. 104)?

Despite reductionist depictions of some transgender people as having “a simple desire to conform to established identity categories” (Butler, 2004, p. 8), transgender folks have had a progressive history and have a right in seeking to locate themselves within categories of a stable identificatory system in order to pursue a livable life through this stability, a point that Butler (2004) addresses and will be elaborated on further below. As such, Namaste (2005) ascertains that a shift from questions of identity is required; we

must avoid questions of who is or is not a woman, and debates about who is included in such definitions (see also Connell, 2012). Such debates perpetuate the erasure of the trans lived experience by focusing solely on that of identity politics. Hausman (1995), for example, is one of many who focuses strictly on identity politics and reasons that “the claim of a coherent and fixed gender identity covers over something other than the desire to change sex” (p. 137), which Rubin (1998) reasons is the desire to “engineer oneself” (p. 265). In other words, Rubin (1998) argues that Hausman is suggesting that trans people are permitted agency, but only if they abandon their quest for the embodiment of a stable gender identity. To be deemed truly agentic is to abandon a “phenomenology of embodied experience” (p. 265). However, Rubin (1998) notes that the “transsexual becoming is dependent on a lived experience of being gendered” which leads Hausman and other queer scholars “to disregard as irrelevant or to criticize as a mere cover for the project of self-fashioning” (p. 266). By mandating the abandonment of this embodied experience, Hausman is contributing to the aforementioned erasure of the lived experience and epistemological violence (Teo, 2010) of “having a gender identity that is at odds with one’s body” (Rubin, 1988, p. 265). It is by “invalidating the categories through which the subject makes sense of its own experience” that scholars such as Hausman contribute to those who advocate for the validity of gender categorization wanting to be separate from the umbrella term of *transgender* (Rubin, 1988, p. 265). In this sense, Rubin (1998) reasons that queer theory fails to grasp the trans bodily experience, and in particular, the “desire to exist [in] a body consistent with internal body image” (p. 272) and importantly, that trans folks need not assume “a revolutionary burden to refuse gender” (Rubin, 1998, p. 266) that is often imposed upon them by queer scholars. Elliot (2010) clarifies and reaffirms Rubin’s point that it appears that for queer scholars, “it is not queer enough to demonstrate the fact that one’s gender identity is not biologically determined by one’s birth sex” (p. 36).

Controversially, some queer scholars assert that those trans folks who aim to embody a gender identity as a man or a woman – altogether –are “victims of error” (Millot, 1990, p. 141), while others maintain that trans folks do not critique congruence between sex and gender, but rather, they are on a “quest for re-embodiment that would establish congruence” (Elliot, 2009, p. 8). Namaste (2000), on the other hand, argues that

the struggle to establish congruence between sex and gender is often “erased” from queer theorizing, which renders the experiences of transgender persons invisible. Namaste is speaking more than to just queer scholars, but also to feminist scholars, who have historically targeted transsexual individuals (specifically, MTF [male-to-female] transsexuals), deeming them inauthentic women (Jeffreys, 1997; Raymond, 2006). Raymond (2006), for example, asserts:

...males who undergo sex-reassignment procedures remain deviant men and never become women. They use the appropriated appearance of the female body to invade women’s spaces, particularly lesbian feminist spaces, in order to exercise male dominance and aggression over women and to subvert the feminist movement. (p. 131)

This dismissal of the transsexual identity is another way in which the identity becomes – as Namaste explains – erased by social forces and scholarly works that seek to eradicate its presence. It also raises, as Martino and Cumming-Potvin (2018) explain, “important questions about the epistemological limits of queer theory, with its emphasis on a deconstructive analytics that fails to account for and do justice to an understanding, phenomenologically speaking, of trans bodily ontological understandings” (p. 690). Such problematic depictions and understandings of trans embodiment implicitly justifies violence against trans identities who are perceived to be “invading” a space where they do not belong (Cavanagh, 2010).

Butler, herself, has been criticized due to her theorizing of performativity, and in particular, the *heterosexual matrix*, which is particularly cis-centric. In fact,

[f]or many transgender readers, Butler’s insistence that gender is always ultimately about something else devalues their experience of gender identity’s profound ontological claim – that it is precisely about the realness and inalienability of that identity, rather than about anything else. (Stryker & Whittle, 2006, p. 138)

Furthermore, many trans scholars deem Butler’s theoretical positioning as reducing gender simply to language, and thus ignoring embodied reality (Bordo, 1993). Prosser, for example,

supports institutional alliances between queer theory and transgender studies, [but] he rejects reductionist use of transsexual subjectivity as an *always* queer or subversive performance on the grounds that this equation reinforces binary oppositions”, thus negating “aspects of experience that are unique to transsexual subjectivity. (Hall & Jagose, 2013, p. 32)

Much like Namaste (2000), Prosser (1998) works against the erasure of the transsexual body by queer theorists who reduce their reality to a language that disregards the lived experience of trans people. Following the critiques against Butler’s work by numerous trans scholars, pointing out its tendency to reduce gender to being strictly about language and not the lived and embodied experience of trans identities, Serano (2013) developed the term *gender artifactualism*, which she defines as “the tendency to conceptualize and depict gender as being primarily or entirely a cultural artifact” (p.117). She warns against the dangers of engaging in *gender artifactualism*, cautioning that it can be just as dangerous and sexist as a gender determinist position. Serano further problematizes this thinking:

If gender and sexuality are entirely social artifacts, and we have no intrinsic desires or individual differences, this implies that every person can (and should) change their gender and sexual behaviors at the drop of a hat in order to accommodate their own (or perhaps other people’s) politics. This assumption denies human diversity and [...] leads to the further marginalization of minority and marked groups. (Serano, 2013, p. 134)

By this point, Serano underscores Prosser’s argument that scholars who erase the lived experience and subjectivities of trans people, often use *gender artifactualism*, such as definitions of gender as “performance” (Butler, 1990), as a means to rationalize such erasure.

In this sense, while all-gender bathrooms are important, they do not negate the desire for a stable gender identity and that identifying as male or female does not necessarily imply a subscription to gender essentialism or conservatism. We must go beyond the logics of antinormativity that suggests that identifying as a man or a woman is implicated in supporting an oppressive binary system. As Connell (2009) points out, such a logics which supports gender abolition and de-gendering “assumes there is a whole realm of human relations that cannot be democratized,

and so must be abolished” (p. 146). In this respect, the problem is more pressingly gender hierarchies that need to be addressed, and can be done – as Connell (2009) argues – through a logic of gender democratization that is built around “equaliz[ing] gender orders, rather than shrink[ing] them to nothing” which is a much more effective strategy to establish “a more just society [as] indicated by the many social struggles that have actually changed gender relations” (p. 146).

## Livability and Precarity

Importantly, Butler (2006) revisited the cis-centrism of her earlier position and acknowledged that “categorization has its place and cannot be reduced to forms of anatomical essentialism”, affirming that “it can be a desire for transformation itself, a pursuit of identity as a transformative exercise” (p. 8). In fact, Butler (2004) reasons that those who wish to pursue or “conform to established gender identity categories” may very well be in pursuit of a “livable life” (p. 8). She insists that “it seems crucial to realize that a livable life does require various degrees of stability”, therefore solidifying the fact that to achieve gender congruence is to reject “those categories [which] constitute unlivable constraint” (p. 8). As such, Butler’s (2004) assertion that “a life for which no categories of recognition exist is not a livable life” (p. 8) underscores the importance of recognizability and intelligibility, and therefore, is pertinent to my research study that examines the extent to which an all-gender bathroom contributes to the viability and livability of trans personhood in schools.

Significantly, Butler (2006) claims being outside of the norm (or the binary) does not help as the “outsider” is defined “in relation” to the norm (p. 42). As such, “if we accept that there are sexual and gender norms that condition who will be recognizable and ‘legible’ and who will not, we can begin to see how the ‘illegible’ may form as a group” (Butler, 2015, p. 38) and are consequently placed in a “special” and “other” bathroom, as opposed to being given a choice to use a bi-gender bathroom that aligns with their own understanding of their gender and legibility.

Aligning with Foucauldian thought, Butler (2006) reasons that gender does not precede regulation, but rather that the gendered subject is *produced* by the regulatory power:

(1) regulatory power not only acts upon a preexisting subject but also shapes and forms that subject; (2) to become subject to a regulation is also to become subjectivated by it, that is, to be brought into being as a subject precisely through being regulated. (p. 41)

Such regulations of gender are governed by norms, which in turn, dictate the merits of social intelligibility, and as such, these gender norms must be investigated and critiqued. However, Butler (2006) reasons that

The critique of gender norms must be situated within the context of lives as they are lived and must be guided by the question of what maximizes the possibilities for a livable life, what minimizes the possibility of unbearable life or, indeed, social or literal death. (p. 8)

Due to the fact that “gender is prompted by obligatory norms to be one gender or the other,” it is these norms that also dictate

[h]ow and in what way we can appear in public space; how and in what way the public and private are distinguished, and how that distinction is instrumentalized in the service of sexual politics; who will be criminalized on the basis of public appearance; who will fail to be protected by the law?  
(Butler, 2009, p. ii)

As such, Butler (2015) explains that “precarity is, perhaps obviously, directly linked with gender norms, since we know that those who do not live their genders in intelligible ways are at heightened risk for harassment, pathologization, and violence” (p. 34). To become a subject, according to Butler, requires a subject to be compliant to norms that govern what counts as recognition and allows a livable life, and therefore also ensures that “the right body must enter the right space and conduct oneself appropriately, according to social rule” (Ingrey, 2013, p. 35). Therefore, “when we ask what makes a life livable [and recognizable]” we are in actuality asking about the “normative conditions that must be fulfilled for life to become life” (Butler, 2006, p. 39). By emulating specific norms, a person effectively becomes recognizable and reduces the risk of harassment and violence. This speaks to why those who transgress gender norms and are heavily policed for doing

so experience elevated rates of harassment and victimization, especially in bathrooms (Cavanagh, 2010). This *non-compliance* to gender norms “calls into question the viability of one’s life” (Butler, 2009, p. iv) and points to the fact that human life is *precarious*. This precariousness implies that “one’s life is always in some sense in the hands of the other. It implies exposure both to those we know and to those we do not know; a dependency on people we know, or barely know, or know not at all” (Butler, 2009, p. 4).

I deploy Butler’s theorization of livability and precarity to examine the extent to which recognition is offered when gender is neutralized in the space of the all-gender bathroom. Moreover, I use it to highlight broader issues regarding the spatiality of the all-gender bathroom itself: This space is rendered precarious by means of *acknowledging* a lack of *recognition* to the transgender student’s identity, whilst, at the same time, not offering “full recognition” (Butler, 2015, p. 39). However, the exhibition of trans-activism results in the creation of these bathrooms in the fourth article, which reaffirm Butler’s (2015) point that when bodies gather to express their “indignation” about a system and are resultantly “demanding to be recognized, to be valued” and “a right to appear, to exercise freedom,” as well as “a livable life” (p. 26), they can retain some measure of recognition. Importantly, this activism also suggests that “sometimes it is not a question of first having power and then being able to act; sometimes it is a question of acting, and in the acting, laying claim to the power one requires” (p. 58). This speaks to Foucault’s notions of resistance and the fact that power is not always repressive or oppressive but can be used productively in acts of resistance and that “it is also a way of acting from and against precarity” (Butler, 2015, p. 58).

Relevant to the livability and precarity of bodies, particularly in the space of the bathroom is Ahmed’s (2007) assertion that “what you come into contact with is shaped by what you do: bodies are oriented when they are occupied in time and space” which demonstrates the influence of spatiality on the intelligibility and liveability of bodies. More specifically, Ahmed is concerned to detail the manner in which “[w]hite bodies are comfortable as they inhabit spaces that extend their shape. The bodies and spaces ‘point’ towards each other, as a ‘point’ that is not seen as it is also ‘the point’ from which we see” (Ahmed, 2007, p. 158). It is in this sense that not only are bathrooms conducive and

privileging of intelligible genders, but they also afford privilege to those who are white due to categories of access being “made invisible through privilege” (Ahmed, 2007, p. 149) while minimizing the liveability of those who are not white (or white-passing). Consequently, is it non-cis *and* non-white bodies who are subject to the “relentless nature of the harassment against trans people [of colour]” (Ahmed, 2016, p. 28) ultimately becoming subject to “constantly having your legitimacy thrown into question” (Ahmed, 2016, p. 32) and therefore enduring a “hammering, a constant chipping away... at our being” (p. 22). This is encapsulated in this study by the emergence of a group called the “Basement Boys”, who are the symbolic personification of white, cis, and heterosexual privilege and who colonized the all-gender bathroom for their own illicit ends (i.e., vaping). In this way, “[c]isnormativity couples with White supremacy to produce particular precarity for trans people of color” (Spencer, 2019, p. 2) As a result, it is also non-white bodies who are designated as precarious as they “suffer from failing social and economic networks of support and become differentially exposed to injury, violence, and death” (Butler, 2009, p. 25; see also Spade, 2015).

Much in the same way that cisgender privilege (Serano, 2007) affords ubiquitous access to cisgender folks, “whiteness may function as a form of public comfort by allowing bodies to extend into spaces that have already taken their shape” (Ahmed, 2007), as my study found in the form of the Basement Boys’ encroaching colonization of the all-gender bathroom space. “Those spaces are lived as comfortable as they allow bodies to fit in” (p. 158). In this sense, it is important to interrogate the ways in which resistance to such hegemonic systems are possible, both in the space of the bathroom and also through policy and other social institutions that contribute to this precarity. While complete emancipation and resistance are not possible as no subject is capable of resistance outside of power relations, employing Foucauldian and Butlerian conceptual frameworks within the context of embracing a trans studies analytic approach allows for an imagining of where such resistances can be actualized in light of the omnipresence of power.



## Foucault and the Politics of Bathroom Spatiality

Foucauldian and Butlerian reflections regarding the formation and regulation of gendered subjects are central to my theoretical analysis of the spatiality of bodies in bathroom spaces (i.e., how bodies occupy these spaces) and are constituted through disciplinary power that is “dependent upon bodies and what they do that is constantly exercised by means of surveillance” (McHoul & Grace, 1997, p. 63). Foucault was concerned to investigate relations of power “which permeate, characterise and constitute the social body” (Foucault, 1980, p. 93). One of his biggest contributions to discussions of power was his introduction of the techniques of disciplinary power and relations of power as a basis for challenging traditional notions of power as strictly repressive: “we must cease once and for all to describe the effects of power in negative terms [...] in fact, power produces; it produces reality; it produces domains of objects and rituals of truth” (Foucault, 1977, p. 194). In light of this fact, Foucault emphasizes a societal shift from sovereign power to contemporary and omnipresent disciplinary power.

While *sovereign power* is centralized in the state, or to the king/queen, where the people are expected to abide by the laws and regulations, *disciplinary power* decentralizes power throughout institutions, such as prisons, hospitals, and schools. Disciplinary power trains and molds to produce “subjected and practiced bodies, ‘docile’ bodies” (Foucault, 1977, p. 138). In this way, bodies are both empowered (through training) and ensnared (through discipline and surveillance) at the same time (Villa, 2008). This is especially applicable to the space of the bathroom as Ingrey (2012) explains given that the panoptic design of the bathroom invites self-disciplinary effects where occupants feel as though they are being watched and monitored in the way they are “doing” gender and if they are “performing” gender correctly in the gendered washroom. The panoptic design of the bathroom, Cavanagh (2010) explains, is further exacerbated by the mirrors, which serve as tools for panoptic surveillance whereby “mirrors are the site where the panopticon is actually operating [...] mirrors are definitely used for ... surreptitious [gender] surveillance” (p. 87). This understanding of the disciplinary effects of the bathroom overlaps with Foucault’s reasoning that power structures not only control people’s actions directly, but indirectly whereby people become easier to control to the

extent that they discipline themselves to act in line with the wishes of the person or organization that controls them (Foucault, 1977). Foucault defines such methods of discipline as “the meticulous control of the operations of the body” which guarantee “the constant subjection of its forces and [enforce] upon them a relation of docility-utility” (1977, p. 137). In this state, bodies are acted upon and constitute sites for enacting power relations.

However, not all bodies are passively controlled and subjected to power, just as power is not necessarily strictly repressive or destructive. As such, bodies are capable of resistance against docility and repressive relations of power, especially in the space of the bathroom (Cavanagh, 2010; Ingrey, 2012; Millei & Cliff, 2014; Slater et al., 2018). This was exhibited by the student participants in my study, who resisted the traditional gender segregated bathroom design by advocating for the creation of an all-gender bathroom. Moreover, teacher participants explained that students in their school refused to use the all-gender bathrooms given their usual proximity to the school’s main office, and, therefore, resisted the potential of being monitored and surveilled by adults in the building.

Disciplinary power, as Foucault describes it, is not a single thing or an entity, but rather, it is a *mode of action*. If power is not one single entity but rather relational, and if all power relations necessitate the possibility of escape (Foucault, 1982), then power implies some degree of resistance. Power *requires* resistance:

At the very heart of the power relationship, and constantly provoking it, are the recalcitrance of the will and the intransigence of freedom. Rather than speaking of an essential antagonism [between power and resistance], it would be better to speak of an "agonism" - of a relationship that is at the same time mutual incitement and struggle; less of a face-to-face confrontation that paralyses both sides than a permanent provocation. (Foucault, 1982, p. 790)

In this regard, because power is relational, it necessarily relies on an agonistic relationship between the initial manifestation of power and the consequent resistance: “If there was no resistance, there would be no power relations [...] Resistance comes first, and resistance remains superior to the forces of the process [...] Resistance is the main word, the key word, in this dynamic” (Foucault, 1997, p. 167). Though Foucault rarely

discussed individual resistance, for Foucault, resistance and power exist simultaneously, and involve renegotiating boundaries of power. As such, it is important to highlight that not all bodies are subjects and tools of power. In fact, “the strategic knowledge of power necessary for effective resistance must be more concerned with this productive function of power” (Pickett, 1996, p. 458) and this strategic knowledge was encapsulated by the students in this study who opposed a cisgenderist and cisnormative system by tactically advocating for the space of an all-gender bathroom, demonstrating how power effectively “form[ed] disciplined individuals, who are rational, responsible, productive subjects” (Pickett, 1996, p. 458). Evidently, bodies are capable of resistance and negotiating against the currents of power that are rife in a disciplinary society. And while Foucault insisted that resistance does not “result from the choice or decision of an individual subject” (Foucault, 1990, p. 95), the activism demonstrated by these students seems to insinuate that such agency is possible, particularly from Casey, who first proposed this activist project to institute an all-gender bathroom.

In his book, *Discipline and Punish*, Foucault (1977) defines discipline as “a political anatomy of detail” (p. 139). This definition highlights an important perspective about power, surveillance and the manner in which people are disciplined by norms that are socially determined. To assert that discipline is “a political anatomy of detail” is to say that the control of people in society is formed by the seemingly minor and inconsequential details of our everyday lives; where we go, who we see, what we do and when we do it. Therefore, discipline is a mechanism of power, which regulates the thoughts and behaviours of social actors in the social body. While Foucault never discusses the education system in great depth, discipline is embedded in every aspect of our education system in a way that ensures that subjects can be effectively managed and regulated in a way that is covert, and in many ways, internalized. In this sense, this study was concerned to interrogate how disciplinary mechanisms of power govern the space of the all-gender bathroom and continue to contribute to tactics of gender regulation and surveillance. Equally, this study was also concerned with examining how resistance to these norms and regulations might have emerged. Incidentally, through student activism and the collaborative advocacy efforts by Nora – a Gender Studies teacher – to mobilize her students, cisgenderism and cisnormativity were challenged to the point where two all-

gender bathrooms were established. Such efforts demonstrate that “something always eludes the diffusion of power and expresses itself as indocility and resistance” (Pickett, 1996, p. 458).

A disciplinary institution also perpetuates the process of *subjectification*, creating subjects who succumb to power enacted upon them. *Subjectification* refers to the construction of the individual subject. Foucault (1982) describes the subject as having two meanings: “subject to someone else by control and dependence, and tied to his own identity by a conscience or self-knowledge. Both meanings suggest a form of power which subjugates and makes subject to” (p. 212). As such, “the body becomes a useful force only if it is both a productive body and a subjected body” (Foucault, 1977, p. 26), thus ensuring that the body is not only dominated, but is also dominating. It is in this way that discipline can be understood as a dominating force of relations in constituting the subject, but also a means of development, production, and self-construction. This process occurs between three inter-related modes: (1) the modes of inquiry (sciences) which produce the human subject as an object of knowledge; (2) “dividing practices” which divide the subject both within him or herself, and from other subjects according to a binary logic of norm and deviance (as we see through segregation methods in the bathroom in the form of stalls, but also male/female bathrooms); and (3) practices of self-governance by which the subject (re)produces and transforms him or herself as a particular subject (Foucault, 1982, p. 212). As such, “the individual *body* becomes an *element* that may be placed, moved, articulated on others” (Foucault, 1977, p. 164).

Foucault (1977) reasons that the body becomes defined by the place it occupies. Bender-Baird (2016) argues that docile bodies are constructed whereby the docile body in the gendered bathroom must be easily identifiable “as either man or woman” and as a result, the fashion in which “gender is performed in spaces like the bathroom creates docile bodies” (p. 985). It is in this way that docile bodies are subject to disciplinary power, but also capable of resistance to such power. Techniques such as “*enclosure*, the specification of a place heterogeneous to all others and close in upon itself” (p.141) and “*partitioning* [ensure that] each individual has his own place; and each place its individual” (p. 143). Millei and Cliff (2014), for example, explicated how “being seen in

the bathroom had disciplinary effects” where ultimately “problem bodies” are “placed under surveillance and disciplining regimes” (pp. 253-254). In this sense, this research demonstrates the extent to which the creation of an all-gender bathroom undermines a particular set of regulatory constraints and the means through which students can effectively challenge and protest against these dividing practices that separate docile bodies by speaking out against a cisgenderist system altogether through their trans-activism. In this sense, “subjects can be constituted through hegemonic discourses of gender, race, and sexuality while remaining reflexive of, and (potentially) intervene in, that process” (Nelson, 1999, p. 341). This study also elucidates how teachers and administrators might understand the space of the all-gender bathroom as one of continued (and perhaps even) heightened regulation, most notably through its location and proximity in the school to the administrative office which embodies a kind of panopticism that regulates accessibility to this space and perpetuates the subjectification of the student body.

This process of subjectification through disciplinary power is best understood in Foucault’s (1977) metaphor of surveillance through panopticism, derived originally from Bentham’s panopticon prison design. The bathroom serves as a site of crystallization of surveillance where bodies, their functions and their gendered personhood are segregated and monitored. Cavanagh (2010) explicates that “there is no one bathroom warden, no single tower of surveillance” (p. 82). However, my study conflicts with this assertion given the tendency for the all-gender bathroom to be located near the administrative office; high visibility of the bathroom from the office which has “big glass windows” allows for the monitoring of who enters this space (Foucault, 1977). Thus, the bathroom and its surroundings (as in, where it was strategically placed) are constructed as a kind of panopticon where students exhibited resistance by not using it in order to avert mechanisms of surveillance by adults in the office. This indirectly contributes to a *biopolitics of disposability* which constitutes trans students “as disposable” (Spencer, 2019, p. 2) as they avoid a space that they might need in order to avoid surveillance, and therefore, ensures that they “disappear from public view by regulating their bodies into invisibility” (p. 5).

Where discipline is concerned with the control of individual bodies, *biopolitics* is about the control of entire populations (Foucault, 1988). Biopolitics underpins the idea that in an age of unprecedented ability to manipulate human biology, the fate of the matter of life has become entrenched in a political agenda. Biopolitics, as Foucault describes it, is “a new technology of power...[that] exists at a different level, on a different scale, and [that] has a different bearing area, and makes use of very different instruments” (Foucault, Bertani, Fontana, Ewald, & Macey, 2013, p. 242). This power acts as a control apparatus that dictates the lives of the entire population, as a “global mass” (p. 242). It is “concerned with the distribution of life chances and the imperative to make life, to cultivate the life of the population” and as a result, we see “population-level interventions are mobilized in the name of promoting the life of the national population against perceived threats and drains and operate through sorting and producing regularities” (Spade, 2011, p. 447). Apart from Spencer’s (2019) work, there has been scant attention in the field to the biopolitical framing and significance of the bathroom in educational contexts. Bio-power “feeds into the constitution of institutional power relations and is exercised” on bodies and “it is exercised over young bodies so that their sexuality and individuality are constituted in certain ways” (Millei & Cliff, 2014, p. 352). In this way, it is entangled with disciplinary power and heavily dictates the use of the space of the bathroom. Spencer, for example, conceptualizes the public bathroom space in terms of a *biopolitics of trans disposability* which “works by making marginalized people disappear from public view by regulating their bodies into invisibility. They are, in a word, disposable” (Spencer, 2019, p. 546) or conversely, “worthy of symbolic and material annihilation” (p. 554).

The public bathroom, through its traditionally limiting binary options (i.e., the men’s bathroom or the women’s bathroom), fosters a space where population control and the regulation of bodies is inherent, reinforcing Foucault’s notion of bio-power, a practice used by modern nation states and their regulation of their subjects. Bio-power serves to legitimize and perpetuate cisnormativity and heteronormativity, as anything or anyone that deviates from such norms is seen as a threat to the future of the populace. Bio-power often overlaps with disciplinary power throughout modern systems of local and international government. Examples of such modern systems include sex education in

schools, legislation to support family life, and the governance of public bathroom access via binary gender norms, which all play a significant role in the aforementioned field of biopolitics that is implicit in the concept of population control that bio-power demands.

Bodies that manifest such transgender phenomena have typically become vulnerable to a panoply of structural oppressions and repressions; they are more likely to be passed over for social investment and less likely to be cultivated as useful for the body politic. (Stryker, 2014, p. 40)

Due to the fact that bio-power is concerned with demography and its subsequent control, trans subjects are viewed as a threat to the protected population rather than contributing to it (Stryker, 2014). According to normative discourses, transgender people do not reproduce and, as such, are not viewed as contributing to the vitality of the nation state. Resultantly, transgender persons are exposed to numerous oppressions. For example, in the early stages of Western trans medicalization, sterilization was an implicit compulsory outcome of treatment (Lowik, 2018). At a certain point, Foucault (1977) referred to bio-power as “the right to kill those who represented a kind of biological danger to others” (p. 138); the forced sterilization of trans people was one of these perceived rights to protect the population. It was enforced as a means to preserve a common understanding about reproduction. As such, we see this reflected in the rationale for coercive sterilization as manifested in the following arguments: “a person’s genitals and reproductive organs must match their gender identity”, “sterilization proves that a trans person is serious about their gender identity,” and “only women should be able to become pregnant and give birth” (Open Society Foundations, 2015). In this way, a normative comprehension of reproduction is understood and maintained, whilst committing unjust and dehumanizing acts against transgender people. This is one of many oppressions imposed upon transgender individuals, and the structural limitations, such as those of bi-gender bathrooms, are yet another way by which gender expansiveness is curtailed and constrained with specific repercussions for trans and non-binary people. For example, trans men and trans women experience harassment and violence in accessing bathrooms that aligns with their gender identity (Cavanagh, 2010) which highlights the problem of broader issues of cisgenderism and cisnormativity. In this sense, these broader systems are the problem and not the bi-gendered bathroom, per se, though for non-binary

individuals, it remains a barrier of accessibility. It is in this sense that I examine the extent to which biopower is enacted through policy stipulations of regulation that requires a submission or to *request* to be accounted for in a cisgenderist system.

For Foucault, the agent that has the capacity to “transform one system of knowledge and power into another” is “thought and critique” (Jardine, 2005, p. 117). This study offers insight into the role of students in problematizing a gender binaric bathroom structure, and the extent to which they were able to effect transformation in the school more broadly through their efforts, and where the limits to resistance emerge as a result of this activism. In this sense, this study explicates how students were able to avoid being rendered docile bodies through their resistance by advocating for an all-gender bathroom space. As such, I elucidate the extent to which students and staff are effectively able to “step back from” the dominant form of thought and cisnormative gender system in order to “present it to oneself as an object of thought and question it as to its meaning, its conditions, and its goals” (Foucault, 1990, p. 330). I explicate the extent to which they were able to *critique* a system in a manner that did not say “things are not right as they are”, but rather by pointing out “what kinds of assumptions, what kind of familiar unchallenged, unconsidered modes of thought and practice” have been accepted as an inscrutable norm (Foucault, 1990, p. 155).

As an operation of biopower, bodies and their physiological practices are regulated by the signs on the public bathroom, where one is expected to enter the door with either the male gender marker or the female gender marker (Cavanagh, 2010; Ingrey, 2013; Rasmussen, 2009). The surveillance associated with the panoptic nature of the bathroom functions to categorize and separate bodies in a manner that is believed to be functional, but also makes visible those who transgress the norms of behaviour and expectation within the gendered bathroom. Such partitioning “makes it possible to know, master and make useful each individual” (Foucault, 1977, p. 143). This enclosure and confinement are seen as necessary by the state in order to “transform the confused, useless, or dangerous multitudes into ordered multiplicities” (p. 148). Anyone who cannot conform to the normative societal expectation is likely to be the victim of violence for their transgression. The bi-gendered bathroom and its regulatory function serve as a



prime example of how a site has normalized the categorization and conditioning of a homogeneous population that effectively maintains a cisnormative society through gender policing and surveillance. Conversely, this study provides insight into the ways in which the all-gender bathroom has the capacity (or lack thereof) to disrupt this surveillance and to what extent various education stakeholders might contribute to this process of disruption and resistance.

## Methodology

This study was designed to generate knowledge about how education stakeholders (i.e., policymakers, administrators, educators, social workers, school counsellors, and students) understand and construct the all-gender bathroom in their school as well as within and through policy discourse. I employed a multi-sited case study design which “offers a means of understanding an individual, event, policy, program, or group via multiple representations of that phenomenon” (p. 588). As a result of “illuminating the experiences, implications, or effects of a phenomenon in more than one setting, wider understandings about a phenomenon can emerge” (p. 588). In particular, multi-sited case studies are designed to investigate a “defined, contemporary phenomenon that is common to two or more real-world or naturalistic settings” (Bishop, 2012, p. 588), which in this case, is the presence of all-gender bathrooms in schools in order to determine the potentialities and limitations associated with their inclusivity. In this sense, one of the primary strengths of multi-sited case studies is their capacity to “elicit common findings from across different settings” (p. 588). Resultantly, this approach was conducive to my intention of investigating the enactment of all-gender bathroom spaces across multiple schools but within the parameters of one specific school board in Ontario (which bound the sites of my case).

This approach was also conducive in my pursuit of understanding how the all-gender bathroom was constructed and understood throughout these school sites in order to allow for the comparing, contrasting, and synthesis of emergent polemics associated with this space. In addition, case study as a methodology affords a deeper and richer understanding of each participant’s narrative and account of the all-gender bathroom, and as such, priority was given to qualitative data. In adopting this methodology, I found it

significant to examine not only the particularity of individualized school contexts through the lenses of various education stakeholders (i.e., administrators, educators, school counsellors, social workers, and students) as this affords “unique examples of real people in real situations” (Cohen, Manion, & Morrison, 2017, p. 376), but also to engage in the assessment of policy in order to gain “broader, deeper, and potentially more complex understandings” (Young & Diem, 2018, p. 93) of systemic issues that govern the implementation and ideology about the space of the all-gender bathroom.

I undertake this case study approach by foregrounding trans epistemological (Nicolazzo, 2017a) concerns about embodiment and how they relate to the liveability and viability of trans personhood within the space of the all-gender bathroom, which hypothetically accounts for such subjectivities. In doing so, I reflect on my *own* subjectivity and privileges: gender privilege as a cisgender male, socio-economic privilege as middle-class and well-educated, and racial privilege as white. As such, it was my aim to conduct this research in a manner that did not commit *epistemological violence* (Teo, 2010) upon those who were involved in my study, particularly the trans and genderqueer participants. Such an injustice is committed when “theoretical interpretations regarding empirical results implicitly or explicitly construct the Other as inferior or problematic, despite the fact that alternative interpretations, equally viable based on the data, are available” (Teo, 2010, p. 297). In this sense, I was committed to foregrounding the vital perspectives of trans, non-binary and gender non-conforming participants, as their own narratives were significant because the trans-affirmative policy and the all-gender bathroom(s) were created with the intention of supporting them, and therefore, their insights on the extent to which they felt supported was significant and vital. Below, I further elucidate my approach to qualitative research and case study methodology, while also detailing the considerations involved in accessing the participants, the conduct of semi-structured interviews and critical policy analysis, and my approach to data analysis.

## Research Design

Qualitative research locates the observer in the world, and consists of a set of *interpretive*, material practices that make the world visible (Denzin & Lincoln, 2005). My

participants' realities, much like my own, have been constructed subjectively, through social mechanisms, but also experientially. Qualitative research is thus quite effective, as it allows for improved understanding of complex social processes, to capture essential aspects of a phenomenon from the perspective of study participants, and to uncover beliefs, values, and motivations (Creswell, 2013; Malterud, 2001). Positioning myself as a qualitative researcher with case study research design allows for an exploratory study that can highlight the impact of all-gender bathrooms – as perceived by various education stakeholders – on their schools, as well as the role of trans-activism in procuring these spaces (and why this activism might have been necessary in the first place).

By positioning myself as a qualitative researcher conducting case study research, I can better understand where such policies are falling short, and how they might be better modified and, ultimately, enacted (Ball, Maguire & Braun, 2012). Nevertheless, this study was concerned to learn more about the specific views of the all-gender bathroom in light of these policies that stipulate their creation (if requested), as well as offering insight into conditions of emergence for student-led trans-activism. In this sense, I examined the extent to which education stakeholders believe all-gender bathrooms have created a more gender democratized environment and how these spaces were implemented within their schools and perceived by the school population.

Qualitative research is flexible, incorporating a vast spectrum of philosophies, theories, research designs and methods (Freeman, de Marrais, Preissle, Roulston & St. Pierre, 2007). By nature, this research allows for deeper understanding of local and situated knowledge and is able to provide the researcher with methods for generating data about and analyzing the construction of everyday events, within a social group, or local setting (Putney, Green & Dixon, 1999). As Denzin and Lincoln (2005) argue, qualitative research is meant “to understand the ‘other’” (p. 2) though I extend this argument by suggesting that it is also about understanding *systems*, which govern *the other* and the effects of privilege and privileging that are entwined with and produced by the institutionalization of structures such as cisnormativity. This is precisely why qualitative research methodology is conducive to my study: I sought to comprehend not only the thoughts, ideas, catalysts and inspirations behind the implementation of all-gender

bathroom, but also the impact of that very all-gender bathroom on the school climate, and also on the lives of not only transgender and gender non-conforming students but on students overall and the staff in the school. In this sense, simply “understanding the other” is limiting given the long and “sorry history of pathologizing and stigmatizing transgender phenomena” (Stryker & Currah, 2014, p. 1); this research distinguishes itself from this pathologizing history in that it sets its analytic focus and criticism on the institutionalization of cisnormativity and impact of *cultural cisgenderism* (Kennedy, 2018) in schools.

Given the particular focus of this research, a case study methodology was adopted in order to provide a “better understand[ing]” (Baxter & Jack, 2008, p. 545) about the specific case of the space of the all-gender bathroom in schools and its possibilities (and limitations) for addressing and interrupting broader cisgenderist systems that govern the liveability and viability of trans personhood in schools. In this sense, I understood this to be an *instrumental case study* (Stake, 2008) as it is through my exploration of this particular case that this study effectively “provide[s] insight into an issue” (p. 445) regarding the all-gender bathroom. In this sense, it also presents *paradigmatic* (Flyvbjerg, 2006) analytics that operate as a “reference point” in thinking specifically about the space of the all-gender bathroom in schools and how it is constructed both by trans-affirmative policy and by various education stakeholders as a space that (in)effectively supports transgender students and addresses emergent issues related to *cultural cisgenderism* (Kennedy, 2018). In particular, this case defined “a phenomenon of some sort occurring in a bounded context. The case is, ‘in effect, your unit of analysis’” (Baxter & Jack, 2008, p. 545). Resultantly, my case was bounded by the parameters of the board itself, where I was able to focus on the all-gender bathrooms being implemented throughout several school sites of that board and how the stakeholders within it were conceiving of and responding to these spaces and broader systemic issues related to them. In this sense, I followed Namaste’s (2005) advice to move beyond trivial debates of identity and inclusion, and instead, to interrogate both institutional and social contexts that constrain and also affirm the lives of transgender and gender non-conforming persons in schools. This approach allowed me to navigate and interrogate what constraints and possibilities are afforded to students based upon their gender identity. It also provides particular

insight into the *administration* of all-gender bathrooms, considering the fact that “for trans people, administrative gender classification and the problems it creates for those who are difficult to classify or misclassified is a major vector of violence, and diminished life chances” (Spade, 2015, p. 77), questioning how the creation of an all-gender bathroom might have altered such experiences in the school and minimized the ramifications of *cultural cisgenderism* (Kennedy, 2018).

In order to effectively interrogate these systems, a case study approach equipped me with a specific approach to “collecting, organizing, and analyzing data” (Patton, 2002, p. 447). It also ensured that the various policy, systemic, environmental, and individualized polemics surrounding the space of the all-gender bathroom were “not explored through one lens, but rather a variety of lenses which allows for multiple facets of the phenomenon to be revealed and understood” (Baxter & Jack, 2008, p. 544). In the following sections, I elucidate the specific methods employed that lent themselves to case study methodology, underscoring the significance of semi-structure interviews, critical policy analysis, and the procedures of participant recruitment.

## Participant Sample

In order to gather participants for this study, I employed a non-probability sampling technique. Specifically, I used purposive sampling, as it allowed for “*information-rich* cases for study [...] from which one can learn a great deal about issues of central importance to the purpose of the research” (Patton, 1990, p. 169). Such a technique was necessary, as I sought specific populations that could discuss the space of the all-gender bathroom through their own experiences and observations of this space. Initially, this involved utilizing my personal networks to connect with the policymaker of the trans-affirmative policy for the board whom I reached out to through personal e-mail and who immediately agreed to participate in the study. To gain further insight about the implementation of all-gender bathrooms in the school context in particular, I employed this same tactic to recruit one administrator and two teachers and one social worker through e-mail and as a result of my own person network connections. I also relied on the dissemination of an advertisement flyer that specifically sought “teachers and/or principals who might be willing to share their views and insights on the space of the all-

gender bathroom in their school(s).” This approach resulted in three participants reaching out to me and participating in the study. Altogether, these participants were able to connect me with other interested teachers, administrators, teachers and school counsellors by way of snowball sampling.

Snowball sampling was a useful “approach for locating information-rich key informants or critical cases. The process begins by asking well-situated people: ‘Who knows a lot about \_\_\_\_\_? Who should I talk to?’” (Patton, 1990, p. 176). By asking these questions, “the snowball gets bigger and bigger as you accumulate new information-rich cases” and are therefore pointed in the direction of people who can provide you with more information (p. 176). It was through this particular sampling technique that one participant expressed that she had students from her school who were involved in activism as a result of her Gender Studies class who would more than likely be interested in participating in this research study. In this sense, snowball sampling was especially important to me in terms of directing me towards both students who were no longer at the schools, but also to other teachers who had opinions about the space of the all-gender bathroom in their own schools, respectively. When this sampling technique is employed in this capacity, it “delivers a unique *type of knowledge*” (Noy, 2008, p. 331), which was especially true in the case of students who could speak to the very particular advocacy efforts that comprised their pursuit of the implementation of an all-gender bathroom space in their school. Moreover, this particular type of knowledge allowed me to more concretely compare the cases between the different school sites under this one school board. Ultimately, these sampling approaches provided me with one policymaker, three administrators, five teachers, two counsellors, one social worker, and three students. This produced a total of 15 participants in the study as a whole.

## Methods

In the conduct of my methods, it is important to note that the Covid-19 pandemic, the subsequent lockdown, and the restrictions imposed by the Ontario government interrupted my approach to data collection. Initially, I had met with both the policymaker and one administrator to conduct my interviews with each. Halfway through my interview with the principal, he received a phone call informing him of the fact that there

would be an “extended March Break” for the school, which ultimately extended until the end of the school year and therefore necessitated an adapted approach to data collection. Despite this caveat, other than the fact that my approach to interviews shifted to an online format rather than an in-person format, my methods remained largely the same. In particular, I employed numerous methods to enhance “data credibility” (Baxter & Jack, 2008, p. 554) which were comprised of critical policy analysis that employed a trans-informed approach that examined what *counts* as trans-affirmative policymaking, which was followed by semi-structured interviews with the aforementioned education stakeholders. In this sense, “each data source is one piece of the ‘puzzle,’ with each piece contributing to the researcher’s understanding of the whole phenomenon” (Baxter & Jack, 2008, p. 554).

Traditionally, “positivist approaches to educational policy analysis have long dominated the field” where “policy scientists used a specific set of methods to determine the best manner in which to implement a policy decision” (Young & Diem, 2018, p. 80). This approach to policy analysis is limiting and does not account for the complexity and the “the nature of policy, how it is created, and its impact” (p. 81). However, I do believe that policy must be “viewed as something to be critiqued or troubled rather than accepted at face value” (p. 79). In this sense, I adopted Ball’s (1993) approach to understand policy as both a *text* and a *discourse*. With respect to *policy as texts*, it is understood that policies are “representations which are encoded in complex ways (via struggles, compromises, authoritative public interpretations and reinterpretations) and decoded in complex ways (via actors, interpretations and meanings in relation to their history, experiences, skills, resources and context)” (Ball, 1994, p. 16). This suggests that policy is constantly in a state of genesis and influenced by numerous points of contact and interpretation. Resultantly, “[t]he onus is on schools to ‘make’ sense of policy where (sometimes) none is self-evident” (Ball, 1993, p. 8). As a result, while policy documents can be understood as expressions of “political purpose” that the creators of these policies intended to be followed in a particular way (Olssen, Codd, & O’Neill, 2004, p. 64), they also are dependent upon more than just the intention of its creators, but also how they are read and interpreted by the various education stakeholders.

Moreover, Ball (1993) conceptualizes *policy as discourse* in the sense that policy which “construct[s] certain possibilities for thought. They order and combine words in particular ways and exclude or displace other combinations” (p. 18). Such a notion points to what words, expressions, or identities are counted and excluded from policy text and policy discourses. Ball (1994) understands that discourses govern us and not the opposite; discourse “speaks us”, and therefore, renders us as “subjectivities, the voices, the knowledge, the power relations, that a discourse constructs and allows” (p. 22). In this sense, “it does not matter what some people say or think, only certain voices can be heard as meaningful or authoritative” (p. 15).

In addition, Ball, Maguire, and Braun (2012) acknowledge that “research texts in education policy rarely convey any sense of the built environment from which the ‘data’ are elicited or the financial or human resources available — policy is dematerialized” (p. 20) as well as de-contextualized. In this sense, Ball et al. (2012) highlight that policies do not enter the same school environment each time:

Policies enter different resource environments; schools have particular histories, buildings and infrastructures, staff profiles, leadership experiences, budgetary situations and teaching and learning challenges (e.g. proportions of children with special educational need (SEN), English as an additional language (EAL), behavioural difficulties, ‘disabilities’ and social and economic ‘deprivations’) and the demands of context interaction. Schools differ in their student intake, school ethos and culture, they engage with local authorities and experience pressures from league tables and judgements made by national bodies... (p. 19)

In this sense, Ball et al. (2012) explicate the difference between *policy implementation* and *policy enactment*. In particular, *enactment* is distinguished from *implementation* in that it re-contextualizes the policy environment, considering situated contexts (e.g. locale, school history and intakes), professional cultures (e.g. values, teacher commitments and experiences, and “policy management” within schools), material contexts (e.g., staffing, budget, buildings, technology and infrastructure), and external contexts (e.g. degree and quality of support, pressures and expectations from broader policy contexts, etc.) (Ball et al., 2012). Policy enactment undergoes a process of interpretation and translation by education stakeholders that is overlooked and goes unconsidered in typical studies centered around “policy implementation”. It is in this sense that I examined the extent to



which education stakeholders read and translated, and therefore *enacted*, the trans-affirmative policy text produced by their school board.

Ball's conceptualization of policy was my foundation for analyzing the school board's trans-affirmative policy text. I understood this policy to be a complex set of intentions and discourses that represent a specific problem in light of its articulation. In this sense, I also adopted Bacchi's (2009) "What the Problem is Represented to Be?" (WPR) framework along with my reliance on Ball's conceptualization of policy as both *text* and *discourse*. Bacchi's framework for textual policy analysis dovetailed with my reliance on Ball's conceptualization of policy. Bacchi's (2009) approach allows for the "recogni[tion of] the non-innocence of how 'problems' get framed within proposals, how the frames will affect what can be thought about and how this affects possibilities for action" (Bacchi, 2000, p. 50). More pertinently, because this trans-affirmative policy is written *about* trans students, it was especially significant to rely on Bacchi given her engagement with Foucauldian principles of subjectification to unpack how subjects come to be constructed and constituted by discourses in legislation. This allowed me to unearth the ways in which transgender students were constituted in the policy. Moreover, Bacchi's (2009) assertion that "by their very nature they [policies] contain implicit representations of 'problems'" (p. 1) allowed me to deploy a nuanced analysis regarding how transgender students are considered, and more specifically, how questions about the creation of the all-gender bathroom are constructed in this policy. Consequently, this analysis opened up a set of questions and expanded my thinking about which questions needed to be asked of both the policymaker in terms of how he conceived of and created the policy, but also to what extent other education stakeholders were able to engage with the ideas and feel as though the problem represented in the policy was effectively addressed.

In this sense, I employed semi-structured interviews as an exploratory approach that afforded me the capacity to "enter into the other person's perspective" (Patton, 2002, p. 341) in order to understand that which I could not observe for myself. In particular, it elucidated the "feelings, thoughts, and intentions [as well as] how people have organized the world and the meanings they attach to what goes on in the world" (p. 341). These

interviews were also conducted with a focus “on capturing *lived* experiences... [in order to] evok[e] a comprehensive account of the person’s experience of the phenomenon” (Patton, 2002, p. 432). In this sense, these very rich embodied descriptions from each participant allowed for “thick description” (Patton, 2002, p. 347). In order to ensure that participants were responding to a similar line of questioning that would guide the participants in their “descriptions of lived-through moments, experiential anecdotal accounts, remembered stories of particular experiences...” (Patton, 2002, p. 432), I employed a semi-structured interview guide which provides a specific list topics and questions to which the interviewee is able to respond (Patton, 2002). This provided some semblance of structure whilst also ensuring a pre-determined subject focus, ultimately allowing for flexibility in the “capturing a personal description of a lived experience” (Patton, 2002, p. 432).

The conduct of these interviews took place both in person at school sites as well as over *Zoom* video calls with administrators, educators, school counsellors, a social worker, and high school students. In particular, two interviews (one with the policymaker whom I refer to as James, and the other with an administrator whom I refer to as Arthur) were conducted in person. The rest of the interviews were conducted over *Zoom* following the Covid-19 pandemic that mandated the closures of schools and disallowed for in-person meeting. These interviews were conducted in order to gain insight into and explore how these participants understood the space of the all-gender bathroom and their views regarding its impact on the school and the livability of trans and gender non-conforming students in the school. This lent itself to the purposes of case study research as they afforded me with insight into “‘what it is like’ to be in a particular situation, to catch the close up reality...of participants’ lived experiences of, thoughts about and feelings for a situation” (Cohen et al., 2007, p. 254). This approach also allowed for a more rigorous critical policy analysis as it permitted me to interview one of the key policymakers of the trans-affirmative policy and informed my understanding of how they approached the creation of this particular policy.

The questions that were used to inform my interview data were made up of various opinion and value questions (aimed to understand the interpretive responses of

each stakeholder regarding the all-gender bathroom spaces and their personal reflections on these spaces); knowledge questions (in order to inquire about how the all-gender bathrooms in each school came to be established while also inquiring into the observed experiences within and around these spaces, and also regarding the specific considerations of the creation of the trans-affirmative policy); and background questions (which I deployed in order to understand the respondents' positionality and social location) (Patton, 2002). Finally, because each respondent provided me with a spectrum of varying information regarding these spaces, the informal interview process allowed for the modification of the questions: "Each new interview builds on those already done, expanding information that was picked up previously, moving in new directions, seeking elucidations and elaborations from various participants" (Patton, 2002, p. 342).

In conducting these interviews, I also relied on field notes which were comprised of my "insights, interpretations, beginning analyses, and working hypotheses about what is happening in the setting and what it means" (Patton, 2002, p. 388). These field notes were significant for me in both guiding my thinking about concurrent data analysis while also recording "descriptive information" (p. 387) regarding what the interviewees were saying. They also contained my "own feelings, reactions... and reflections about the personal meanings and significance" (Patton, 2002, p. 388) of each interview along with the informal conversation that preceded and succeeded the conduct of the interviews. I recorded these reflections in a personal written journal, but also had moments during online video interviews where I would quickly record personal reflections on a *Microsoft Word* document that I would later record in my journal. In this sense, field notes were particularly significant given that "mutual interrogation of data and theory occurs as field work proceeds" (Anyon, 2009, p. 12), and as such, field notes contributed to my kneading process of reflecting and analyzing the data as it was being collected.

## Analysis of Data

The data analysis process allows the researcher to gain a deeper insight into what they have studied and to refine interpretations that they have made during their time in the field and thereafter (Basit, 2003). In addition, and in line with case study methodology, "data collection and data analysis occur concurrently" (Baxter & Jack, 2008, p. 554) and

therefore lends itself to “an integrated set of answers to intersecting theoretical and empirical question” (Anyon, 2009, p. 13). As a result, the analysis process is one that is dynamic, intuitive and creative, which necessitates inductive reasoning, reflection, and theorizing (Merriam, 2009). Patton (2002) encourages the use of “thick description” as a foundational component of qualitative analysis. It is through “rich description, thoughtful sequencing, appropriate use of quotes, and context clarity” (p. 65) that a qualitative researcher is able to effectively represent and analyze their data to build trustworthiness, credibility, and reliability.

In analyzing this data, I found thematic analysis the most pertinent. Thematic analysis “is a method for identifying, analyzing, and interpreting patterns of meaning (‘themes’) within qualitative data” (Clarke & Braun, 2017, p. 297). Thematic analysis was especially useful due to the rich and copious data. The aim of thematic analysis is not “simply to summarize the data content, but to identify, and interpret, key, but not necessarily all, features of the data, guided by the research question” (p. 297). This process of analysis is comprised of six different phases, and it is ideal for case study, as it is also non-linear in method, but rather recursive. The phases in thematic case study are familiarization with data, generating initial codes, searching for themes among codes, reviewing themes, defining and naming themes, and producing the final report (Braun & Clarke, 2006, pp. 87-93).

In addition, and complementary to this thematic analysis, I relied on my theoretical frameworks to serve as a bridge between the raw data and final analysis. In particular, I conducted this data analysis through a continued engagement with transgender studies, and Foucauldian and Butlerian theory given that each are commensurably aligned with the mutual “curiosity about the subjectivating processes, the constructions of social and cultural conditions, [and] the effects of discursive power” (p. 189). In this sense, I engaged with theory and data collaboratively in the “process of ‘kneading’ the theory/research/data mix” (Anyon, 2009, p. 13). In doing so, I understood that “naturalistic inquiry” (Patton, 2002) is not a process that occurs separate from data collection but works collaboratively with it.

In this sense, I employed theoretical analysis to guide me through the data analysis process as “data collection without theoretical guidance is what Foucault (1977) called “blind empiricism” and C. Wright Mills (1959) labeled “abstracted empiricism” due to the fact that data without theory yields “very little social explanation” (Anyon, 2009, p. 1). Given that theory and data are entwined, my engagement with transgender studies and what I understand to be a *critical trans politics* in conjunction with a Butlerian and Foucauldian interpretive analytics best exemplifies my analytic approach throughout the thesis and specifically with respect to how “theory and data involve and invoke one another” (Anyon, 2009, p. 5). These approaches to data collection and analysis ultimately contributed to the overall validity and reliability of my study.

## Trustworthiness

Patton (2015) insists that validity and reliability are two aspects with which every qualitative researcher should be concerned while designing a study, analyzing results, and judging the quality of the study itself. While some may critique qualitative research – and particularly, case studies – as lacking generalizability, Healy and Perry (2000) assert that the quality of a study in each paradigm should be judged by its *own* paradigm’s terms. This overlaps with Flyvbjerg’s (2006) assertion that generalizability actually “depends on the case one is speaking of and how it is chosen” (p. 225). Specifically, I believe that the insights this study provides regarding the all-gender bathroom can “enter into the collective process of knowledge accumulation” and can therefore “certainly be of value in this process and has often helped cut a path” toward addressing common and pervasive issues within and around all-gender bathrooms (Flyvbjerg, 2006, p. 227).

Qualitative research is concerned with multiple realities from participants, and those realities are viewed through the prism of the researcher’s own reality (Creswell, 2007). This study was primarily concerned with addressing “‘credibility’ (in place of internal validity), ‘transferability’ (in place of external validity), ‘dependability’ (in place of reliability)” (Lincoln & Guba, 1985, p. 219). In this sense, qualitative researchers are not focused on whether the results of one study are the same as the results of another and, hence, can be replicated, but whether the results of a study are consistent with the data

collected. In this respect, triangulation can also lead to dependability and consistency (Merriam, 1995).

My study was triangulated primarily through “data triangulation [which] involves using multiple sources of data in the investigation” (Salkind, 2010, p. 1538). In this sense, I relied on “multiple viewpoints” (i.e., administrators, educators, students, school counsellors, and a social worker) and “multiple lines of sight and multiple contexts to enrich the understanding” (p. 1539) of the all-gender bathroom in schools and address my research questions associated with this space. Resultantly, I was able to invite “members of these groups to have a voice in determining reality and in contributing to the expansion and proliferation of knowledge” (p. 1539). While triangulation is typically the strategy used to improve validity and reliability and “assumes a single reality” (Tracy, 2010, p. 843), I am drawn to the concept and process of *crystallization* (Richardson & St. Pierre, 2005). A triangle is “a rigid, fixed, two-dimensional object” (Richardson & St. Pierre, 2005, p. 963), and does not “lay neatly over research from interpretive, critical, or postmodern paradigms that view reality as multiple, fractured, contested, or socially constructed” (Tracy, 2010, p. 843). As such, we look to the crystal, “which combines symmetry and substance with an infinite variety of shapes, substances, transmutations, multidimensionalities, and angles of approach” (Richardson & St. Pierre, 2005, p. 963).

Crystallization effectively “deconstructs the traditional idea of ‘validity’; we feel how there is no single truth” and moreover, crystallization “provides us with a deepened, complex, and thoroughly partial understanding of the topic” (p. 963). To achieve crystallization, researchers are encouraged to “gather multiple types of data and employ various methods, multiple researchers, and numerous theoretical frameworks” (Tracy, 2010, p. 844). As such, in order to crystallize, my approaches to data collection techniques involved semi-structured interviews and critical policy analysis. I spoke to numerous populations (i.e., administrators, educators, school counsellors, a social worker, and students) in order to consolidate the differing realities of those who comprise the population of the school altogether. Beyond this, I am also situating myself within multi-disciplinary schools of thought (transgender studies, Foucauldian, and queer theoretical frames) that share a degree of commensurability, while also inciting tensions which have

been productive for me in my theorization of trans embodiment and bathroom spatiality. I believe that these factors altogether strengthen this study's *credibility*, which refers to the study's "trustworthiness, verisimilitude, and plausibility" (Tracy, 2010, p. 842).

This study also offers *transferability*, which is concerned with the extent to which the findings of one study can be applied to another (Lincoln & Guba, 1985). While the particularities of the Ontario context within one school board may seem ungeneralizable, this study offers significant insights and implications regarding the limitations associated with simply implementing an all-gender bathroom that can be applied to *any* context as it requires consideration of broader systemic issues, and without a doubt, requires a more gender facilitative school framework (Luecke, 2018) that accounts for gender diversity more broadly. In this sense, this study offers pertinent information about these spaces that are growing in popularity, and therefore, the study offers a degree of transferability, despite the context specificity.

Reliability in qualitative research is not as straightforward as it is in quantitative research, as "studying people and human behaviour is not the same as studying inanimate matter" (Merriam, 1995). Human interactions are dynamic and differ from day-to-day. As such, "there is no benchmark by which one can take repeated measures and establish reliability in the traditional sense" (Merriam, 1988, p. 170). It is precisely for this reason that reliability "in the traditional sense" is not applicable to this research. Therefore, I highlight the need for dependability, which better accounts for the complexity of qualitative research, particularly with respect to the numerous and dynamic realities that emerge from case study research. Dependability (Lincoln & Guba, 1985) emphasizes the need for the researcher to be aware and explain the ever-changing context of the research site due to the fact that the study is not replicable in the way that it would be in a quantitative study. As such, to achieve dependability, the study requires rich description on behalf of the researcher. This study exemplifies this dependability and credibility through the thick descriptions provided in the data analysis and accounts the accentuate the reflections of its participants. These thick descriptions provide an in-depth illustration that explicates "situated meanings and abundant concrete detail" (Tracy, 2010, p. 843). Furthermore, I believe that abiding by the semi-structured interview guides or individual

interviews ensured that all participants guided through a similar line of questioning and therefore afforded me the opportunity to achieve *data saturation*, whereby no new themes or data emerged, which signalled that data collection was complete (Guest, Bunce, & Johnson, 2006).

## Dissertation Format

What follows from this point is a series of interconnected yet independent articles that emerged as a result of the data collection and through my application of the “kneading” (Anyon, 2009) of theory alongside this data. The papers are tied to a broader project and ambition of understanding the extent to which the all-gender bathroom addresses and resolves questions of liveability and viability for trans students in schools. They collectively provide insight into the all-gender bathroom as an instrument of *cultural cisgenderism* (Kennedy, 2018), while also speaking to the possibilities of it serving as a space of resistance against broader hegemonic structures.

Throughout the composition of this thesis and each article, I prioritized trans-informed frameworks and a *critical trans politics* to ground my epistemological consideration of the literature, policy texts and data. The first article is a critical literature review entitled, *The Bathroom as an Interrogative Site of Identity and Embodiment*, which examines the scholarly work around bathrooms that provides a basis for conceptualizing how the traditional gender binary bathroom options have historically and contemporarily been established as spatial mechanisms of gender regulation and embodied relationality that disqualify and foreclose the possibility of trans personhood or gender diversity outside of cisgender subjecthood. This provides a starting point for investigating how the all-gender bathroom has been conceptualized and empirically investigated in the field.

The second article, *Transgender Affirmative Policy Articulation in Ontario*, presents a contextual and critical analysis of the first trans-affirmative school board policy in Ontario and problematizes the limits of accommodation that are at the heart of policy’s logics of articulation. In particular, this article employs an analysis of the policy frame that the board formulated and the context in which this occurred. Ultimately, the



article problematizes the fundamental logics of the policy that grant the potentiality of an all-gender bathroom, but only when *requested* by students. While this article stands on its own, it also provides a foundational basis for the subsequent two articles that speak to generating empirical insights into the implementation and enactment of all-gender bathrooms in light of and even despite of the presence of this school board's trans-affirmative policy.

The third article, *Interrogating Administrator and Educator Impressions and Configurations of the All-Gender Bathroom in Schools*, builds on the previous article by illustrating – through interviews with various education stakeholders – the limits of individualized accommodation and inclusion vis-a-vis the all-gender bathroom and the problematics linked to this space. It demonstrates through various education stakeholders how the mere implementation of a bathroom space is rife with subsequent problems that range from a lack of use and a lack of respect around the necessity of the space for students. Ultimately, what is highlighted is that the presence of an all-gender bathroom in schools provides an excuse and a symbolic validation for the avoidance of addressing broader systemic impacts of institutionalized cisgenderism and cisnormativity, which I refer to as *performative inclusion*.

In the final article, *Confronting “Basement Boys” in the All-Gender Bathroom*, I elucidate the potentialities as well as the limitations associated with student-led trans-activism that advocated for all-gender bathrooms (despite the presence of a policy that provides them when requested), providing insights into the politics and specific contingencies surrounding the creation of all-gender bathroom spaces in one particular school. This article speaks to the significance of the actions of students and teachers in ensuring that the all-gender bathroom space is one that is understood and respected by the student body at large. However, it also highlights the limitations of this space as one that is capitalized upon by hegemonic systems and structures that render it a *precarious* space.

Collectively, these articles elucidate the problematics of creating all-gender bathroom spaces without confronting and considering broader systemic barriers created by cisgenderism and hegemonic structures that pervade and transcend the school walls. In

particular, they point to the limitations of these bathroom spaces in their capacity to resolve issues of trans inclusivity, and rather illuminate how they serve as an exemplification of adherence to *performative inclusion*. In this sense, the all-gender bathroom simply becomes a symbolic and superficial commitment to trans inclusivity – a mere requirement in response to a policy stipulation that inscribes such inclusivity in terms of accommodating trans and non-binary student in schools. In this regard, such policy enactment does not necessarily lead to making trans students’ lives more livable in schools but is simply a superficial gesturing of fulfilling a requirement to accommodate. However, such *performative inclusion* occludes the contextual problematics that emerge around these spaces which are elucidated and discussed throughout these articles.

In summary, these articles when taken together as an interrelated piece of scholarship, need to be understood in terms of generating knowledge about and insights into the productive capacity of the all-gender bathroom on the one hand, while, on the other hand, also raising vital questions about how the bathroom is constituted at a policy and level, and subsequently, how that impacts the administrative governance and education around these spaces in schools.

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## Article #1

### The bathroom as an interrogative site of identity and embodiment: A critical review of the literature

#### Abstract

This literature review aims to investigate and map the trends and patterns of how the existing literature conceives of and addresses the problematic of the bathroom space for trans individuals and its potentiality for generating critical insights into the impact and institutionalization of cisnormativity. I rely on trans interpretive frameworks to map and interrogate the scholarly landscape as it pertains to the space of the bathroom, presenting a trans-informed analysis of theoretical, empirical and policy-specific literature that considers the space of the public bathroom. In doing so, I identify a specific problematics in the current literature with respect to the significant absence of trans voices (especially of trans students) and their experiences with the bathroom, the tendency of scholars to prioritize queerly-informed analytics to make sense of trans bathroom experiences (often overlooking the antinormative limits of queer theory), and the bolstering of cisgender voices and unwarranted concerns – known as *transgender panics* – over those of trans folks in the development and articulation of policy. The gaps in the field are identified and the implications of key studies in the field related to both to the necessity to embrace *a critical trans politics* and a commitment to trans desubjugation are also outlined.

**Keywords:** critical literature review, bathroom; all-gender bathroom; transgender; gender-segregated; trans studies

## Introduction

The bathroom<sup>8</sup> continues to remain a site of segregation, prompting trans activists and scholars to challenge cisnormative<sup>9</sup> systems that exclude and endanger transgender<sup>10</sup> and gender non-conforming<sup>11</sup> people who struggle to fit within binaric classification systems. By forbidding, regulating, or policing transgender people's use of the public bathroom that they feel comfortable using, and which correlates with a *felt sense of gender* (Salamon, 2010) identification as opposed to that assigned at birth, not only does this constitute a disavowal of their fundamental human rights but it also leads to a refusal to allow trans folks to exist in public spaces. In addition, such circumstances increase the likelihood of their victimization when they use bathrooms that do not match their gender identity (Browne, 2004; Cavanagh, 2010; Halberstam, 1998; Ingrey, 2012, 2018; Mathers, 2017).

In consideration of these lived experiences, this critical literature review utilizes a trans-informed interpretive framework to map the emergent theoretical, empirical, and policy landscape regarding the space of the public bathroom. Its interrogative focus is on the effects of gendered bathrooms and how the “complex relationships between toilets, embodiment and identity are apparent in toilet<sup>12</sup> research and activism about toilets”

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<sup>8</sup> I employ the term “bathroom” as this is how it has been framed in the field of transgender studies, which informs the focus of my epistemology.

<sup>9</sup> Cisnormativity “describes a societal mindset wherein cis/cisgender/cissexual are presumed to be the norm, while trans/transgender/transsexual people and experiences are deemed “abnormal” by comparison” (Serano, 2017).

<sup>10</sup> *Trans* folks are individuals who feel that their body is misaligned with the gender assigned at birth (Beemyn & Rankin, 2011), thereby calling into question the dominant culture's assumption of symmetry between biological sex and social gender (Williams, Weinberg, & Rosenberger, 2013).

<sup>11</sup> *Gender non-conforming* persons are individuals whose gender expression does not match their society's prescribed gender roles or gender norms for their gender identity (Teich, 2012).

<sup>12</sup> In this review, I use the words “bathroom”, “toilet”, “washroom”, and “restroom” interchangeably. I acknowledge that the bathroom is known under multiple terms and the literature utilizes each based on the geographical location of each study. Internationally, the bathroom is referred to as toilet/toilette, lavatory, restroom, whereas in Canada, washroom is more commonly used. I ascribed to the use of “bathroom” where possible as it is generally framed as such in transgender studies.

which have the critical capacity to “inform educational practice, both about school toilets, but also in teaching around wider issues of diverse forms of embodiment” (Slater, Jones, & Procter, 2018, p. 962). I employ critical trans political frameworks to reflect on the cissexist segregationist systems governing both the conceptualization of the bathroom space and the potentialities for reenvisioning and materializing gender expansive bodily possibilities especially in educational institutions, such as schools (Serano, 2007; Spade, 2015). Specifically, due to the lack of literature about the public bathroom in the space of schools specifically (Ingrey, 2012; Millei & Cliff, 2014; Slater et al., 2018; Stiegler, 2016), this review offers trans-informed epistemic considerations of this underexplored area of the field, and provides a critical account of these works, their respective contribution(s), and highlights some of their shared limitations.

The literature for this review was collected utilizing a search of databases such as *JSTOR*, *Gender Studies Database*, *GenderWatch*, *Taylor & Francis*, *SAGE*, *LGBT Life*, and *Project MUSE*. Specific keywords such as “bathroom”, “toilets”, “restroom”, “washroom”, “transgender”, “schools”, “gender-segregated washroom” were employed to identify pertinent literature about the bathroom and its role in the lives of transgender and gender diverse people, paying particular attention to the context of schools due to the overwhelming rates of harassment and victimization endured by transgender and gender diverse students in bathrooms (Kosciw, Greytak, Zongrone, Clark, & Truong, 2018; Taylor & Peter, 2011). These searches demonstrated the scant literature available that examines which bodies count and how they are regulated and policed in bathroom spaces, and more specifically, the impact of bathrooms in schools on their lives and experiences of schooling. As such, the articles were selected based on their contribution(s) to the field in the areas of (1) the theorization of the space of the public bathroom and its administrative governance over its occupants; (2) examining the “bathroom problem” (Browne, 2004) beyond school sites; and (3) bathrooms in schools and their impact on trans students’ lived experiences.

In reviewing bathroom-specific literature and mapping emergent trends throughout the scholarship, the article presents a trans-informed meta-analysis of the theoretical and empirical considerations of the space of the public bathroom. While the

body of work addressing the problematics of the public bathroom for trans folks has continued to grow, much of this work is centered upon a theorization of the bathroom that rely on employing queerly informed and Foucauldian interpretive lenses (Bender-Baird, 2016; Cavanagh, 2010; Davies et al., 2019; Ingrey, 2012; Millei & Cliff, 2014). For example, Cavanagh (2010) and Ingrey (2012) who provided important epistemic and empirical accounts of the public bathroom (the former scholar focuses more generally on the societal impact of such binary structured publicly accessible spaces, while the latter addresses gender binary bathroom spatiality in schools) rely heavily on a Foucauldian theoretical framework to interrogate its “regulatory and dividing practices of gendered bodies within disciplinary space” (Ingrey, 2012, p. 802). In addition, Millei and Cliff (2014) also deploy Foucauldian analytics, and much like Ingrey (2012) and Cavanagh (2012), integrate Butlerian interpretive frameworks as well into their analytic approach to conceptualizing bathroom spatiality. For these reasons, I group this scholarly work together. These analyses lend themselves to a concomitance to queer theory rather than an engagement with trans studies, where queer theory has historically been largely at odds with transgender studies, often omitting trans scholars from academic discourse (Nash, 2010; Radi, 2019; Rubin, 1998). In fact, Namaste’s (2000) rejects the antinormative limits of queer theory and the problematic of the *conformity/deviance model* that pits transgender subjects who embrace gender fluidity as *gender outlaws* against those who embrace a stable gender identity as *gender defenders* (Elliot & Roen, 1998, p. 238; see also Martino, 2016).

Ultimately, the prioritization of queer theory as a basis or tool for understanding the materiality of transgender embodiment presents particular epistemological limits that “fails to account for and do justice to an understanding, phenomenologically speaking, of trans bodily ontological understandings” (Martino & Cumming-Potvin, 2018, p. 690). This is particularly clear in Cavanagh’s (2010) work, where there is admirable prioritization of trans embodiment that is represented in the research, though she primarily employs queer frameworks without attending sufficiently to trans epistemological literature. As such, this literature review presents a mapping of the field through a trans studies-informed standpoint as opposed to the current prominent reliance on queer and feminist theorization of the field and empirical data on the bathroom space.

Structurally, this literature review takes trans-informed frameworks as its launching point and examines the ways in which toilet literature has theorized the space of the bathroom, largely highlighting the aforementioned reliance on queer and Foucauldian analytical frames to make sense of these spaces (Bender-Baird, 2016; Cavanagh, 2010; Davies et al., 2019; Ingrey, 2012). I proceed by considering how the public bathroom has been considered empirically and more broadly (Cavanagh, 2010; Crissman, Czuhamjewski, Moniz, Plegue, & Chang, 2019; Mathers, 2018) and then continue by examining how the public bathroom has been studied in the space of schools (Ingrey, 2012; Millei & Cliff, 2014; Porta et al., 2018; Slater et al., 2018; Stiegler, 2016) and outline where further research might direct its attention in this regard. I reflect on this deployment of the literature to draw particular attention to the central concern in the field about the problematics surrounding *transgender panics* and the resulting debates pertaining to trans accessibility of public bathroom spaces that is largely governed by the policy articulation that is often inspired or dictated by these panics (Currah, 2016). This discussion exposes the cisgenderist logics and entitlement that drive these *transgender panics* where resultant anti-trans policies wrongly legitimize the problematic of trans folks as “deceivers” and “pretenders” (Bettcher, 2007) and therefore forecloses an understanding of the reality of violence that is enacted against trans people in the public bathroom. I conclude this review by revisiting Sanders and Stryker’s (2016) re-imagining of the space of the bathroom and its theoretical and practical significance for reenvisioning and materializing gender expansive bodily possibilities in light of the literature.

## Trans-Informed Interpretive Frameworks

This review is informed by my engagement with theoretical literature in the field of transgender studies. Stryker (2006) first articulated the purview of transgender studies arguing that it is

concerned with anything that disrupts, denaturalizes, rearticulates, and makes visible the normative linkages we generally assume to exist between the biological specificity of the sexually differentiated human body, the social roles and statuses that particular form of body is expected to occupy, the subjectively experienced relationship between a gendered sense of self and social expectations

of gender-role performance, and the cultural mechanisms that work to sustain or thwart specific configurations of gendered personhood. (Stryker, 2006, p. 3)

Importantly, transgender studies affords not only an alternative to antinormativity in understanding the embodied experiences of transgender and gender non-conforming people, particularly in light of their experiences in the bathroom, but also allows for a “critique of the conditions that cause transgender phenomena to stand out in the first place” (Stryker, 2006, p. 3). Therefore, I situated myself in this field to interrogate how this body of scholarship challenges (or reinforces) dominant cisgenderist<sup>13</sup> frameworks that do not account for the embodied experiences or perspectives of trans people, and moreover, to what extent the literature relies on a fundamental logic of antinormativity that does not adequately account for or misappropriates trans bodily ontologies (Rubin, 1998). In this regard, it is “not just transgender phenomena” that are of interest, but as Stryker emphasizes, also the “manner in which these phenomena reveal the operations of systems and institutions that simultaneously produce various possibilities of viable personhood, and eliminate others” (p. 3). It is these very phenomena that are often viewed through a queer or Foucauldian lens, as opposed to one that is informed by transgender studies.

Moreover, I highlight the tendency for scholars to take up Foucauldian theory in bathroom literature, and its potentiality in generating productive insights into bathroom spatiality and its disciplinary and regulatory effects for trans individuals. While I consider these critical insights in my review of the significant bathroom literature, I am concerned to address the epistemic significance of prioritizing trans-informed insights and their respective interpretations of Foucauldian analytic concepts as it is often these trans-informed analyses that are largely omitted from bathroom literature in the first place. Stryker’s (2014a) engagement with *biopolitics*, for example, which she understands to be invoked through gender as an “apparatus within which all bodies are taken up... [which are] an integral part of the mechanism through which power settles a given population

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<sup>13</sup>*Cisgenderist* and *cisgenderism* is the belief that cisgender identities and expressions are more legitimate than their transgender counterparts (Serano, 2007).



onto a given territory through a given set of administrative structures and practices” (p. 39) offers a trans-informed interpretive analytic stance that contributes to the interpretive potential for conceptualizing the bathroom space. Stryker (2014a) reasons that “transgender phenomena” – that which calls attention to cisnormative gender regimes – fall to the outer most margins of the “biopolitically operated-upon body, at those fleeting and variable points at which particular bodies exceed or elude capture within the gender apparatus when they defy the logic of the biopolitical calculus or present a case that confounds an administrative rule or bureaucratic practice” (p. 40). In this sense, Stryker highlights the notion of the viability of transgender bodies, and this viability is perhaps most contested in the space of the gender-segregated bathroom, and so Stryker’s (2014a) analysis of Foucault’s concept of biopolitics as it relates to transgender identity is critical in dissecting the literature that speaks to these very experiences, especially when such analyses are informed by trans epistemological frameworks.

In this same vein, I choose to employ trans studies-informed accounts of embodiment and spatiality as foundational to interrogating cisgenderist frameworks in the literature that either minimize or ignore the voices of trans people, or which diminish their livability or lived experiences by filtering them through dominant queer or feminist discourses. This is particularly important in the space of the bathroom where queer geographers conceptualize bathrooms as sites that are contested given the “racializations, genderings, and classed processes [that] take place, [while] trans scholarship offers potential insights into how some of these processes are lived and experienced” (Nash, 2010, p. 583). As such, while many queer scholars are focused on the process of “queering” spaces, transgender studies concerns itself far more with the importance of the physical embodiment of intersecting identities and understanding how the narratives of lived experiences integrate the socially constructed, embodied, and self-constructed aspects of identity are essential (Elliot & Roen, 1998; Rubin, 1998). In this respect, I problematize the overreliance of queer and feminist theorists, such as Butler’s *gender performativity*, in the research that deals with trans subjects in the space of the bathroom. Particularly, while I find Butler’s approach to *gender performativity* useful in its production of critical insights into the constitution of the gendered subject, this approach also phenomenologically disqualifies the bodily ontological experiences of trans people

(Martino & Cumming-Potvin, 2018; Rubin, 1998) by “foreclose[ing] inquiry into why and how particular identities emerge, their effects in time and space, and the role of subjects in accommodating or resisting dominant, fixed subject position” (Nelson, 2010, p. 339), providing no space for conscious agency among the subjects she discusses. This approach ignores Namaste’s (2000) insistence that

our lives and our bodies are made up of more than gender and mere performance, more than the interesting remark that we expose how gender works. Our lives and our bodies are much more complicated, and much less glamorous, than all that. They are forged in details of everyday life. (p. 1)

In this respect, I engage with trans-informed interpretive frameworks that are concerned to address questions of epistemic justice with respect to the necessity of addressing trans erasure in the current literature on the bathroom (Fricker, 2007). This signals the importance of Martino’s (2016) *transgender imaginary* that is “grounded necessarily in the voices and embodied experiences of trans subjects themselves and must be understood in response to what Namaste (2000) “documents as the epistemic violence that has contributed to the institutional and cultural erasure of the lived and bodily ontological existence of transgender people in the everyday world” (pp. 1-2; Rubin, 1998). As such, I find Radi’s (2019) commitment to a trans epistemology particularly useful in the foregrounding of trans personhood through examining “the systematic exclusion of trans\* people from institutional spaces of academic and theoretical production” (p. 44), though I extend this examination beyond just academic and theoretical production, but also to the ways in which trans embodiment and relationality are understood and considered in public spaces, such as the bathroom, as well as in public policy-making that addresses pertinent questions of accessibility for trans individuals. In addressing these polemics, I position myself alongside Martino and Ingrey (2020) who underscore the “necessity of trans informed scholarship in transdisciplinary feminist inspired inquiry that calls into question the cisgenderist logics” (p. 76) that govern bathroom access, policy articulation, and prioritize cisgenderist interpretations of bodily ontological accounts over those of trans individuals. In this respect, I, too, “centre trans epistemological concerns about embodiment as they relate to the problem[s] of the public washroom/bathroom/restroom space for trans and non-binary people” (p. 77).

In relation to the daily experiences of trans folks where gender identity and gender expression remain a constant point of (mis)readings, the space of the bathroom remains a potent environment that is rife with regulation and punishment (Cavanagh, 2010; Kosciw et al., 2018; Taylor & Peter, 2011). Such surveillance, regulation, and subsequent (mis)readings lead to what Browne (2004) refers to as *genderism*, which are hostile readings of bodies that are comprised of “unnamed instances of discrimination based on the discontinuities between the sex/gender with which an individual identifies, and how others, in a variety of spaces, read their sex/gender” (p. 332). *Genderism* is therefore understood as “an ontological assault on trans and gender-nonconforming individuals and their creative expression of being gendered in the world” (Grace & Wells, 2015, p. 45). In this respect, Browne’s conceptualization of genderism works in tandem and complements Nicolazzo’s (2017a) concept of *compulsory heterogenderism*, which is understood as “a cultural condition by which diverse gender identities are positioned as abject or culturally unintelligible” which inevitably leads to their erasure and “makes one’s gender identity incomprehensible, unknowable, and invalid” (p. 247). Consequently, genderism works in conjunction with compulsory heterogenderism, overlapping because “gender, sex and sexuality are not only performed, they are contextually enacted” (Browne, 2004, pp. 334-334). *Genderism* and *compulsory heterogenderism* collaboratively pervade the daily experiences of trans people, and remain intimately connected to systems of sexism, racism and heterosexism.

Nicolazzo (2017a) maintains that sexualities are deployed as barricades that “inhibit one’s ability to identify openly” as transgender (p. 247), despite the work of scholars and activists detailing the dangers of “collapsing these two distinct yet overlapping categories of identity” (p. 256). Pitcher (2018) consolidates this position, insisting that despite the fact that trans people have their very real lived experiences with respect to their gender, others will “negate and/or (mis)recognize” these experiences and their felt sense of self by relying on a lens whereby gender is bound to sexuality, often leading to a fundamental trans erasure of an individual’s lived experiences (Pitcher, 2018, p. 38). This conflation between gender and sexuality or attempt to understand gender through sexuality results in a false stabilization of gender through the desire of cissexist and heteronormative renderings and comprehension of identity. In this respect, both

Nicolazzo (2017a) and Pitcher (2018) demonstrate through their respective research the extent to which *compulsory heterogenderism* impacts the lives of trans individuals, particularly in the academy, but these experiences translate through all institutions and at all vectors of trans personhood. Most notably, this is rampant in the space of the bathroom and contributes to *transgender panic* (Currah, 2016) that informs policy articulation and reform. Ultimately, I consider how (hetero)genderism might be resolved through the implications of Sanders and Stryker’s (2016) universal bathroom design.

In order to consider the impact of *transgender panics* (Currah 2016), I rely on Spade’s (2015) *critical trans politics* in order to analyze and critique trends within policy articulation and *cistems*<sup>14</sup> governing the space of the bathroom. *Critical trans politics* affords the capacity to analyze structures that actively impede and regulate the lives of trans folks. Spade (2015) explicates that this *critical trans politics* necessitates “an analysis of how the administration of gender norms impacts trans people’s lives” and therefore, “how administrative systems are sites of production and implementation of racism, xenophobia, sexism, transphobia, homophobia, and ableism under the guise of neutrality” (p. 72). A *critical trans politics*, then, does not advocate for a model of equality through legislative systems, but rather, challenges the administration of violence that the law and policies create. Specifically, this analysis is “essential for building resistance strategies that can actually intervene on the most pressing harms trans people face and illuminate how and when law reform is a useful tactic in our work” (Spade, 2015, p. 73). This critical lens is particularly salient in an analysis of the detrimental impact of *transgender panics* (Currah, 2016) – that is, the resultant violent and discriminatory behaviour against trans folk due to “surprise” of learning that they are trans or the implications of their transgender identity – which result in the creation of policy that bars trans folk from accessing the bathroom that aligns best with their gender identity. *Critical trans politics* understands that this transphobic violence is not only “in individual acts by intentional perpetrators, but in the enforcement of gender norms

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<sup>14</sup>Patel (2017) refers to *cistems* as a power structure that perpetually subjugates, oppresses, and marginalizes transgender people while implicitly favouring and privileging cisgender individuals.

broadly on everyone, shaping everyone's field of action, existence, and self-understanding" (Spade, 2013, p. 43). This transphobic violence readily shapes policy articulation that ultimately sanctions transgender panic. *Critical trans politics* allows for a dissection of how these policies legitimize trans panics by privileging the voices, fears, and faux-safety concerns of cis folk over the legitimate violence endured by trans people who access bathrooms (Cavanagh, 2010; Taylor & Peter, 2011). I apply Spade's epistemic lens of a *critical trans politics* to elucidate the manner in which safety discourses enshrouded in *transgender panics* (Currah, 2016) are deployed to reinforce heteronormative and cisnormative regimes that underpin policy creation, implementation, and govern accessibility and livability for trans folks to bathroom spaces. Moreover, due to the commitment that *critical trans politics* has to intersectionality and the considerations of race along with gender, I elucidate the importance of developing bathroom solutions – in light of the literature – that do not perpetuate the policing of race–sex identity (Davis, 2018).

Furthermore, solutions with respect to addressing the bathroom problem are those that must account for and include the voices of transgender folk that can lead the charge in the process of what Stryker (2006) refers to as trans (de)subjugation. If trans-affirmative research pertaining to the space of the bathroom seeks to support trans-inclusion, this necessitates engaging with “a whole series of knowledges that have been disqualified as nonconceptual knowledges, as insufficiently elaborated knowledges, naïve knowledges, hierarchically inferior knowledges, knowledges that are below the required level of erudition or scientificity” (Foucault, 1997, p. 7), which are “precisely the kind of knowledge that transgender people, whether academically trained or not, have of their own embodied experience, and of their relationships to the discourses and institutions that act upon and through them” (Stryker, 2006, p. 13). In this regard, (de)subjugating the space of the bathroom, confronting dominant, cisnormative discourses of such a heavily gendered space, cannot be done without the voices of transgender participants and authorship in the research itself. With a limited number of studies that include the voices of trans students in school bathroom research (Ingrey, 2018; Millei & Cliff, 2014; Slater et al., 2018), this narrow pool of trans-inclusive literature speaks to a tremendous limitation in the field due to the scarce representation of trans voices that can recount

these embodied experiences within the gendered space of the bathroom. The scant inclusion of their voices in school bathroom literature points to minimal opportunities for transgender people to speak to the institutionalization of cisnormativity based on their own lived experiences that are inextricably bound to settler colonial readings of gender diversity (Driskill, 2011; Martino & Cumming-Potvin, 2018; Morgensen, 2016).

## Theorizing the Space of the Public Bathroom

The theoretical literature surrounding identity formation in the space of bi-gender bathrooms indicates how space implicitly and explicitly determines who we are and who we are *permitted* to be in these gender segregated spaces (Halberstam, 1998; Rasmussen, 2009). In addition, much of this literature relies on queer interpretive frameworks in order to untangle the nuances and complexities of the regulations and accessibility of the bathroom (Cavanagh, 2010; Davies et al., 2019; Ingrey, 2012). Queer theorizing has been the hallmark of most geographical research that sets its focus on reenvisioning and materializing gender expansive bodily possibilities, particularly within spatial considerations such as the bathroom (Nash, 2010). Equally as significant, however, are Foucauldian interpretive frameworks that are initially deployed and serve as a foundation to problematize and theorize the space of the gendered bathroom prior to dissecting the gendered implications through queerly-informed frameworks. Below, I elucidate how scholars, such as Cavanagh, (2010), Ingrey (2012), Davies, Vipond, and King (2019), Slater et al. (2018), and Bender-Baird (2016), rely on both Foucauldian and Butlerian theorization to understand the problematics and mechanisms of control and discipline deployed in the space of the bathroom, showcasing a gap in toilet literature that omits the inclusion or prioritization of trans-informed frameworks to unpack the problematics of this space.

Of these studies, Cavanagh (2010) offers amongst the most expansive and influential considerations of the bathroom, both theoretically and empirically. Cavanagh (2010) submits significant epistemic insights into how the gendered spatial design of the public bathroom is built upon rigid cissexist and heteronormative scripts that dictate the practices and experiences of its occupancy. Cavanagh's (2010) intent is to "theorize how and why the public washroom is a site for gender-based hostility, anxiety, fear, desire,

and unease in the present day..." (p. 5). Therefore, the bathroom is a space where "gender is mandated, [and also] a place where the precariousness and fragmentation of the gendered bodily ego is felt" (Cavanagh, 2010, p. 47). In this regard, Cavanagh theorizes the space of the bathroom as implicated in cementing the notion that social subjectivity is spatialized, and therefore, bodies "are either incorporated (aggressively assimilated) or abjected (ejected or defensively refused)" (p. 50). To be rendered abject is to succumb to a process whereby those who are constituted as Other are banished when they are unable to consolidate normative gender identities and submit to the ordering of bodies in toilets by gender. In this sense, Cavanagh leans on Foucault to explicate the regulatory effects of the spatial design of bathrooms.

While Foucault discussed panoptic surveillance in the space of the school lavatory by describing how "latrines had been installed with half-doors, so that the supervisor on duty could see the head and legs of the pupils, and also with side walls sufficiently high that those inside cannot see one another" (Foucault, 1977, p. 173), Cavanagh (2010) elaborates further on the bathroom as a harmful regulatory space – particularly for trans people – as it fosters a sense of fear and surveillance as individuals are unaware that they are being monitored through their own self-discipline or via the surveilling gaze of others (p. 86; see also Bender-Baird, 2016; Ingrey, 2012; Millei & Cliff, 2014).

Cavanagh (2010) primarily problematizes the gendered public bathroom by suggesting that to have one's gender identity monitored and questioned "is to be shamed and ostracized in the public eye. Part of what it means to come undone is to be effaced or rendered invisible" (p. 55). Such a process of subjectivizing surveillance and investigation forecloses the possibility for trans subjectivities to occupy such spaces safely and without interrogation, resulting in these social spaces relationally dictating "who gets to count as a gender-normative subject, under what conditions, [and] through whose estimate" (Cavanagh, 2010, p. 53). Ultimately, Cavanagh (2010) insists that "the institution of the public toilet is designed to discipline gender" (p. 5). However, while Cavanagh (2010) signals Foucault's idea that "where there is power there is resistance" (p. 87), she goes on to rely on Butler's insistence that any resistance within the disciplinary machinery remains within the dominant power regime, and therefore, "any

mobilization against subjection will take subjection as its recourse” (Butler, 1997, p. 104; cited in Cavanagh, 2010, p. 87). In this case, any capacity to subvert the disciplinary power in the gendered bathroom is rendered insignificant in the grand scheme of power relations, resulting in Cavanagh’s insistence that trans occupants are either “subject to visual scrutiny in bathrooms or rendered invisible” (p. 84).

While Cavanagh and Ingrey (2012) both deploy Foucauldian analytic frames to problematize the gendered public bathroom, Ingrey (2012) applies the concepts of disciplinary space and subjectivation, indicating that the panoptic design of the bathroom invokes self-disciplinary effects where occupants feel as though they are being watched and monitored in the way they are “doing” gender and if they are “performing” gender correctly in the gendered washroom. In this way, examining one’s gender presentation in the space of the public bathroom fosters an environment of (self-)regulation and policing. Ingrey (2012) also demonstrates how this regulation and self-disciplining leaves no room “for gendered bodies using the public toilet, and these students perceived virtually no room for their own questioning of gender binaries” (p. 808).

By deploying Butler’s concept of *gender performativity*, Ingrey (2012) illustrates the manner in which “space and the gendered subject are formed alongside each other” (p. 801). Ingrey (2012) suggests that architectural design and space is intertwined with gendered subjectivities, referencing Butler’s (1995) idea that each is “constituted through exclusion, that is, through the creation of a domain of deauthorized subjects [or spaces]” (p. 47). Ultimately, much like Cavanagh, Ingrey (2012) emphasizes Foucault when insisting that there are possibilities for resistance against “power [that] is exercised only over free subjects” (Foucault, 1982, p. 221), where she introduces Butler’s concept of the “double movement” in which “the subject is dependent upon discursive and material limits, indeed is formed within them, but also has room to resist these limits” (Ingrey, 2012, p. 802).

Nevertheless, Ingrey (2012) relies on a queerly-informed analytic framework deployed by Butler, ultimately rooting her analysis in Butler’s work on “gender performativity and the abject as the basis for investigating the impact of an institutionally



normalised space” (p. 814). However, while *performativity* as a theoretical tool has its strengths by broadening the domain of possible and livable gender identities, serving as a kind of net by which to interpret gender, it also appears incapable of accounting for those trans folk for whom gender fluidity and gender indeterminacy do not capture how they self-identify and their *felt sense of gender* (Salamon, 2010). Particularly, “the ‘illusion’ of a natural or symbolic necessity structuring our identity can be so strong that to disavow this force as merely illusory boils down to a form of cultural imperialism” (Schep, 2012) where, ultimately, to say “gender is performative may be liberatory for some, but pose an insurmountable conflict for others” (p. 874) who comfortably root their gender in a more stable normative determination.

In that same vein, Davies, Vipond, and King (2019) draw on and extend Ingrey’s (2012) work by also deploying Foucauldian and Butlerian analytical frameworks “to transgender theory, transgender adolescents’ narratives, interviews, and educational policies” (p. 867). Davies et al. (2019) provide a nuanced deconstruction of the space of the bathroom by drawing on Foucauldian and Butlerian frameworks to “deconstruct the systemic binaries, forms of categorization, and the regulatory means that reify gender conceptions and ideologies within schooling” (p. 867) in order to advocate for the expansive implementation of all-gender bathrooms across Canada. The theorizing conducted by Davies et al. (2019) offers an excellent, albeit regurgitated, application of Foucault’s theory of panoptic power and regulatory mechanisms to the space of the bathroom. However, Davies et al. (2019) sew the conceptual frameworks of Serano (2007) and Namaste (2000) into their understanding of gender binary bathroom access, speaking to the perpetuation of “cisgender privilege” which ultimately “works to silence the narratives and experiences of transgender students” ultimately contributing to their “institutional erasure” (Davies et al., 2019, p. 869).

Ultimately, Davies et al. (2019) problematize the space of the gender-segregated bathroom in schools in favour of an all-gender bathroom that can “challenge the gender binary ‘truth’ and offer a solution [to] ‘the bathroom problem’” (p. 874) and therefore, emphasize that transgender students need to be provided with “a space where their identity is being authenticated within the confines of their school environment” (p. 875).

Certainly, the all-gender bathroom offers spatial possibility for the envisaging of a spectrum of identities that might not fit within the space of a gender-segregated bathroom. However, to suggest that trans identities might not be authenticated within the space of the gender segregated bathroom is to suggest their impossibility to ever exist. Such a dogma aligns with a prominent criticism against queer theory itself which tends to “dissolve boundaries and render identities fluid, partial and unstable works to make certain groups [...] ‘disappear’” (Nash, 2010, p. 582).

In addition, Davies et al. (2019) conclude with the impression that by implementing an all-gender bathroom, “transgender and gender non-conforming students can escape the panoptic lens of gender-segregated washrooms” (pp. 877-878). However, this is a misreading and misunderstanding of Foucault’s panoptic gaze and its function. Foucault reasons that “power is everywhere; not because it embraces everything but because it comes from everywhere” (Foucault, 1990, p. 93) and as such, the panoptic gaze, stemming from and steeped in power, does not simply dissipate as a result of the reimagining of a bathroom space. In fact, who accesses the space of an all-gender bathroom may very well continue to be regulated and monitored by those outside of it as well as those who enter the space due to the omnipresence of power that is “unverifiable” (p. 56). Surveillance does not cease simply due to the rebranding of a space. After all, Browne (2004) noted in her seminal study regarding “the bathroom problem” that “it can be argued that just as place is (re)making (and sexing) us, it is being (re)made (and sexed)” (pp. 334-335) which is certainly applicable to the space of the all-gender bathroom.

Where one accesses the space of the bathroom dictates how they are read, understood, and shapes their relationality to the location. In particular, research grounded within an epistemic focus on embodied relationality pertaining to the space of the bathroom has considered the implications of this symbiotic relationship between identity and the bathroom. In particular, Rasmussen (2009) offers a theoretical account of the space of the bathroom, paying particular analytical attention to gender as a category of analysis and identity formation. Principally, it is through spatial signification that embodied relationality is established due to the fact that “toilets don’t just tell us where to

go; they also tell us who we are, where we belong, and where we don't belong" (Rasmussen, 2009, p. 440). In this regard, such spaces may operate as exclusionary for those who do not and cannot ascribe to hegemonic gender norms, resulting in the implicit shaping of subjectivities. These spaces "reflect on, or mirror, particular gender embodiments based on a binary construction" which only serve to dictate intelligibility based on who is afforded access to them and how easily (Kjaran, 2019, p. 1021). Locations, therefore, have the capacity to "shape understandings of subjectivities that are emergent within social networks and institutions" (Mayo, 2017, p. 535) just as much as subjectivity can be delegated and repressed by policies and legislation that limit the possibility for trans intelligibility. As Rasmussen (2009) notes, "We do not simply choose to be queer in response to the space of the toilet; rather, public toilets are an architectural feature that can make us feel queer, or cause others to police gender identity" (p. 440).

Slater, Jones, and Procter (2018) further this thinking by arguing that the bathroom serves as a site that conditions children to consider "Disabled and queer bodies as out of place" (p. 951), thus inadvertently perpetuating "the dominant structures of 'normalcy' that teach us about the 'right', 'ideal' and 'normal' way of being child/adult/human" through structural organization and panoptic monitoring of allowable bodies in a specific space (p. 952), which underscores the experiences of trans students whose experiences are also rendered abnormal and individualized. As such, Slater et al. (2018) assert that "space and place shape embodied experience" (p. 954). This is an important consideration and highlights Paechter's (2004) insistence that "once we start to segregate them [children] to change for PE, they learn that male and female bodies, when unclothed, are to be kept separate" (p. 315), shaping an inherently heteronormative, and sexually innocent assumption about the bodies of cisgender students while "trans children are adultified" (Stone, 2018) and implicitly "frame them as potential sexual predators" (p. 3).

Slater et al. (2018) further argue that gender segregated toilets cement the idea that "there are two genders that are polar opposites to one another and must be kept separate when unclothed" (p. 954). This underscores a heteronormative lens that steeps the separation of boys and girls due to presumed heterosexuality and that if mixed when

unclothed, boys and girls will engage in sexual acts in the bathroom. Such a supposition contributes to the process of compulsory heterogenderism, “which erases or otherwise makes one’s gender identity incomprehensible, unknowable, and invalid” due to cisnormative and heteronormative presumptions. Ultimately, this erasure overlaps with Rasmussen’s (2009) theorization of the space of the bathroom as one that “demonstrate[s] the complex ways in which sexuality and gender are embodied, enacted, disciplined and imagined” (p. 444).

However, very little bathroom literature considers the intersections of race, culture, gender, and (dis)ability in the space of the bathroom, highlighting a necessity for further consideration of how these intersecting identities impact and inform one another, especially when it comes to trans people of colour. Slater et al. (2018) consider and unfurl the intersections of how race, culture, gender, and (dis)ability are dictated and defined by the space of the bathroom, which is epistemically significant and which pertains to Spade’s call for “racial and economic justice–centered trans resistance” whereby “trans people [of colour] are participants in a range of formations doing this work” (Spade, 2015, p. 160). Such a practice requires a commitment to Stryker’s (2006) call for trans desubjugation that allows for a focus on creating spaces for embodied experiences of transgender and gender non-conforming people to be articulated in order to speak to “the institutionalization of whiteness in determining which bodies matter” (Martino & Cumming-Potvin) and therefore “understanding the limits of settler colonialist understandings of gender diversity with its logics of whitewashing and erasure of race” (p. 688). Such intersectional considerations also undermine the point brought forth by Davies et al. (2019) that an all-gender bathroom will resolve the panoptic gaze as other identity categories, in addition to gender, continue to be regulated and fall within a disciplinary regime. In addition, allowing this space for transgender people to provide accounts of their own embodied experiences allows for an embrace of the transgender imaginary that “encapsulates more dynamic possibilities in the realization of gendered personhood” (Martino, 2016, p. 383) which supports Stryker’s phenomenological perspective.

Bender-Baird (2016) also addresses this desire to understand the impact of identity and toilets. She provides a theoretical account of the extent to which trans and gender diverse people “sometimes engage in situational docility by adjusting their bodies” in order to “be readable at a glance – due to safety concerns” (p. 984). Bender-Baird employs an autoethnographic account of their respective bathroom experiences whilst noting the extent to which cisgenderism was imposed – not always on them, but certainly in the space of the public bathroom. Specifically, she acknowledges the bathroom as a disciplinary space where “people check the signs, decide which space is meant for them, and then watch each other, ensuring that the unwritten rules of accessing public restrooms are being followed” (p. 985). In this space, Bender-Baird (2016) extends and argues that docile bodies are constructed, whereby a docile body in the space of the gendered bathroom is one that is not only “identified as either man or woman but also be easily read as such by others” and therefore, the manner in which “gender is performed in spaces like the bathroom creates docile bodies” (p. 985). Each bathroom is further partitioned with stalls for the management of these docile bodies, and because “discipline organizes an analytical space” (Foucault, 1977, p. 143), this space is an illustrative case for the disciplinary mechanisms of gender regulation.

As a result of this gender separation and the extent to which docility is imposed on each respective body, Bender-Baird highlights the extent to which transgender and gender diverse people incessantly face some measure of self-surveillance in terms of the necessity to maintain their “situational docility” (Bender-Baird, 2016, p. 986). This *situational docility* requires adjusting gender presentation in order to access a space more safely. In this respect, there is a need to shift and mould one’s identity to maintain situational docility or otherwise “face punishment for violating gender norms” (p. 987). It is Bender-Baird’s (2016) hope that we can shift the need for *situational docility* by reconsidering structural changes first and foremost before tackling harmful transphobic discourses that penetrate these gender-segregated space. However, no such studies actively interrogate how the all-gender bathroom helps minimize these instances of gender policing, situational docility, and compulsory hetero(genderism) (Browne, 2004; Nicolazzo, 2017a).

## The (In)Accessibility of the Public Bathroom and the Curtailment of Trans Voices

Numerous studies have provided empirical insight into the (in)accessibility of the bathroom for trans and gender diverse people. Ultimately, this is divided between literature that is focused on the problematics of the bathroom within schools, and the issues that trans folks face in accessing bathrooms *outside* of the school context. The stigma, harassment, victimization, and purviews invoked through cisgenderist bathroom occupants along with how this literature is approached differs – in some capacities – between the two contexts and therefore, it is divided to account for these contextual considerations. Moreover, the manner in which studies about the bathroom are conducted vary in a breadth of ways. Firstly, in reviewing the subsequent literature, it is important to highlight that Mathers (2017) and Crissman et al. (2019), for example, reflect on trans experiences in the space of the gender-segregated bathroom by relying on (either primarily or completely) cisgender perspectives, perhaps implicitly perpetuating an exclusion of trans voices by projecting (and perhaps favouring) cis voices, contributing to an ongoing *white cis colonization* over trans scholarship. This is a common trend as the voices of trans folks, especially in schools, remain largely absent from the literature and moreover further highlights the whiteness of trans studies accounts of bathroom spaces when the voices of trans individuals are provided. Beyond the space of the school, there are outliers, such as Cavanagh (2010), who while she interviews over 100 LGTQIA+ (most of whom were white, able-bodied, middle to upper class grad students) participants in her seminal study of the space of the bathroom across the Canadian context, the voices and experiences that are highlighted present solely white trans lived experiences, offering no nuanced engagement with race nor intersectionality and thus forecloses the bodily possibilities of trans folks to only those that are white and middle class. As Adair (2015) highlights, “[e]mbedded within the question of physical access is always the question of social access” (p. 466). In this respect, it is critical to question the access afforded to black and/or disabled folks who endure “constant micro- and macroaggressions [that] create barriers for students of color to equitable access”, and such an omission is a disservice to the voices of black, trans, disabled individuals as “the scope and the stakes of ‘accessibility’ are inseparable from issues of race and class” (p. 466). Ultimately,

Cavanagh offers space for (white) trans voices, providing an academic space for trans narratives to emerge whereas Crissman et al. (2019) and Mathers (2017) reserve that space for primarily cis perspectives.

Specifically, Crissman et al. (2019), for example, conducted an expansive survey study with nearly 700 youth of which only 3.7% (n=25) were transgender and an otherwise overwhelmingly white sample (71%). However, the *raison d'être* for the conduct of this study was to discuss the “regulating of bathroom use by transgender people,” (p. 5) while the very voices of those being discussed are notably absent and primarily expunged by an overwhelmingly cis, white majority of respondents. In fact, of the 25 direct quotes used by the authors, only two are from trans participants while the other 23 are reserved for cis voices. Such a prioritization of cis voices in the discussion of transgender people and regulation supports the protests of various trans scholars who insist that trans people are rarely considered bearers of relevant understandings of knowledge production, and rather, deployed “only as objects and instruments” of study and analysis (Radi, 2019, p. 48; see also Bettcher, 2014; Namaste, 2009; Raun, 2014; Stryker, 2006).

Despite the notable absence of trans voices in the study itself, Crissman et al. (2019) further the dialogue about how cisgender youth understand debates about the space of the bathroom and the extent to which trans people are regulated through cisnormative and heteronormative logics. This often resulted in cis participants invoking an equity as human rights (Spade, 2015) discourse that advocated for accessibility on behalf of trans people in bathrooms. However, Crissman et al. (2019) present the opposing side from cis participants who deploy biological essentialism and “trans as predator” as a rationale and justification for barring trans people from accessing the gender-segregated bathroom with which they identify. Such conversations tend to be counterproductive unless challenged given that “fears of increased safety and privacy violations as a result of nondiscrimination laws are not empirically grounded” (Hasenbush, Flores, & Herman, 2019, p. 80) and there is no such evidence of “people pretending to be transgender in order to harm others in public restrooms” (pp. 78-79). Nevertheless, Crissman et al. (2019) appear optimistic that the majority of respondents in

their survey “support transgender people having the right to choose which bathroom they use without restriction”, inferring that “a large number of youth may be willing and able to provide peer support to transgender youth” (p. 13). Such a supposition does little to elucidate what such supports might look like and the extent to which this process of support is filtered through a process of what Mathers (2017) refers to as *cisgendering reality*.

In particular, Mathers (2017) sought to investigate how “cisgender people actually deploy normative gender frameworks” and resultantly reproduce a “cisgender reality” (p. 296) when interpreting or attempting to understand trans experiences with respect to the public bathroom space. Mathers (2017) assessed how 99 *cisgender* participants would respond to a vignette that showcased a disruption of stable binaric understandings of gender. The vignette itself elucidated the day-to-day life of a woman named Lisa who was in her early 20s, had her hair cut short, and wore clothing she purchased from the men’s department. The vignette explicates the issues and misreadings that the young woman endures when trying to use the women’s restroom, ultimately resulting in her avoidance of public bathrooms altogether. Much like the study conducted by Crissman et al. (2019), Mathers relies solely on cisgender interpretive insights to make sense of transgender embodied experiences where, ultimately, such approaches to research contribute to the implicit hegemonic discourse that the bodies and genders of trans people are “turned into matters whose credibility requires the opinion of various (cis) intellectual authorities” (Radi, 2019, p. 49). While this is necessarily the point of the research, it contributes to an emergent trend in research about transgender bathroom usage where the voices of trans folk are typically omitted or otherwise minimized in favour of cisgender readings of the ritual of usage.

In this regard, Mathers (2017) found that the tendency of cis participants was to reassert the aforementioned vignette through dominant, “hegemonic assumptions about the ‘normal’ alignment of sex/sex category/gender” (p. 298). Specifically, participants’ responses revolved around someone “they conceptualized as belonging in the female sex category who was doing her gender inappropriately” (p. 301) and therefore, struggled to conceptualize whether or not Lisa should be permitted to enter the space of the women’s



bathroom. It is through the cisgendering of reality and framings of these views and beliefs from cisgender individuals that Mathers is able to offer a more nuanced perspective of bathroom equity and the resistances attributed to it. Moreover, by understanding cisgender renderings of trans experiences, we can also glean understanding about how cisgender lawmakers understand and pass legislation *about* transgender individuals.

The primary responses to a woman whose gender expression was read as male whilst using the women's bathroom were categorized in two specific areas: "they would do nothing (i.e., deference)" or they would respond by "emphasizing their own dominance in the situation" (Mathers, 2017, p. 301). Regardless of the response, participants "often reproduced cissexist assumptions about gender" (p. 301). This was most notable in the way that participants insisted that Lisa should respect cisgender norms: "I mean they have to be respectful and know that people are going to respond, people aren't going to be like 'oh hey. You look like a guy but you're a female. Come on pee next to me'" (p. 302). Moreover, participants believed that Lisa should invoke "strategies commonly associated with women (apologize, stay calm, express unnecessary gratitude, explain yourself) to smooth the interactional disruption of the gender panic" (p. 303). In this respect, cisgender bathroom occupants place the onus on the trans individual to conduct themselves in a way that makes *cisgender people* feel comfortable.

In addition, many of the participants comprehended the access of these spaces by transgender persons through a lens of compulsory heterogenderism where sexuality and gender were entangled and understood through each other. Specifically, participants wanted to ensure that "public women's restrooms remain de-sexualized and penis-less" (Mathers, 2017, p. 310). Such a desire perpetuates the heteronormative and cisnormative notions that men and women should be separated and that Lisa – if required – should prove her womanhood through her genitalia. Such an expectation implicitly reinforces *transgender panic* and elicits the fear of a penis being present where it should not be (Currah, 2016), a troubling concept that will be discussed in more detail below along with its impact on discriminatory anti-trans policy articulation. It also erases the possibility of same-sex attraction or indiscretions in such a space. Resultantly, through this process of

compulsory heterogenderism, often the diverse gender identities and expressions often go unrecognized or are rendered culturally unintelligible (Nicolazzo, 2017a, p. 246).

Such interpretations of the bathroom are dependent on cis understandings and conceptualizations of the lived bodily experience of trans people. Cavanagh (2010), on the other hand, underscores how many of her participants recounted gender misreadings that involved double takes and verbal challenges of a person's right to access the space, and even the involvement of security guards and police. Participants also pointed to mirrors as tools for panoptic surveillance whereby "mirrors are the site where the panopticon is actually operating [...] mirrors are definitely used for ... surreptitious [gender] surveillance" (p. 87). While this is a pressing issue in the gendered public bathroom, the hypothetical removal of gender scripts in all-gender bathrooms that are multi-stalled has the capacity to minimize the deployment of mirrors for gender surveillance. Resultantly, Cavanagh (2010) conclusively advocates for an increased presence of all-gender bathrooms, suggesting that "the most urgent [political] issue being better accommodation for trans people in washrooms... gender-neutral ... or even single-user bathrooms" (p. 211). Such advocacy is pertinent given the collective experiences of many of Cavanagh's participants, who feel they must ascribe to a cisgender choreography that necessitates certain positions and movement of male and female bodies in order to access gendered spaces successfully.

Ultimately, these participants indicated being victims of beatings, harassment, police arrests, along with the "trans as predator" fallacy where children are concerned in bathrooms. Cavanagh (2010) reasons that a rationale for this might be that "gender non-conformity and/or trans identities are, irrationally, felt to be contagious or, at the very least, disorienting to many non-trans people" (p. 63). In this sense, it is useful to consider the studies that highlight cisgender perspectives (Crissman et al., 2019; Mathers, 2017) to understand from where this fear might emerge given that Cavanagh (2010) offers no such evidence of this fear of contagion but relies primarily on suppositions. Cavanagh's (2010) study does not rely primarily on participant interviews, where often, these voices and experiences play a supporting role in the thick descriptions of bathroom regulation and monitoring as understood through Foucauldian analytics. Her primary goal is to showcase

that the gendered bathroom and trans folks occupying these spaces forces cisgender people to confront the malleability of gender but does so at the expense of side-stepping and failing to prioritize the accounts of trans participants' own experiences in bathrooms. Ultimately, Cavanagh advocates for a kind of universal bathroom design "that will gently guide unsuspecting patrons through non-normative spatial maps. People must not feel as if they are in danger of being undone" (p. 218). While this begs the question why we must tiptoe around subverting and confronting the hegemonic *cistem* (Patel, 2017), a discussion of what this space might look like will be elucidated further in the implications of this review, as Cavanagh offers no such insight.

Such calls for all-gender bathrooms are not necessarily unique, and in fact, youth are also highlighting the importance of these affirming (and presumably *safe*) spaces. After interviewing 25 youth (aged 14-19) about their perceptions of the bathroom, Porta et al. (2017) also maintain the necessity of all-gender bathrooms as declared by their participants. Much of these reflections from the youth unproblematically advocate for these inclusive spaces in the school, but when youth maintain being presented with the option where they ultimately "just let me use staff ones [bathrooms] [and] people have seen me going in and out and nobody asked questions" (p. 109), this is left unchallenged by the authors. Such resolutions do little to rupture a *cistem* that requires students to submit to request to be considered. Instead, Porta et al. (2017) refer to this as a positive experience due to "a supportive adult in the school who was approachable and willing" (p. 109). However, the implications of the regulation, surveillance, and process of submission to a *cistem* that necessitates this process in the first place is largely left unchallenged and unconsidered by the authors. Moreover, due to the sample being overwhelmingly white (68%), questions of race, class, and (dis)ability are largely left unconsidered and therefore, there is no engagement with "nonnormative embodiment as coextensive with questions of fundamental educational in/exclusions, to see bathroom politics" as a pattern of *cistemic*, racialized, and classist hierarchies that dictate accessibility and livability (Adair, 2015, p. 467). Importantly, however, Porta et al. (2017) encourage that "health professionals, policy makers, politicians, school administration, and parents recognize that LGBTQ youth have voices that should be heard when bathroom-related decisions, policies, and legislation are being considered"

(p. 111). Unfortunately, these voices and experiences are largely ignored as a result of transgender panic – a point that will be further elucidated later in light of a review of the school-based and policy-related literature that investigates all-inclusive bathroom spaces in school contexts. While Porta et al. (2017) offer a superficial venture into the insights of youth and their bathroom experiences, there is a marked scarcity of literature pertaining to students at school sites and their experiences in these spaces.

## Interrogating the “Bathroom Problem” in School Sites

Significant research has highlighted that schools are disciplinary spaces and sites for the disciplining and regulation of gender (Martino & Pallotta-Chiarolli, 2005; Pascoe, 2011). Given the role that bathrooms play in dictating gendered personhood, it is critical to understand how these disciplinary spaces enforce the gendered embodied relationality of students in schools. The experiences of trans students in bathrooms within schools is a largely underexplored area in academic literature, yet extremely significant, as it is where understandings about gender norms first become consolidated and reinforced by regulatory practices and systems. However, a few scholars have begun to pave the path for unraveling the convoluted and impact of the “bathroom problem” (Browne, 2004) in the space of school sites. With respect to school bathrooms, many scholars have embarked on unfurling the “complex relationships between toilets, embodiment and identity” (Slater et al., 2018, p. 952), often contending how the school toilet demarcates “problem bodies” (Millei & Cliff, 2014), effectively “disqualifie[s] entry... of the object [body]” (Ingrey, 2012, p. 810), and consolidates the political discourse of “ordering and hierarchizing of types of bodies along racial, gender, and sexual lines” (Stiegler, 2016, p. 356). In this regard, this literature is couched in terms of its reference to broader climate research reports (Kosciw et al., 2018; Taylor & Peter, 2011) that highlight the discomfort and difficulties that trans youth endure in schools, and therefore, this literature speaks specifically to an important body of work and extends it by providing access to qualitative research that is able to centre the perspectives and experiences of trans and gender diverse youth, but equally how cis and queer students in schools are interrupting gender binaries with respect to their structured and relational manifestation in bathroom spaces in schools.

One such example can be witnessed through Ingrey's (2012) study of the bathroom space. Ingrey (2012) relies on student drawings and the data from one focus group with seven students and eight individual interviews with those seven students plus another about how the bathroom space "was and could be experienced" (p. 800). Only one participant came out (whether this pertained to a revelation about their gender identity or sexuality is unclear), but this participant was white along with two others, while three others were Asian-identifying and two were non-white. However, an intersectional consideration is not presented when engaging with these identity positions despite the fact that varying forms of discrimination, due to colonization, occur in an interrelated manner, and therefore, contribute to the violence and an embodied relationality dictated by the intersections of race, gender, and class. Such an omission and critical reflection overlooks the relationship between gender, race, class, and (dis)ability.

Ultimately, the participants were asked to render a "visual representation of their concept of gender" where students ultimately "sketched stick figures that connotated toilet iconography", which is primarily where Ingrey (2012) focused the majority of her interview inquiry to elucidate the "connection between gender and the toilet" (p. 804). Ingrey (2012) raises critical questions regarding embodied relationality as it pertains to the space of the bathroom and its effect on the gendered subjectivities of its occupants. By interviewing eight secondary school students individually and seven within a focus group, Ingrey maps – through their own artwork and descriptions – how students understand the surveillance of their bodies in the space of the bathroom and its impact on how they are constituted as gendered subjects. She considers "how an institutional space, such as the school toilet, can inform our understand of self-fashioning and peer regulatory practices as they relate to gender performativity and embodiment" (p. 800). Such a consideration importantly questions the role of the bathroom as a space in conditioning and dictating the nature of one's personhood simply by the nature of accessing the space. In this regard, Ingrey signals the notion of relationality in the space of the "transgender washroom," which is "always considered an alternative to what currently exists", though the students in her study made no effort to challenge the entire system. Instead, by utilizing seven student drawings and eight student interviews, she argues that "violence perpetuated on gender non-conforming youth in the current binary gendered system is not

considered to be a problem in the dominant heteronormative view” (p. 814), indicating a need to challenge administrative policies and gender classification due to “the problems it creates for those who are difficult to classify or are misclassified [resulting in] a major vector of violence [for trans people]” (Spade, 2015, p. 77).

Ingrey (2012) notes that the subjectivities of students were “caught in the binary scaffold of gender as articulated through washroom spaces” and therefore, “No room existed between for gendered bodies using the public toilet, and these students perceived virtually no room for their own questioning of gender binaries to become relevant” (p. 808). In other words, due to the lack of options outside of the gender binary, students could rarely conceive of valid gendered subjectivities outside of cisnormative renderings of gender. Even when depicting the possibility of transitioning from one gender to the other, one student still maintained that “those who subscribe to a ‘neither’ gender must still conform to the structures and norms available” and as such, “each category may not have defined a subject, but a technique of the subject, a way to pass and maintain the subject status and refuse the abject” (p. 810). Ingrey’s (2012) study underscores the impact of the “public school washroom [as] a site that regulates gender at every iteration and for every subject” (p. 814). In this regard, the rigid binaric nature of public bathrooms foreclosed and curtailed the possibility of identity outside of the traditional, binary understandings of gender. Such insight signals Foucault’s (1984) insistence that architecture does not necessarily guarantee freedom from a system that is inherently and administratively cissexist in its categorization and classificatory systems. What is needed “is a certain convergence” (Foucault, 1984, p. 247) in association with these bathroom spaces: the possibility to exist within these spatial contingencies and also within a broader system that does not subjugate within the space of the bathroom nor outside of it. Ultimately, like most bathroom scholars, Ingrey usefully relies on Foucault to provide an analytic account of the bathroom and its disciplinary and regulatory effects, though she complements this analysis with a queerly-informed lens but not in conjunction with trans studies scholars’ informed understanding and phenomenological accounts of embodiment and bodily ontology (e.g. Stryker’s engagement with Foucault’s concept of biopolitics). This is a consistent pattern across most scholarly works that engage with the bathroom

when deploying Foucauldian analytic tools (Cavanagh, 2010; Davies et al., 2019; Millei & Cliff, 2014).

In her later work, Ingrey (2018) begins to integrate trans studies in her Foucauldian discourse policy analysis when interrogating the limitations of a school board's trans-affirmative policy. In addition, she relies on the interviews of two students – one identifying as a transsexual male and the other as genderqueer – in order to understand how each understands their own embodiment and relationality, especially when faced with the space of the bathroom where “to enter a sex-segregated washroom space is to already declare an identity” (p. 779). As such, Ingrey (2018) juxtaposes policy bathroom rhetoric and its foreclosure of “self-determined legitimacy and personhood for transgender and genderqueer youth” with the bodily ontological accounts of her participants (p.779).

Ingrey (2018) effectively highlights that “how one comes to be recognized as a person, or not (i.e., how one's account is able to emerge and be rendered intelligible), is itself dependent upon certain ontological suppositions while foreclosed by others” while “their terms of self-knowledge have been invalidated by the process of normalization via cisgenderism and heteronormativity” (p.778). In this regard, Ingrey (2018) further problematizes the relational impacts of identity formation by interrogating “how transgender and gender non-conforming youth are represented and shaped as specific subjects vis-à-vis the cisgendered problematics of the washroom space in schools” (p. 774). Importantly, Ingrey (2018) centres and amplifies the voices of transgender youth in her study, unlike the work of other scholars (Crissman et al., 2019; Mathers, 2017), where – resultantly – these youth are able to share their own embodied experiences as they pertain to school bathrooms. Such insight is significant in consideration of cisgenderist policies and spaces and serves as a significant springboard into thinking about all-gender spaces and their contribution in the constitution of subjectivity through relational institutional spaces. After all, as Ingrey (2018) indicates in her own study whilst discussing trans-affirmative policies that focus on bathroom accommodation, “a gender neutral washroom on its own, without ‘practices of freedom’ that recognize transgender subjects as people complete with value, dignity and self-

expression, cannot guarantee their recognizability alone” (p. 780). In this respect, an allegedly gender-neutral space must provide an absence of expectations and suppositions to avoid effecting harmful relationality. It is therefore important to investigate the extent to which all-gender spaces are able to intervene in the social consequences and regulation of the bathroom.

Just as importantly, because the potential of relationality emerges from openings in policies and laws, it’s equally vital to understand the extent to which trans-affirmative policies reify and foreclose imaginative possibilities of the space of the bathroom. Ingrey (2018) highlights how these possibilities are regulated by such policies that favour “a single stall washroom as the only real alternative to a binary gendered washroom system” (p. 782), despite the endorsement of a universal bathroom design by numerous trans scholars, including Sanders and Stryker (2016), who insist upon “elminat[ing] gender segregated facilities entirely and treat[ing] the public restroom as one single open space with fully enclosed stalls” (p. 783). In this respect, there remain questions of spatiality that need to be further elucidated and expanded upon that are not governed by a gender binary and cis logics, and which remove any gender signification or specification in the construction of washroom spaces. Such a design requires confronting various policies and measures that are inherently cisnormative and perpetuate a cissexist system in favour of traditionalism.

While Ingrey (2018) begins contextualizing and interrogating how the manner in which gender-neutral bathrooms are conceived and represented in trans-affirmative policy discourse, what is required is further interrogation of how students, and particularly, trans and gender diverse students, conceptualize and view a space that theoretically erases traditional gender scripts. Ingrey (2018) underscores in her own policy analysis that while “the guidelines are supportive, endorse respect and dignity, and care for the safety of the transgender student; they do not consider the implications of this cared-for status for the terms of recognition of the transgender and gender non-conforming student” (p. 783). In short, trans-affirmative policy creates subjects (i.e., the cared-for, transgender and gender diverse student) that ultimately require a *submission* to authority, and because “power produces knowledge”, this submission, in turn, effectively



creates (subjugated) knowledge *about* the trans subject (Foucault, 1977). In this respect, such policies contribute a legislative endorsement of the policing and surveillance of bodies, thus perpetuating systems of power, subjugation and identity formation for the trans student. What is required, instead, is a *critical trans politics* that is “process rather than end-oriented, practicing ongoing critical reflection rather than assuming there is a moment of finishing or arriving,” (Spade, 2015, p. 189) so that structures that impede and regulate trans lives can be interrogated through critical dialogue and “participatory movements” (p. 7) as opposed to solely depending on legislation that does little to topple or confront deep-rooted systemic issues, as Ingrey (2018) highlights in her work.

Due to the role of the bathroom on identity formation and conditioning, I find that Millei and Cliff’s (2014) study with preschool children significantly links with Ingrey’s (2012) work and findings about the disciplinary system of the bathroom on identity formation. Specifically, Millei and Cliff (2014) note that “the bathroom space is produced as a ‘civilising space’ where children are ‘taught’ to regulate and fashion their bodies, and to shape their conduct to fit the norms” (p. 245). Due to the fact that bathrooms, traditionally, have been bi-gendered and regulated bodies through gender norms, such a space “constitutes some children as ‘problem bodies’ and legitimates certain acts that would otherwise be considered highly questionable” (Millei & Cliff, 2014, p. 245). Importantly, the bathroom does not necessarily result in complete and total control. Millei and Cliff (2014) posit that for some children, “the bathroom fails as a disciplinary space and allows them to escape its use, or remain comparatively less affected by techniques mobilised in the name of developing appropriate bathroom practices” (p. 245). Millei and Cliff (2014) insist that children “skilfully and often strategically navigate their lives in the bathroom, variously resisting, challenging and at times even invoking discourses depending on how they are positioned” (p. 245) As such, while it is evidently important to investigate how these seeds of conditioning and regulatory processes have the capacity to be (de)subjugated through the introduction of the all-gender bathroom, introducing the potentiality of re-writing gendered scripts of access and conduct in such spaces, there are scant number of studies that interrogate the space of the bathroom in school sites, leaving a jarring knowledge gap about these spaces in the school context.

Millei and Cliff (2014) are able to contribute to this knowledge gap through their observations and structured interviews with preschool children where they are able to maintain that

instead of being ‘malleable’ and ‘ignorant’, and acting as ‘needing protection’, as perhaps educators saw these children, and maybe because they were seen as such by the educators, children became quite resourceful players in the ‘game of power’ (Rose 1999). (p. 260)

As early as pre-school, children are capable of not only being aware of their bodies and the normalized bodily practices that are conditioned, but also that they are capable of resisting and uncoiling them. As a specific example, most children lined up to use the one “partly ‘partitioned’ toilet” and explained that they did so because ““people can see us [at the other toilets]” (Millei & Cliff, 2014, p. 250). And with additional awareness, “to avoid visibility, Rosie added, ‘Pull in your head and do it low then they don’t see you” (p. 250), which demonstrated the invention of bodily practices among preschoolers. Evidently, the preschool bathroom is a regulatory battleground where bodily practices become normalized, and yet, children are capable of resisting panoptic and disciplinary mechanisms that rely on surveillance and the “internal training this produces to incite states of docility” (McHoul & Grace, 1997, p. 67). In this way, both Ingrey (2012) and Millei and Cliff (2014) effectively map gendered scripts that are conditioned and learned within the space of the bathroom but are also able to signal that these conditioned behaviours and measures of surveillance can be questioned, challenged, and resisted.

Building on their theoretical considerations of the bathroom, Slater, Jones, and Procter (2018) also offer *empirical* insights that necessarily extend upon the interrogation of bathroom spaces in schools by discussing how such spaces consider the intertwined relationships “between toilets, embodiment and identity (gender, disability, sexuality, race, faith and so on)” (p. 952). In particular, through six workshops, comprising of storytelling, a performance workshop, and an artist-facilitated making/creating workshop, with 16 participants identifying as queer, trans and/or disabled adults. While the data is focused on the insights of adults, the authors rely on adult understandings of the school toilet and how, in particular, “gendering is learnt through toilet training and through institutions such as the school” (p. 958). It is for this reason that school toilets differ from

toilets in general, as they are among the most disciplinary and contribute to the learned gender scripts to which students ascribe. In addition, Slater et al. (2018) argue that “trans or intersex bodies that do not ‘fit’, or have moved between binary gendered categories (presumed to be stable); and sexualised, particularly queer sexual bodies (or bodies perceived to be queer)” (p. 959) threaten the school and the bathroom system that carefully conditions and civilizes students. Moreover, Slater et al. (2018) importantly highlight the “cultural anxieties of the toilet”, pointing to “lessons in shame and privacy” that “vary dependent upon socio-spatial positioning” (pp. 954-955).

Importantly, Slater et al. (2018), through their interviews, reflect on a participant’s elucidation that their “twins were like just hanging out in the women’s [toilet] because they don’t, they’re home schooled and they don’t get taught things like ‘oh, you can’t go in there’” (p. 958). The authors reason that this “lack of schooling allowed for their twin boys to receive a more fluid and queer understanding of gender, which became particularly apparent when confronted with the binary rules of public toilets” (p. 958). Such a rendering of this space highlights Stryker’s (2014a) interpretation of Foucault’s biopolitics, which is the state’s process of managing bodies (p. 38). Through this interpretation by Stryker, it is clear that based on these data, transgender students and those who transgress gender norms become especially vulnerable to this management in an institution such as the school. Addressing such management requires a committed focus by policymakers, administrators, and school staff to allowing spaces for the embodied experiences and perspectives of transgender and gender diverse students to be articulated that account for this diversity in order to contribute to a process of (de)subjugation of this cisnormative management system (Stryker, 2006). However, those voices of trans and gender diverse *students* are absent from this research, disallowing the opportunity for the (de)subjugation of these spaces from the trans students who specifically access them by the occlusion of their voices. Additionally, such voices are largely omitted from policy formulation that readily prioritizes the fears of cisgender people who exhibit defensive and occasionally violent behaviour *against* transgender people (Cavanagh, 2010; Mathers, 2017) who enter gender-segregated bathrooms, legitimizing these outbursts known as “transgender panic” (Currah, 2016).

## Interrogating the Role of *Trans Panics* in Transphobic Policy Articulation

Transgender bathroom rights have received attention all across North America, often emerging as a result of fear and outcry from cisgender people exhibiting transphobia by weaponizing safety discourses that falsely depict trans folk as sexual perpetrators. This, ultimately, contributes to policy articulation that minimizes the rights of access and liveability afforded to trans people. Currah (2016) for example, claims that resembling the “gay panic” defense, “transgender panic” is used by defendants as a justifiable rationale for murdering person who is transgender (typically a trans woman), often mitigating a first-degree murder charge to second degree or voluntary manslaughter. He argues that these panics are typically categorized by “the shock of a penis appearing where it is not expected” (para. 3). This becomes especially significant in the space of gender-segregated bathrooms where such (trans)gender panics are incited by cisgender people “who encounter a person who is not easily sorted into one of the two prevailing sex/gender categories” (Mathers, 2017, p. 298). As such, this *transgender panic* feeds into the false stereotype that transgender women are *really* men who are “deceivers” or “pretenders” (Bettcher, 2007) solely for the purpose of entering women’s restrooms so that they can assault women while a critical *trans politics* openly problematizes and critiques “these conditions [...] that have produced trans people as enemies – traitors, dupes, or invaders – drawing harsh and violent gender lines to create supposedly ‘safe’ spaces” (Spade, 2013, p. 44). Such a logics highlights the violent systems that are sanctioned as a result of these problematic feminist and transphobic formations that depict trans people in such a light.

Incidentally, Davis (2018) presents two pressing flaws concerning the argument of the transgender panic and its relationship with the bathroom:

First, sex-segregated restrooms only serve as a barrier to physical assault if one’s attacker is of the opposite sex. Secondly, if someone is already willing to break laws to commit criminal assault, it is likely that the person will break another law to enter a women’s restroom with little or no hesitation. (p. 206)

In this regard, the sex-segregated bathroom debate is one that is enshrouded in cisnormative and heteronormative discourses to justify the exclusion of transgender individuals in these spaces. Moreover, Davis (2018) elaborates that this discourse of safety is infused with implicit stereotypes that are a result of social conditioning. Specifically, a discourse of safety is inculcated with archetypes of people we feel at ease with and those we do not. In this regard, cis white people are considered safe to be around and gender and sexually diverse black individuals are not. Given this framing, the “race–sex profiling of men in the public sphere does not stop at the doors of public restrooms” and signals that black trans women are most at risk in these spaces and outside of them (Davis, 2018, p. 207). In this regard, Davis (2018) calls for better solutions to the public bathroom that do not involve race–sex identity policing. Unfortunately, few studies have taken up this importance of addressing attitudes toward and experiences of trans women and trans men separately (Callahan & Zukowski, 2019; Gerhardstein & Anderson, 2010; Worthen, 2012). Moreover, there is an absence of understanding of how race–sex identity is considered in the space of an all-gender bathroom and certainly in trans-affirmative legislation/policy, which requires an embrace of what Spade (2015) refers to as a *critical trans politics* that offers a more nuanced “analysis of how the administration of gender norms impacts trans people’s lives and how administrative systems in general are sites of production and implementation of racism, xenophobia, sexism, transphobia, homophobia, and ableism under the guise of neutrality” (p. 73). Such an approach to understanding power affords the opportunity to “examine where and how harm and vulnerability operate and are distributed” (p. 73) through these pretenses of neutrality.

Specific to this neutrality, Davis (2018) reflects on these trans-inclusive laws that mandate the inclusion of single-user all-gender bathrooms in addition to traditional binary bathrooms. Specifically, Davis (2018) points out that such a mandate does not problematize the idea of sex-segregation, but rather, works in tandem with it to preserve a cisnormative system. This is in line with Ingrey’s (2018) assertion that an all-gender bathroom “does not address the ongoing gender policing and homophobia in the sex-segregated washrooms” (p. 784). Moreover, “it sanctions and reinforces the prejudice of many people who view transgender people as deviant and too ‘aesthetically shocking’

[Kirkland, 2006, p. 108] to share a public restroom with” (Davis, 2018, p. 207). Instead of traditional bi-gender bathrooms, Davis takes up Halberstam’s (1998) suggestion that “we need open-access bathrooms or multigendered bathrooms” (p. 24). To justify this idea, Davis (2018) advocates for a universal design to convert sex-segregated bathrooms “into no-gender bathrooms without too much expense” thereby taking “the needs of those who are most disadvantaged as the impetus to design products that make everyone better off” (p. 212).

While this seems most equitable, making such universal changes requires altering building code policies, many of which mandate a specific number of bi-gender bathrooms to be present in any given public building. In this regard, the undertaking moves beyond just de-gendering bathrooms, and requires the approach endorsed by a critical trans politics that “must contend with legal systems, since they violently enforce racialized gender norms and shorten trans people’s lives every day” (Spade, 2013, p. 39). Such an approach requires moving beyond focusing on “passing legislation that declares us equal but that does not address the daily violence and poverty produced by transphobia” (p. 39). Unfortunately, many bathroom policies are encapsulated by or reflected in a discourse which is based on an understanding that the safety and comfort of cisgender women and children are at risk of bathroom access are dictated by gender identity as opposed to officially designating such spaces as gender neutral or unmarked by gender designated categorization. In this regard, a *critical trans politics* highlights the limitations of law reform and insists upon using this law reform “as a tactic to dismantle systems of state violence” (p. 39).

Specifically, Platt and Milam (2018) conducted a survey of public reactions “to gender appearance-congruent and gender appearance-incongruent public bathroom use, using a 400 person sample” (p. 182) where 80% identified as white and only 0.8% identified as an “other” gender identity, once again pointing to the absence of trans voices and the amplification of white cis interpretations of accessibility pertaining to the space of the bathroom. Platt and Milam’s (2018) findings suggests that “women’s discomfort is dictated by their perception of one’s gender appearance, regardless if they know the person is transgender or not” (p. 197) and therefore

this type of law could have a reverse impact than what was intended if transmen, who potentially appear masculine despite their birth sex assignment, are forced by law to still use a women's bathroom [...] in these instances women are quite uncomfortable because the person's appearance suggests "man" despite what a birth certificate may indicate. (Platt & Milam, 2018, p. 197)

In this regard, a process of *genderism* (Browne, 2004) and *transgender panic* (Currah, 2016) is perpetuated and sanctioned by legislation based on perceived inferences and the extent to which an individual might be deemed passable and therefore gain access to these spaces.

Concerns about "men in women-only spaces" echoes the outlandish concerns pertaining to bathroom bill discourses that Platt and Milam (2018) note in their work and which showcases the extent to which transgender panic is a part of the social imaginary and infused in legislation formation pertaining to transgender individuals and the various facets of both their social inclusion and exclusion. Confronting the cisgendering of realities is critical as this is apparent across social contexts and institutions, including those "where 'official' regulations regarding gender, sex and bodies are enforced, and resources are dispersed unequally based on such regulations" (Mathers, 2017, p. 313; see also: Spade 2015). It is here that we require a trans politics that is able to highlight "the political implications of classification processes" and effectively expose the "complexity of gender category enforcement and the relationship of various forms of gender identification and surveillance to state projects of identity surveillance" (Spade, 2013, p. 43). Concerns about "men in women-only spaces" lends itself to a sweeping (false) argument about trans people, whereas hate violence against trans people is often viewed as individual, one-off hate crimes. Here, a *critical trans politics* allows for a deeper understanding that such instances of violence against trans people are as a result of "not being able to get basic necessities because systems are organized in ways that require everyone to be gendered in a particular way" (Spade, 2013, p. 43). The fact that many cis folks fail or refuse to reaffirm the gender identity of trans people results in their exclusion from not only gendered physical space, but also from legislative discourse that lends itself to favouring, reassuring and sanctioning cisgenderist sensationalist safety concerns that are not based in any sort of empirical reality or actual experience.

These concerns and transphobic renderings of transgender people are further exacerbated by Internet culture through the deployment of Internet memes, as explored by Spencer (2019). Spencer (2019) details and explicates the proliferation of “bathroom bills” across the United States, pointing to the debates surrounding the accessibility of the bathroom by transgender people, notably highlighting the transgender panics invoked by “the fear that trans women present some kind of threat to cisgender girls and women, or that cisgender men will disguise themselves as trans women in order to infiltrate women’s restrooms” (p. 2). Importantly, Spencer (2019) instantly highlights the problematics surrounding these exclusionary bathroom bills by pointing to their intersectional implications given that “[t]rans people of color and other trans folks with multiple marginalized positionalities have the most to lose from these laws, given that enforcement can only be selective” (p. 2). He goes on to explicate the role of the Internet memes – “messages that include an image and a pithy caption” (p. 2) – in affirming or resisting transphobic policies that govern access to bathroom spaces.

Spencer (2019) provides an analysis of “how these memes present trans people as disposable: excluded from public view and liable for prosecution for existing in public space” (p. 2). In reviewing these memes, there is a discourse that highlights “policies that permit trans people to use the restroom of their choice or trans students’ requests to do so in school constitute an unreasonable and dangerous assault on logic and order, and especially on White, cisgender women and girls” (p. 6) reinforcing the problematic of trans panics and the sensationalized (but baseless) trope of trans folks as predators.

These memes, as Spencer (2019) demonstrates, tend to support transphobic bathroom bills by falsely depicting and sensationalizing trans people as a threat, overlooking the alarming statistics that actually threaten them in these spaces as opposed to the other way around. However, trans folks – particularly trans women – are misrepresented as cisgender men who are “walk[ing] confidently into a women’s restroom, holding a video camera, and say[ing] to the shocked White cis woman with her daughter at the sink, ‘Relax lady, I’m transgender’” (p. 7). Such a trope positions the white cis woman and her daughter as vulnerable and exposed, despite the constant “fear of arrest and physical violence” that trans women endure in these spaces, while scholars



have debunked the myth that transgender non-discrimination laws result in sexual predators' access to women's restrooms (Hasenbush et al., 2019).

Instead, transphobic policies that take transgender panics and are endorsed by such meme culture place “trans people of color and trans people whose appearances do not immediately invite clear binary-gendered inferences about where they belong” the “most at risk,” (p. 7) highlighting the importance of intersectional considerations in the development of legislation and implicitly highlights the significance of Spade's (2013) advocacy for a critical trans politics that offers “a particular frame for understanding how processes of gendered racialization are congealed in violent institutions” (p. 43), especially in policy articulations that implicitly harm and target lower-class trans people of color.

The majority of memes, even those that seemed to oppose transphobic legislation, tended to “work toward rendering trans people disposable, especially nonbinary trans people and people of color” (Spencer, 2019, p. 14). Memes tended to “at best reify cisnormative binaries and at worse presume trans people pose a threat” (p. 13), thus contributing to a legitimization of *transgender panics* (Currah, 2016) through an Internet culture that, even when opposing transphobic, discriminatory policies, served to inaccurately and problematically represent trans lived experiences and fail to accurately depict the threats and fears that many trans folks endure when trying to access bathroom spaces.

These aforementioned concerns of men in women's only spaces are further explored by Westbrook and Schilt (2014), who examine the process of determining gender – the umbrella term for social practices of placing others in gender categories – across numerous social institutions. By drawing on three case studies that showcase moments of conflict over determining gender identity through “public debates over the expansion of transgender employment rights, policies determining eligibility of transgender people for competitive sports, and proposals to remove the genital surgery requirement for a change of sex marker on birth certificates”, Westbrook and Schilt (2014) offer perspective into the differences of using biology-based and identity-based

ideologies across social spaces to determine gender. One particular area of focus is the space of the bathroom.

Specifically, “biology-based gender ideologies were more likely to be deployed when debating transgender access to women’s spaces” whereby “penises rather than other potential biological criteria that are the primary determiner of gender because male anatomies are framed as sexual threats toward women in gender-segregated spaces” (Westbrook & Schilt, 2014, p. 46). As a result, Westbrook and Schilt reason that such gender panics about “safety” only “naturalize gender difference” and “maintain unequal gender relations” (p. 46), implicitly upending Connell’s (2009) encouragement of gender democratization. Through such conceptualizations Westbrook and Schilt argue that “men, or more specifically, penises, are imagined as sources of constant threat to women and children, an idea that reinforces a construction of heterosexual male desire as natural and uncontrollable” (p. 46). Such ideas contribute to the perpetuation and “enforcement of heteropatriarchal norms as part of North American colonization” that not only exhibit the dominance of cisgender men over transgender people seeking access to safe spaces, but also over cisgender women (Spade, 2013, p. 45).

Ultimately, Westbrook and Schilt (2014) suggest that these ideologies are not simply meant to protect women “but also the binary logic that gender-segregated spaces are predicated on and (re)produce” (p. 46). In this regard, they maintain that “gender panics are not just about gender, but also about sexuality” (p. 49). As Cavanagh (2010) notes in her account of bathrooms, these spaces are meant to only be based upon waste elimination, and by segregating gender, a heteronormative ideology presupposes that sexual acts are minimized, and women and children are therefore safe from “sexual predators and pedophiles, who are always imagined to be men” (Westbrook & Schilt, 2014, p. 49). However, when someone who is presumed to be male enters a women-only space, despite identifying as female, this triggers a (trans)gender panic that requires the individual to submit to questioning and reassuring cisgender women in the space of their safety. Such policing signals the fundamental cultural logics of gender inequality (both where women are presumed to be vulnerable and defenseless, but also requiring trans

folk to submit to investigation and reassuring cisgender folk) and also the pervasiveness of heteronormative discourse.

Westbrook and Schilt (2014) conclude that identity-based determination of gender when accessing gender-segregated spaces produces gender panics due to their inherent reliance of gender binarism. Conversely, the validation of identity-based determination of gender is “more likely to occur when it cannot be framed as endangering other people, particularly others seen as more worthy of protection than trans-people (cis-women and children)” (p. 50). At the same time, such discourses of fear around trans women entering women-only spaces invalidates trans men as their “perceived lack of a natural penis renders them, under the logic of vulnerable subjecthood, unable to be threatening”, placing them in a liminal state where they “cannot hurt men (making them women), but are not seen as needing protection from men (making them part of a ‘pariah femininity’ that no longer warrants protection)” (p. 52). Ultimately, in this regard, gender panics are typically reserved for transwomen, and especially so in spaces deemed to be for women only. However, gender-segregated spaces, by their very design, continue to reinforce the gender binary and therefore preclude transgender people from accessing the appropriate washroom, as Cavanagh’s (2010) scholarly work highlights, ultimately resulting in violence, harassment, and victimization due to transgender panics. In this respect, what is required is a reimagining of the space of the bathroom that does not do away with gender but equalizes it in a process of gender democratization (Connell, 2009).

## Implications and Conclusion

This critical review of the significant literature in the field has been concerned to demonstrate that not only are the voices of cisgender individuals (both participants in academia and in policy articulation) favoured when interpreting the embodied experiences and needs of transgender individuals, there is also a tendency to rely on queer analytical frameworks, despite the tensions between transgender and queer scholars about these interpretive frames and the antinormative limits of queer theory (Martino & Cumming-Potvin, 2018; Nash, 2010; Radi, 2019). The voices of transgender students remain largely absent from toilet literature, and resultantly, a scant amount of literature that speaks to the experiences of trans students when accessing the bathroom in school

sites (Ingrey, 2012; Millei & Cliff, 2014; Slater et al., 2018). The effects of this contribute to the continued *transgender panics* (Currah, 2016) that impact the direction of policy articulation and societal moral panics about what children need without asking them or understanding the trans embodied experience (Elliot & Roen, 1998).

Instead, what is needed in toilet literature more broadly is an embrace of trans epistemology (Nicolazzo, 2017b; Radi, 2019) that is in line with Stryker (2006) and Rubin's (1998) emphasis on phenomenological perspectives and bodily ontological accounts by trans people, in the way that Cavanagh (2010) provides, that ultimately argue for the sustained consideration of the particularities and specificities of the trans speaking position (Martino & Cumming-Potvin, 2018). Such an embrace emphasizes the legitimacy of trans people's accounts of their own "contingent realization[s]" (p. 269) and not simply as autobiographies whose interpretations are "reserved for other [cis] people who examine those narratives with suspicious zeal" (Radi, 2019, p. 49). Embracing the "voices, narratives, and stories" (Nicolazzo, 2017b, p. 5) of trans people allows for "polyvocality" (p. 5), which aligns with a commitment to gender justice and gender democratization, which aims to "equalize gender orders" (Connell, 2009, p. 146). In doing so, deeper, more nuanced understandings of the space of the bathroom can be deployed and access can be reimagined in the way that Sanders and Stryker (2016) have done with their universal bathroom design that forgoes *de-gendering*, embraces gender democratization. Such an approach also embraces what Martino (2016) calls a "transgender imaginary" whereby "a proliferation of transnarratives and trans-counternarratives becomes possible" (p. 390).

This transgender imaginary that invites trans (de)subjugation in spaces that are regulatory, such as the bathroom, affords the possibility of gender democratization by toppling these regulatory systems and barriers to access. Specifically, Sanders and Stryker (2016) conceive of a universal bathroom design that

accommodates diversity, not only gender diversity but also human diversity, by providing different ways that a wide range of embodied subjects can perform the same commonplace activity according to their individual needs and temperaments based on the understanding that these are shaped by the convergence of biological, cultural, and psychological factors. (p. 785)

Such imaginings of the space of the bathroom are pertinent given the “cultural beliefs about the anchoring of social gender in our genitals and secondary sex characteristics and therefore, “getting beyond problematic ideological misconceptions and prejudices” and hostile misreadings through (hetero)genderism that impact the decision-making process of bathroom access is imperative (Sanders & Stryker, 2016, p. 782). Unlike the bathroom design proposed by Sanders and Stryker (2016), the dominant conceptualization of the all-gender bathroom has historically relied on cisgender interpretive frameworks that are further informed by trans-affirmative policies which are developed through the very same hegemonic discourses that continue to silence and exclude transgender and genderqueer voices. Sanders and Stryker (2016) challenge these cis logics by considering the “receptivity to transgender needs to be a generative and productive way to begin to rethink the way all embodied subjects interact with one another in public space” (p. 782). This trans-informed consideration of the space of the bathroom is set as a foundation for jettisoning the current resolution of single-occupancy of all-gender bathrooms in favour of “public restroom[s] as one single open space with fully enclosed stalls” (p. 783). By doing so, Sanders and Stryker (2016) reason that “gender non-conforming people are not forced to choose between two unacceptable options, each of which makes them uncomfortable, while trans and cis people who express their gender in a more binary fashion need not worry about being in the “wrong” restroom [... while] increasing bathroom occupancy reduces risks of predation associated with being alone and out of sight” (p. 783). In this capacity, the harmful effects of (hetero)genderism when accessing spaces of the bathroom are challenged when the possibility of trans narratives are opened up and barriers are more aptly removed when the space is open to, as Sanders and Stryker explain, “gender diversity and, ultimately, to human diversity” (p. 782). Without such a design, the current bathroom system – either bi-gendered or an all-gender single occupancy toilet – continues to segregate and perpetuate a system of misreadings and blatant discrimination and victimization (Cavanagh, 2010; Girschick, 2008; Kosciw et al., 2018; Taylor & Peter, 2011). These experiences within and around the space of the bathroom speak to the extent to which locations shape understandings of subjectivities through their relationality.

The literature outlined in this review points to particular emergent trends in bathroom scholarship which has certainly contributed to a more nuanced understanding of accessibility to these spaces, but also underscores very clear issues and concerns that must be continually addressed in future research. In particular, this review has highlighted the tendency for literature about the bathroom to prioritize queerly-informed analytics to understand trans bodily experiences in the bathroom which “fail to engage with *trans informed* epistemological perspectives on gender and embodiment” (Martino & Ingrey, 2020, p. 76; my emphasis). Ultimately, the tendency of the literature is to avoid, as Radi (2019) explains, “what we might call ‘knowledge of,’ but also ‘knowledge with,’ knowledge that emerges from a dialog that includes trans people who bring an additional kind of experiential or embodied knowledge along with their formal, expert knowledges” (p. 48). By and large, trans voices are minimally present in considerations of bathroom accessibility, ultimately showcasing the tendency of bathroom scholarship to produce the aforementioned objectifying knowledge and ignore Stryker’s (2014b) declaration: “Nothing about us without us!”

This trend in the literature also showcases an overreliance on cisgender voices that control the dominant narratives about transgender and gender diverse people both in and outside of the school context. With respect to school bathroom literature, the scant literature affords minimal glimpses into the experiences of trans students and their accounts of accessing the bathroom (Ingrey, 2018; Millei & Cliff, 2014; Slater et al., 2018). Rarely do these accounts, however, consider the intersections of race, class, and (dis)ability of trans students all at once, but tend to focus on identity polarities (Slater et al. [2018] being the exception). Moreover, beyond the school context, very rarely are the bodily ontological accounts of trans people amplified (Cavanagh, 2010; Crissman et al., 2019; Platt & Milam, 2018) or even consulted (Mathers, 2017). This marked absence highlights the need for further engagement with trans-informed epistemological accounts of gender and embodiment when discussing the problematics of bathroom access. Moreover, such an engagement is further required when considering the problematic of trans panics and its impact on policy articulation that prioritizes the baseless hysterics of cisgender people. The privileging of trans-informed epistemologies (Stryker, 2006; Radi, 2019; Rubin, 1998) can effectively point to the limits of unfounded, sensationalized

narratives and of a “specific feminist account of violence against women in public spaces” (Martino & Ingrey, 2020, p. 80). It is through the amplification of these voices, rather than the privileging of cisgender *impressions* of trans narratives that we can begin to more effectively address the misconceptions and misrepresentations of transgender people that fuel transgender panics and ultimately influence discriminatory policy articulation (Spencer, 2019).

In light of these meta-analytic considerations, by mapping the emergent trends in the scholarly landscape, this review underscores the absence but necessity of trans epistemologies in the field of bathroom literature. In fact, it implicitly reiterates Martino and Ingrey’s (2020) point regarding the “necessity for feminist and gender studies as transdisciplinary fields in highlighting the political and ethical exigency to engage with trans informed epistemological perspectives on gender and embodiment” (p. 76). By doing so, the problematics of the bathroom can be more deeply and rightfully grounded in authentic bodily ontological accounts of transgender and gender diverse people, especially when considering the site of the school.

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## Article #2

### Transgender affirmative policy articulation in Ontario: A critical policy analysis of one school board's commitment to supporting trans students and staff

#### Abstract

In this article, I undertake a contextual and critical analysis of the first trans-affirmative school board policy in Ontario and in Canada. I detail Ontario's provincial trans-specific legislative history to demarcate the extent to which the school board's policy has forged the path but also bound itself to legal stipulations to underscore its validity and commitment to transgender and gender diverse students and staff. I devote some attention to the problem of the bathroom as an exemplary instance of the limits of accommodation that are at the heart of policy's logics of articulation. I also draw on the insight of one of the policymakers who was instrumental in the development of this trans-affirmative policy to further inform the critical policy analysis that is provided. Implications of trans-affirmative policy development are also outlined.

**Keywords:** gender justice; gender democratization; trans-affirmative policy; transgender; gender diversity

#### Introduction

In this paper, I provide a critical policy analysis of the development of one school board's trans-affirmative policy which was the first in Ontario and Canada. I present a case analysis as set against the backdrop of a specific trans-affirmative legislative context to specifically examine how one school board policy has emerged in an effort to support the rights of transgender and gender diverse students by addressing the problematics associated with the space of the bathroom, which provides insight into the exemplary instance of the limits of accommodation that is at the heart of the policy's logics of articulation. This study contributes to the dearth of studies that focus on trans-affirmative policymaking related to supporting transgender and gender diverse students in schools

(Herriot, Burns, & Yeung 2018; Ingrey, 2018; Smith & Payne, 2016) by drawing on data from an interview conducted with one of the progenitors of the first school board trans-affirmative policy in Ontario, Canada. As such, this particular trans-affirmative policy represents a paradigmatic case that “operates as a reference point” (Flyvbjerg, 2006, p. 232) and “maximize[s] what we can learn” (Stake, 1995, p. 4) about the limits of trans-affirmative policy discourses in supporting trans students in schools. In this respect, it is also an *instrumental case study* that points to broader questions about the viability and survivability of trans students in the education system in light of trans-affirmative policy articulation (Stake, 1995).

I begin this paper by describing my approach to critical policy analysis by explicating Bacchi’s (2009) “What the Problem is Represented to Be?” (WPR) framework along with my reliance on Ball’s conceptualization of policy as both *text* and *discourse*. I demonstrate how Bacchi’s (2009) framework for textual policy analysis and Ball’s conceptualization of policy dovetail with a trans-informed approach and Spade’s (2015) *critical trans politics*, all of which guide my textual analysis. I proceed by briefly elucidating the Ontario legislative context as a necessary backdrop to understanding and contextualizing this particular trans-affirmative school board policy. The remainder of the paper is devoted to an analysis of the trans-affirmative policy text in question, followed by empirical insights into the policymaking process and its articulation that are drawn from an interview with one of the policymakers who created it. I devote some attention to the problem of the bathroom as an archetypal instance of the limits of accommodation that are at the heart of policy’s articulation (Browne, 2004). Finally, the implications of this case with respect to the (im)possibility of challenging *cultural cisgenderism*<sup>15</sup> (Kennedy, 2018) are outlined in the conclusion.

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<sup>15</sup> Kennedy (2018) explicates *cultural cisgenderism* as a “tacit ideology” which is “an unspoken discrimination” that “causes marginalization of trans and other gender non-conforming people because it does not acknowledge their existence in both cultural discourse and social structures” (p. 309).

My aim is to draw attention to how such a policy frame is inherently reactionary by design (Ingrey, 2018) and underscored by an individualist logics that is dependent upon the obligatory visibility of a trans student (Martino, Kassen, & Omercajic, 2020). The purpose of this paper, therefore, is to offer a reflective account and insight into the limits of such a policy discourse in its capacity to address gender justice for trans students. I draw on both a *critical trans* (Spade, 2015) political approach and trans-informed scholarship to attend to the necessity for policy to address the impact and effects of “cisgenderism” which Lennon and Mistler (2014) define as the “cultural and systemic ideology that denies, denigrates, or pathologizes self-identified gender identities that do not align with assigned gender at birth as well as resulting behavior, expression, and community” (p. 63). In other words, I illustrate the extent to which relying on a fundamental logics of accommodation in the formulation of trans-affirmative policies ultimately eschews a necessary consideration of the need to address such systemic barriers to ensuring gender justice for trans students in schools.

## A Trans-Informed Approach to Policy Articulation and Critical Policy Analysis

Human rights legislation has widespread effects which often “reach beyond those who are specifically targeted by their verbiage” and cement the fact that “we live in a society that has no problem singling out a group of people and distinguishing them as a lower caste” (Corbat, 2017, p. 86). Often, human rights and equity-specific legislation are created to solve problems that have been signalled by activists or growing social awareness. It is in this regard that Bacchi’s (2009) approach to policy analysis that foregrounds *What the Problem is Represented to Be* serves as a framework for trans-affirmative policy textual analysis and my focus specifically on how one school board constructs the bathroom problem (Browne, 2004). Such an approach overlaps with Spade’s (2013) *critical trans politics* that is concerned with “finding a way to talk about trans politics” that “centres transformative resistance to systems that are the most harmful to trans people” (p. 42), through their implicit reinforcement of *cultural cisgenderism* (Kennedy, 2018). This approach allows for the “recogni[tion of] the non-innocence of how ‘problems’ get framed within proposals, how the frames will affect what can be

thought about and how this affects possibilities for action” (Bacchi, 2000, p. 50). Given that, according to Foucault (1977), discourses are “practices that systematically form the objects of which they speak; they do not identify objects, they constitute them and in the practice of doing so conceal their own invention” (p. 49), Bacchi (2009) builds on Foucauldian principles of subjectification to unpack how subjects come to be constructed and constituted by discourses in legislation. Resultantly, Bacchi (2000) underscores the importance of investigating discourses in policy texts and therefore places emphasis on “the ways in which language, and more broadly, discourse sets limits upon what can be said” (p. 48). As such, I employ Bacchi’s (2009) WPR approach to analyze how this school board policy represents the problem of the all-gender bathroom, and ultimately, how the trans student is constructed by the policy text. Such an approach is rooted in a Foucauldian analytic of deconstructing and investigating how discourses in practice give shape to what becomes true and determines which knowledges remain subjugated, and conversely, which are entrenched at the apex of a hegemonic, onto-epistemological hierarchy of knowledges (Bacchi, 2009; Foucault, 1980; Stryker, 2006).

While Bacchi’s (2009) WPR approach allows for a method to conduct a policy textual analysis, my use of this approach overlaps with Ball (1990) who conceptualizes policy as both *policy as text* and *policy as discourse*. He presents policies as “cannibalized products of multiple (but circumscribed) influences and agendas” which serves as a basis for grounding my approach to policy analysis (p. 16). Specifically, it is important to understand that policies are “representations which are encoded in complex ways (via struggles, compromises, authoritative public interpretations and reinterpretations) and decoded in complex ways (via actors, interpretations and meanings in relation to their history, experiences, skills, resources and context)” (Ball, 1994, p. 16). This suggests that policy is constantly in a state of genesis and influenced by numerous points of contact and interpretation. In this regard, “The onus is on schools to ‘make’ sense of policy where (sometimes) none is self-evident” (Ball, 1993, p. 8) because these policies are “construed as *expressions* of particular information, ideas and intentions, the task of analysis becomes one of establishing the correct interpretation of the text” (Olssen, Codd, & O’Neil, 2004, p. 60). However, the problem with policy interpretation is markedly complex because “at all stages of the policy process we are confronted both



with different interpretations” (Ball, 1994, p. 17). Consequently, while policy documents can be understood as expressions of “political purpose” that the progenitors of the policy intend to follow or to be followed (Olssen, Codd, & O’Neill, 2004, p. 64), they depend upon more than just the intention of its creators, but also how they are read and interpreted, their priority, the environment they enter, and the motivation of stakeholders to enact them (see Omercajic & Martino, 2020).

Ball (1990) also conceptualizes policy as *discourse* which “construct[s] certain possibilities for thought. They order and combine words in particular ways and exclude or displace other combinations” (p. 18). Such a notion points to what words, expressions, or identities are counted and excluded from policy text and policy discourses. Ball (1994) understands that discourses govern us and not the opposite; discourse “speaks us”, and therefore, renders us as “subjectivities, the voices, the knowledge, the power relations, that a discourse constructs and allows” (p. 22). In this respect, it is particularly important to understand how a policy that is built upon fundamental human rights frames and legislative frameworks constitutes the subjects about whom it speaks. In discussing these discourses, the approach to these analyses is not to “identify the ‘correct’ interpretation of a text but is used to identify what interpretations are possible and likely” (Lockyer, 2008, p. 865) where often these interpretations are made by cisgender individuals on behalf of trans and gender diverse people.

Incidentally, trans-informed policy analysis and what *counts* as trans-affirmative policymaking hinges upon an understanding of the extent to which trans lived experiences are restricted by cisgenderist and cisnormative assumptions and interpretations with respect to addressing fundamental questions of gender justice and democratization for trans and gender diverse youth in schools (Human Rights Watch & Gender Spectrum, 2014; Lennon & Mistler, 2014). Thus, my commitment to a trans-informed policy analysis is informed by Spade’s (2015) *critical trans politics* which necessitates “an analysis of how the administration of gender norms impacts trans people’s lives” and by scrutinizing these administrative systems and policy texts we can begin to unearth “how harm and vulnerability operate and are distributed” in the education system (p. 73). Resultantly, my analysis of the policy text also considers the

extent to which *cultural cisgenderism* (Kennedy, 2018) is being addressed to foster or inhibit gender justice in schools. As Connell (2009) argues, there is a need to confront gender hierarchies and their effects which she envisions as a commitment to fostering *gender democratization* (p. 146). In this respect, gender democratization moves beyond a discourse of trans inclusivity that relies solely on a fundamental logics of accommodation and liberal notions of human rights to address curricular and pedagogical reform that accounts for more expansive and equitable understandings of gender (Courvant, 2011, Keenan, 2017; Malatino, 2015; Martino & Cumming-Potvin, 2018; Martino et al., 2020). Thus, it is important to question how such a commitment to trans-informed understandings of gender democratization might be interwoven into school-based policies, along with “assumptions regarding sex and gender, biology and culture...” (Stryker & Aizura, 2013, p. 3). The absence of trans-informed considerations of gender justice in such policies speaks to a failure to understand the systemic forces at play in the lives of transgender people, and, hence, the terms of necessary intervention to address them. Spade (2015) signals the necessity to move beyond developing trans-affirmative policies that do not interrogate the extent to which cisgenderist and cisnormative administrative systems “permeate our lives, our ways of knowing about the world, and our ways of imagining transformation” through a process of subjection (p. 6).

A focus on the representation of trans people’s lives aligns with Bacchi’s (2009) assertion that “discourses accomplish things. They make things happen, most often through their own status as truth” (p. 35) and also with her problematization of representation in policy where “by their very nature they [policies] contain implicit representations of ‘problems’” (Bacchi, 2009, p. 1). This speaks to what Ozga (2000) refers to as the “bigger picture”, which points to not only what the progenitors of policies are specifically thinking about and incorporating into their policy agendas, but also what they have *excluded* – either deliberately or accidentally. In this respect, policy is more than just the text that is inscribed and disseminated, but is prefaced upon a set of power relations, where this power is ultimately exercised through “a *production* of truth and knowledge, as discourses” (Ball, 1994, p. 21), where Ball ultimately aligns with Foucault’s (1977) notion of discourses as “practices that systematically form the objects of which they speak” (p. 49). This understanding of policy as discourse solidifies the

ways in which trans-affirmative policy has the capacity to dictate how transgender and gender diverse people are ultimately portrayed and understood by a system of power that is rooted in cisgenderist and cisnormative assumptions. Moreover, Ball (1994) extends this definition by stipulating that discourses also encapsulate “who can speak, when, where and with what authority” (p. 22). As such, it becomes particularly important to consider the extent to which policy actually engages with or is informed by trans people’s own accounts of their lived and embodied experiences. As Stryker (2014) maintains, “nothing about us without us” (para. 16).

Policies, especially this particular school board policy text, must be considered in connection with other policy texts that are bound to provincial (and now federal) legal stipulations (Ball, 1994). The interweaving of various policies and discourses bound to them necessitates a close reading of the policy “to identify assumptions and presuppositions (political rationalities) in identified problem representations” while also extending the identification of these assumptions to a nuanced *assessment* of problem identified in these policies and their effects – both real and theoretical (Bacchi, 2009, p. 40).

## Ontario’s Socio-Political and Legislative Context

It is vital to understand the context in which the trans-affirmative policy was created. I set my focus on one of the largest and most diverse school districts in Canada, covering a large urban centre and serving a school population of over 200,000 students. It was the first school board in the country to develop a trans-affirmative policy in 2011, one year prior to the Ontario Human Rights Commission (2012) mandating the inclusion of *gender identity* and *gender expression* as legislative grounds for discrimination. This school board policy was the result of mediation following a human rights complaint filed by a trans student whose request for accommodations in bathrooms and overnight trips was denied by his school. This resulted in the school board pioneering the first trans-

affirmative school board policy in the country in 2011<sup>16</sup>, predating both federal and provincial trans-affirmative legislation.

Ultimately, this document was amended in 2013 to include the provincial sanctions guaranteed by the Ontario Human Rights Code in 2012. Specifically, the terms *gender identity* and *gender expression* were added and recognized as two independent grounds of possible discrimination to the Ontario Human Rights Code in 2012 with the passage of *Bill 33*, known more expansively as *Toby's Act (Right to be Free from Discrimination and Harassment Because of Gender Identity or Gender Expression)*. *Toby's Act* became the very first provincial human rights amendment in Canada to add protections for *both* gender identity and gender expression in numerous social spaces, such as accommodation (housing), contracts, employment, goods, services and facilities, and membership in unions, trade or professional associations (Kirkup, 2018; Martino et al., 2019). This ultimately enshrined Ontario's position as a legislative leader with respect to trans-affirmative legislation (Martino et al., 2019). In fact, Ontario had passed *Toby's Act* five years prior to the federal government passing Bill C-16 (2017), which amends the *Canadian Human Rights Act* to include both gender identity and gender expression to the list of prohibited grounds of discrimination. It also amends the *Criminal Code of Canada* to extend the protection of gender identity and gender expression against hate propaganda and advocating genocide, as well as considering gender identity and gender expression when sentencing hate crimes.

In light of the broader provincial legislative context, I provide an analysis of the revised school board policy from 2013 and examine the ways in which it relies on a “liberal and rights-based framework” (Spade, 2015, pp. 50-51) that “entrench[es] and reiterate[s] existing relations of power” (Brown, 1995, p. 12). Such a focus allows for an exploration of “how rights discourse oriented to identity potentially reifies and regulates

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<sup>16</sup>A country-wide search of each school board in each province (and territory) showcased this policy as the first in the country. The search involved combing through each school board's websites to locate any published trans-affirmative policy. Each policy that was discovered was then examined to discover what year their policy was created, ultimately revealing that this particular board was the very first to publish a policy, and numerous others specifically cite this policy as their template for designing their own.

the subject produced by social powers largely taken for granted by that discourse” (Brown, 2000, p. 471) and therefore preserves cisnormative interests. Farley and Leonardi (2021) underscore that “even policies designed to support trans youth can further entrench the status quo and reinforce potentially damaging [cisnormative] ideas and practices” (p. 276). This critical policy analysis highlights the need to move beyond human rights legislative and policy frameworks, and instead, attend to cisnormative power relations and “the administration of life changes through traditional gender categories” which ultimately “produces trans vulnerability” (Spade, 2015, p. 15). This is necessary given that policies that focus solely on accommodation “distract from the need to address structural changes” (Farley & Leonardi, 2021, p. 277) that are required to “disrupt heternormalizing [and cisnormative] logics and practices” (Roberts & Marx, 2018, p. 282).

My analysis also focuses on investigating a discourse of accommodation as it relates to thinking about support for transgender and gender diverse students in schools. It is the dependence of trans-affirmative policies on the foundational legislation passed by the Ontario Human Rights Commission that necessitates a more macro-level analysis of the legislation and policies that have historically framed a consideration of the rights of transgender and gender diverse individuals in Ontario.

In addition to the OHRC (2012), *Bill 13* (2012) — otherwise known as *The Accepting Schools Act: An Act to amend the Education Act with respect to bullying and other matters* — has also played a significant role in the policymaking context in Ontario. The latter stipulates the need to “establish policies and guidelines ... to promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability” (Bill 13, 2012). The analysis of the school board’s trans-affirmative policy document which follows, therefore, needs, to be understood against this specific legislative backdrop and *policyscape* (Martino et al., 2019) which is understood as the “political landscape within which we dwell” (Mettler, 2016, p. 370). In this sense, it is amongst those “institutional policies that attend to sexual and gender differences in ways

[that are] synchronized with the tide of positive legislative changes recognizing, respecting, and accommodating the rights of sexual and gender minorities in Canada” (Grace & Wells, 2015, p. 26).

## The School Board Policy Text

Such a policy context helps to understand why the policy itself is structured upon and builds off a logics of individualized human rights which first and foremost presents the Ontario Human Rights Code as its foundational basis. This framing steeps the policy “in a narrative of human rights which is central to a distinctive mode of governance and the performance of a policy narrative of anti-discrimination that is specific to the Ontario policyscape” (Martino et al., 2019, p. 312). The policy demonstrates this by subsequently presenting the purposes of its creation, specifically pointing to its intention of raising “awareness and help[ing to] protect against discrimination and harassment”. However, instantly after this proclamation, the policy presents the “accommodation based on request” stipulation, which roots it in an individualist approach to supporting transgender students and staff by requiring their vocalization to be shifted (and outed) from a status of invisibility to hypervisibility (Martino et al., 2020).

The very introduction of the policy is embedded with stipulations imposed by the Ontario Human Rights Code, citing provincial (and federal) sanctions, which ultimately contributed to its production in its capacity to “reinforce federal and provincial legislation, and help ensure that the freedoms they name are protected within the school system” (School Board Policy, 2013, p. 3). The emergence of this policy as a result of a human rights complaint foregrounds the impact of policy networks that speak to “a history of on-going effort and are animated by social relations and performance” (Ball, 2016, p. 550). Consequently, the policy both emerges from and draws on a legal foundation in order to fulfil legal responsibilities as they pertain to gender identity and gender expression.

In the same regard, the creation of this policy through a human rights complaint follows Bacchi’s (2009) idea that “current practices and institutions, and the ways ‘problems’ are understood, are the inevitable product of ‘natural evolution of time” (p.

10). In this sense, the school board policy concretely answers Bacchi's central question when conducting policy analysis that inquires: what is the problem represented to be? Specifically, the policy maintains a design objective of "best practices related to accommodation based on gender identity and gender expression" and also "raise[ing] awareness and help[ing to] protect against discrimination and harassment" (p. 3) The notion that this policy is believed to serve as "*best practices*" for accommodation with respect to bathrooms and protecting students and staff against discrimination and harassment points to a limited understanding of the numerous obstacles bound to the discourse of "accommodation based on request" (School Board Policy, 2013, p. 4). Specifically, such an assertion misunderstands the potential repercussions of having to request accommodations, ensuring that not only does a cissexist system remain intact by monitoring bathroom access through the caveat of requesting it, but also yields the potential to increase surveillance of trans and non-binary bodies and, hence, enhances the very risk of being victimized (Ingrey, 2018). This stipulation demonstrates how policies that are "meant to address individual behaviors, aim to 'protect' queer and trans youth, miss the critical attention that must be paid to the root causes of harm, which are systemic and cultural" (Farley & Leonardi, 2021, p. 277). Moreover, the notion that this policy was "designed to raise awareness and help protect against discrimination and harassment" positions this policy in a way that suggests transgender and gender diverse students and staff require protecting and saving, and that the embodied experiences and lived realities of these individuals are not well-known or established.

In its articulation of the purposes and application of its guidelines, the policy insists that "specific accommodations sought are to be fulfilled on a case-by-case basis and individualized" (p. 4). While such an assertion seems productive, the notion of "accommodation" suggests finding space for existence in an already established system (Ingrey, 2018). This contributes to the creation and perpetuation of an "other" category that simultaneously "allows for a transgender identification but also denies a simultaneous identification with the gender of 'man' or 'woman', while collapsing the different ways of identifying as transgendered and living one's life" (Namaste, 2000, p. 44). Moreover, "case-by-case basis" points to a reluctance to address the broader systemic inability to account for transgender and gender diverse identities in the school

but will instead require conditional permission to be considered within a normative, cissexist and heteronormative system.

The policy continues by offers seemingly useful points of clarification in its provision of definitions of key terms. In a preamble, the policy explains that the outlined definitions are not meant to label an individual, but rather, are “helpful functional descriptors” and that the words are “social constructs” (p. 4). The document defines various terms, such as *cisgendered*, *gender identity*, *gender expression*, *gender non-conforming*, *transgender*, *transsexual*, *transition* and *two-spirit*. The policy maintains that these are provided as conceptual guides with respect to terminology and not concrete definitions, showcasing a malleability about how these identity categories can be understood. The inclusion of such definitions epistemologically consolidates the existence of these identities, rooting them in an official policy text that attempts to at least acknowledge their possibility (Butler, 2004; Stryker, 2006). However, the acknowledgment and epistemic validation of trans and gender diverse identities also contradict the policy’s logics of accommodation that govern its procedural reactionism. In essence, there is no acknowledgement nor opportunity to challenge *cultural cisgenderism* (Kennedy, 2018) in the policy, contributing to the continued subjectification of trans students, which Bacchi (2009) declares is a common by-product of “policies [which] set up social relationships and our place (position) within them” that results in “subjectification effects accompanying problem representations” (pp. 16-17). The problem then, according to the policy, is not represented as harmful cisnormative systems that impact the day-to-day lives of transgender and gender diverse students in nuanced and harmful ways, but rather, the “discrimination and harassment” endured by trans students (see Martino et al., 2020). And while discrimination and harassment are largely fuelled by transphobia that is steeped within *cultural cisgenderism* (Kennedy, 2018), this remains unacknowledged in the definitions of the policy text and in the rest of the document that outlines solutions and responses to the declared problem. This is precisely why Spade (2015) insists that legal reforms are particularly ineffective as it is administrative systems that regularly contribute to the shortened life spans experienced by trans people.



Often, gender is constructed as stable and amongst the most grounded of all signifiers, which ultimately results in those who identify as transgender as being constructed as unstable or illegitimate (Currah & Spade, 2007). It is particularly significant that this policy only constructs these terms as descriptors and general frameworks as opposed to categorical signifiers. As Keenan (2017) notes, such “strict, institutionalized, categorical definitions have grave consequences for our lives” often requiring individuals to conform strictly and specifically to these diagnostic criteria in order to gain access to health care (p. 548). The board is implicitly acknowledging that staff and students do not need to conform to “language recognized by the establishment that serves as a gatekeeper” (Keenan, 2017, p. 548) to gaining access to facilities or services that they require from their school/board (Serano, 2007; Spade, 2003). Policies, therefore, need to take into account the lived experiences of all students, a point that seems to be acknowledged by the policy document which reasons that some students are not open about their gender identity with their parents, and so schools should consult with the students about having contact with their guardians and how to address them by pronoun. In line with this stipulation, the school board policy maintains that regardless of documentation, every single student has “the right to be addressed by a preferred name and pronouns corresponding to their gender identity” and should an educator or administrator purposefully address the student by an incorrect name or pronoun, this could be “considered a form of discrimination” and it is “not condoned” (p. 6). Since the passing of *Toby’s Act*, the policy can effectively rely on provincial legislation to prevent such blatant instances of discrimination.

Thus, the policy text does offer valuable considerations, ranging from pronoun usage, privacy, and structural accommodation(s) (i.e., all-gender bathrooms and change rooms), with an emphasis on safety and protecting the human rights of trans students. It indicates that schools must address “each student’s needs and concerns separately” and states that staff “should not disclose a student’s transgender/gender non-conforming status to others” or to “the student’s parent(s)/guardian(s)/caregiver(s) without the student’s explicit prior consent” unless necessary. This stipulation reflects a legal requirement as set out in the Ontario Human Rights Code with regards to protecting and

respecting confidentiality as it pertains to disclosure of one's transgender status (Ontario Human Rights Commission, 2012). The school board policy also emphasizes the student's "right to be addressed by a preferred name and pronouns corresponding to their gender identity" (p. 6). In this sense, there is an acknowledgment of the fact that "pronoun usage is an issue for some transpeople... [and that] it is important to respect their wishes by using pronouns they use in self-description" (Grace & Wells, 2015, p. 53). Ultimately, the policy places the "student in charge" in an effort to demonstrate that they are the "driver" of their own narrative (Frohard-Dourlent, 2018, p. 332). However, while the policy endorses agency with respect to pronoun usage, it does not explicitly address how to sustain, nurture, and support these reiterative vocalizations of trans and non-binary identification and embodiment, which are presented in terms of the individual right of the student to request such forms of address. There is no commitment to supporting the student beyond their self-declaration.

The policy seems to envision gender inclusivity to be fundamentally bound primarily to physical accommodation. It sets its focus on the potential for the existence and inclusion of trans and gender diverse bodies in physical spaces, specifically outlining individual procedures to be taken into account with respect to student and staff requests for accommodation. In fact, physical accommodation is foregrounded in the body of the document with its emphasis on students having the right to "safe restroom facilities and the right to use a washroom that best corresponds to the student's gender identity, regardless of the student's sex assigned at birth" (p. 7). The policy explicitly addresses accommodation in the space of physical education, which is typically gender segregated. Specifically, it insists that staff must ensure that "students can exercise their right to participate in gender-segregated [...] class activities in accordance with each student's gender identity" (p. 7). Accommodation in this area also emphasizes the right of students "to a safe change-room that corresponds to their gender identity" (p. 7).

It is important to acknowledge that the policy offers an acknowledgement of the importance of trans-inclusive content in teaching and in all subject areas, including a separate section that addresses "curriculum integration" (p. 8). It calls for the need to address the erasure of transgender and gender non-conforming individuals from the

curriculum which “creates a misconception among many students that transgender people do not exist and are an object of scorn” (p. 8). The policy also advocates for school board and curriculum-based leaders to “integrate trans awareness and trans positive advocacy training into staff professional development curricula” (p. 8). This highlights Rands’ (2009) idea that educators must be adequately prepared “to teach gender in more complex ways that take into consideration the existence and needs of transgender people” (p. 419). Unfortunately, no accountability measures or distribution of resources are stipulated to guarantee professional and curricular development and, moreover, the latter aspects are certainly overshadowed by an emphasis on the necessity to accommodate trans students. Indeed, there is an absence of any explication of how a trans-inclusive pedagogy and curriculum might be enacted or any specific allocation of resources to achieve such outcomes (Keenan, 2017). This is an important policy consideration for, as Nicolazzo (2017) expresses, “just as trans\* people need physical space to be themselves, we also need epistemological spaces of our own to learn how we come to know ourselves and our worlds through gendered perspectives” (p. 7). Trans-specific policies need to move beyond a discourse of policies *for* transgender individuals toward policies that engage *with* them and constructively consider how such integrations can challenge and restructure a cisgenderist system in light of the provision of necessary supports and resources for principals and schools (Mangin, 2018).

In conjunction with this stipulation, the policy provides an appendix of resources for students and parents, ranging from reading materials (which include handbooks about parenting transgender and gender diverse children), online resources for trans youth and their families, and also identifies support groups for trans youth. In this sense, the policy text is indirectly informed by research which indicates “that youth in schools with such resources [GSAs, supportive educators, inclusive curricula, and comprehensive policies] reported lower levels of victimization and fewer days of missing school because of safety concerns” (Greytak, Kosciw, & Diaz, 2009, pp. 54-55). However, there is no explicit attention to addressing the institutionalization of cisgenderism as part of a broader commitment to the educative “work that must be done to create classrooms that truly

integrate trans lives into current curricula and classrooms” (Courvant, 2011, p. 26; see also Keenan, 2017; Malatino, 2015).

The analysis above showcases the reactive nature of the policy as well as the individualist treatment of trans students through physical accommodations, ultimately having been created only as a settlement following a human rights complaint, which is evident in its lack of commitment to proactively and intentionally challenging cisnormative structures by solely embracing a reactive fundamental logics of accommodation and individual rights. To elucidate the rationale behind these fundamentally reactive logics, the following section presents the insights of one of the progenitors of the school board policy and the production of this trans-affirmative policy.

### James’ Insights into the Policymaking Process

James has been with this particular school board for 21 years, serving diverse roles such as student equity program advisor, union president for one of the board’s support staff unions, a coordinator for gender-based program support for staff in schools, and more recently, as a manager for equity services. When that board resolved to develop a trans-affirmative policy document following a human rights case settlement, they turned to James to oversee the entire process. I draw on James’ experience and understanding of the policymaking process to understand the development of this policy, as “purposes and intentions are re-worked and re-oriented over time” (Ball, 1993, p. 11). As one of the key architects of the trans-affirmative policy text in question, he was able to speak to these purposes and intentions and their evolution in more concrete terms and from a historical standpoint of having been heavily involved throughout its production and implementation stages from its inception.

James provides a specific contextualization of the policy’s articulation of and emphasis on accommodation in elaborating on its genesis explicating the following:

We launched our first combination of guidelines for the district in 2011, but that really came as a result of... something good that came from a human rights complaint. It didn’t finally end up going to the tribunal, and we settled, and part of the settlement that the complainant wanted to see was a publication for the district

that would embed best practices. So, we built on that and we created a guideline that was more significantly robust than what the initial settlement required.

This indication of extending the expectations imposed on the board as a result of the settlement demonstrates the board's commitment to addressing cisnormative and heteronormative barriers in schools. However, the policy itself is limited by the section that outlines that accommodation requests will fall under the board's discretion based upon:

...several factors, such as undue hardship, including: the cost of the accommodation to the Board; health and safety risks to the person requesting accommodation and to others; and the effect of accommodation on the Board's ability to fulfil its duties under Board policies and the Education Act.

The potential for accommodation being rejected due to "undue hardship" or the board feeling as though it has taken "reasonable steps" dampens the policy's capacity of contributing to gender justice and trans-informed understandings of gender democratization throughout the education system by its constraints that are contingent upon the agency of trans students/trans staff and self-recognition and self-determination, where even if those seeking accommodation surpass the barriers of self-proclamation, they may not necessarily be afforded the accommodations for which they ask (Ingrey, 2018; Juang, 2006).

The notion of having to *request* accommodation in the first-place decrees certain identities below others, rendering such a stipulation inherently cissexist and unquestionably *reactive*. This caveat of requesting accommodation and the importance of proactive inclusivity are concepts that James addressed outright:

Once you begin looking at where gender binary and cisnormativity and heteronormativity impact a person's life in the aspects of the organization, it becomes kind of easy to go, "Oh, oh, oh... We'll need to change here. And we'll need to change there. And we'll need to change there!" And as you begin thinking about, "Well, how could we just make this more inclusive rather than accommodating every individual who comes along and asks for an accommodation?" That's where you begin changing your forms, and your databases, and you know, trying to have all-gender washrooms everywhere, regardless if an accommodation request goes through, right?

In this respect, James acknowledged the limitations of trans-affirmative policy depending solely upon the terms of accommodation for *visible* trans students only, and instead, understood the necessity of a commitment on behalf of policymakers, bureaucracies, administrators and educators to actively interrogate institutionalized gender hierarchies and the limits of cisgenderist social imaginaries and “cultural cisgenderism” (Kennedy, 2018; see also Connell, 2009; Martino, 2016). It is vital to move past this logics of accommodation through self-determination, otherwise the *gender oppression matrix*<sup>17</sup> (Rands, 2009) is resultantly enforced through what amounts to a failure to “take into consideration those who do not identify within the binary gender categorization of men/boys and women/girls” (p. 423).

While this policy draws upon and cites the Ontario Human Rights Code to better entrench its commitments in legislative obligations, it is curious that the approach taken is one that incites a doctrine of “accommodation based on request”. This is particularly curious given that the Ontario Human Rights Commission’s policy on preventing discrimination based upon gender identity and gender expression declares that organizations are *expected* to “prevent barriers by designing policies and practices inclusively up front” (Ontario Human Rights Commission, 2014, p. 23). Seeking permission to exist within a cisgenderist system only emphasizes the extent to which obstacles continue to remain, despite the development of this trans-affirmative policy. As Ingrey (2018) notes, such a caveat where “one must submit oneself to scrutiny of a public who can choose to accommodate or not” only serves to “reinforce the binary of the gendered norm and the gendered other” (p. 787). In this regard, the stipulation of requesting accommodation is seemingly antithetical to the purpose of the policy.

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<sup>17</sup>The *gender oppression matrix* preserves the privileging of those who conform to cisgender norms (referred to as gender category oppression), while punishing those who transgress these norms (referred to as gender transgression oppression) (Rands, 2009, pp. 422-423).

## James' Reflections on the Polemic of Requesting Bathroom Access

Importantly, the policy insists that “[a]ll students have a right to safe restroom facilities and the right to use a washroom that best corresponds to the student’s gender identity” (p. 7). Through this stipulation, the document indirectly acknowledges that “to have one’s gender identity questioned may incite physical assault and verbal interrogation” (Cavanagh, 2010, p. 54) while also resulting in being “shamed and ostracized in the public eye. Part of what it means to come undone is to be effaced or rendered invisible” (Cavanagh, 2010, p. 54; Namaste, 2000). As such, the document insists that “requiring students to ‘prove’ their gender (by requiring a doctor’s letter, identity documents, etc.) is not acceptable. A student’s self-identification is the sole measure of the student’s gender” (p. 7).

Despite this stipulation, the caveat of bathroom access is enshrouded in the aforementioned notion of “accommodation based on request”. Moreover, this section is further sheathed in ambiguity given that the document states, “*Where possible*, schools will also provide an easily accessible all gender single stall washroom for use by any student who desires increased privacy, regardless of the underlying reason” (p. 10, author’s emphasis). The limits to this caveat of possibility are unclear and remain ambiguous. Moreover, the subsequent sentence in the section insists that the “use of an all-gender single stall washroom should be an option that students may choose” (p. 10). How can this be reconciled when the document also states, “where possible”? If a student should have this option available to them, but this option has limits based on possibility, how does a school reconcile this discrepancy? In this respect, the policy has certain contradictory limits tied to it. Such an inscription represents an attempt to manage perceived constraints surrounding access, which highlights the powerful institutionalization of cisgenderism.

In spite of these limits, James made sure to insist that the school board places great emphasis on each school being the leader in how they choose to implement a bathroom:

You tailor-make to engage maximally the audience there because you want to build capacity, you want them to keep asking questions, and then you want them to kind of become their local experts on how they're doing *their* all-gender washroom, you know? [...] And if there needs to be some education and promotion, and some work both with the staff and the student population to make people feel more comfortable in terms of both using it themselves and who's using it, then we can do that, too. That should be all a part of the same plan. So, it isn't just the facilities piece, but what's the backend of that to make the climate, that makes the facility useful tool for the organization of the school.

James notes that the implementation of an all-gender bathroom requires an education component to both shift and promote inclusive culture in the school climate. The fact that such continued and proactive education is necessary points to the pervasiveness of the institutionalization of a cissexist and heteronormative system, underscoring Keenan's (2017) point that "Schools were not designed to support queer and trans people who defy imposed identity categorization. Schools were designed to sort people by gender through record keeping, facilities (like bathrooms)" which ultimately is "not a problem unique to schools. It is a reflection of a society that was not designed to support queer and trans people" (p. 545). Requiring such individualized changes and requests to be accommodated, as opposed to more sweeping proactive, systemic restructuring, perpetuates the struggle and fight to exist and be recognizable within a cisgenderist system. Solutions that are tailored to distinctive schools and individuals point to a broader failure to reform a system "to be able to recognize the transgender person and to provide the conditions for a liveable life" (Ingrey, 2018, p. 780; see also Martino et al., 2020).

Another area of concern with respect to these accommodation measures is the insistence for schools to "provide an easily accessible all-gender single stall washroom for use by any student". Such an expectation seemingly overlooks the capacity of how a single-stall bathroom has the potential to invoke and increase gender policing for those who choose to use this space. This kind of policing contributes to trans students' feelings of exclusion and disparagement (Wernick, Kulick, & Chin, 2017). The space of the all-gender single-stall bathroom allows for the process of *socio-spatial stigmatization*, whereby stigma attached to people both *extends from* and *extends to* the stigma associated with places (Takahashi, 1997).



The aforementioned stipulation of “accommodation based on request” further contributes to this socio-spatial stigmatization, positioning the individual requesting spatial accommodation as a “tainted” identity, who is “subjected to an approval process for a simple act of accessing a suitable washroom space; this process is humiliating, pathologizing and alienating, and ultimately transphobic” by requiring “transgender youth to self-publish their personal needs to either school personnel/administration in the approval process” (Ingrey, 2018, pp. 781-782). By having to endure an approval process, which *might* result in the creation of an all-gender single-stall washroom, increases the attention and policing from the student and administrative bodies. This space, therefore, brings along with it a certain kind of stigma that has the capacity to inflict psychological strain and, thus, interfere with the (re)construction or affirmation of identity. This requirement to request accommodation therefore falsely constructs the problem (Bacchi, 2009) not as a systemic issue, but one that is simply about providing a bathroom (only) when a student seeks it out. However, by doing so, this caveat (in)directly overlooks the manner in which requiring such action from transgender and gender diverse students not only leaves the cissexist system intact, it also places them at higher risk of policing and victimization by vocalizing their inability to fit into a system that was not designed to include them (Serano, 2007).

James highlights that this risk is compounded by how a school chooses to implement an all-gender bathroom as each school must respond to the implementation of an all-gender bathroom given specific contextual consideration and contingencies:

I suppose each space is sort of unique. Each school, I guess, kind of approaches it in a different way. Some schools have really gone out of their way to celebrate and advertise the fact that they *do* have all-gender washrooms. Some just make it another facility in the building, right? So, it doesn't seem to stand out. And then some of them have sort of hidden it away, down the set of stairs, sort of like the magic way to *Whereverland*. And, I guess, you know, it's what works for the population.

The notion of schools placing these bathrooms in a location of the school that is hidden or more difficult to access speaks to the ways in which such spaces also develop socio-spatial stigmatization. In this regard, administrators and policymakers must take up Namaste's (2000) call for an “invocation of the imagination [...] to imagine new

possibilities for transgender people to live free of violence, discrimination, negation, and erasure” (p. 290). Such possibilities do not place all-gender bathrooms in school basements or require permission to be deemed recognizable or legitimate in a cisnormative system, but require policymakers and administrators to rethink how their policies and *cultural cisgenderism* (Kennedy, 2018) foreclose gender expansive possibilities. It further underscores the need for policymakers and research to commit to dialogue *with* and direction *from* trans youth and to seek out their knowledge about these socio-spatial considerations. Moreover, it requires an adoption of the “transgender imaginary” that provides a “counterpublic space for the articulation of trans narratives that speak to the onto-formative enactment of gendered embodiment” (Martino, 2016, p. 398) in order to support (de)subjugating processes (Stryker, 2006) and contribute to gender democratizing strategies (Connell, 2009). It is vital that trans-informed critical analysis be interwoven in trans-affirmative policies. Such a commitment requires addressing the ways in which gender and non-binary classifications are administratively addressed in these policies in order to circumvent the implicit ways they perpetuate or minimize the “vector of violence and diminished life chances” for transgender and gender diverse youth in schools (Spade, 2015, p. 142). Trans-affirmative policies require an engagement with trans-informed literature and perspectives of trans individuals in order to circumscribe the recognition of transgender personhood and its livability into trans-inclusive policies in order to help ensure gender justice and democratization in the education system (Connell, 2009; Martino & Cumming-Potvin, 2018).

Unfortunately, acknowledging the onto-epistemic drawbacks of such policies – the ways in which they have the capacity to inadvertently shape discourses and further subjugate knowledges through their production – is not a straightforward task. For example, James reflected upon the success of the policy based on certain responses from schools in the district:

I get phone calls from across from the province from other districts all the time about how to put their policies into place. That’s common, too, which is usually a good indication that we’ve done something right. And I haven’t – knock on wood – heard any more complaints that weren’t resolved at the local level. So, that’s also an indication that we’re doing something right.

What James suggests here is that because there were no complaints that were left unresolved, the policy itself has been effective and has addressed the primary concerns faced by transgender students and staff. However, this assertion ignores that it is only through a request that space for trans recognition and visibility is made possible. As Ingrey (2018) maintains, “[p]roviding for safe spaces is a merit, but to ask students to ask for them on an individual basis is not” (p. 781). This process of expecting students to request such a space perpetuates the subjugating process that “subject our bodies, govern our gestures, dictate our behaviours” where these students are “gradually, progressively, really and materially constituted [...] The individual... is an effect of power, and at the same time, ... is an element of its articulation” (Foucault, 1980, pp. 97-98). It is in this sense that the trans student is constituted within an effect of power that leaves intact or simply refuse to challenge cissexist systems of governance.

Importantly, James explicated that it is not strictly the school board that is responsible for the placement of the policy in the local context. Specifically, he discussed to what extent the board is involved in such bathroom implementation in schools:

We would give them [schools and administrators] various examples of places we’ve been and not tell them “you must do it this way.” We could give them cautionary notes, like, “here’s somethings to be careful of.” Right? “Don’t have it be keyed only. Don’t have a sign-up sheet for it. Make sure the sign is consistent with the board sign.” That sort of stuff. But in terms of placement, that’s a local discussion. Have it with your students. What makes sense to them? It shouldn’t be something secret and then all of a sudden, the administration says, “Here’s the all-gender washroom!” And then everybody’s looking at who goes in there and who uses it.

In this respect, James highlighted the board’s attempt to be aware of the ways in which such spaces can develop a stigma in the way they are implemented and how the school culture is introduced to the all-gender bathroom. However, his assertion indicates that while policymakers have an obligation to ensure that their stipulations do not perpetuate the subjugation of transgender students, the onus is equally on administrators to ensure that these policies and the way they enact them are equitable and involve students in a productive conversation about what is most equitable.

Nevertheless, James does not point to the provision of resources which remains ambiguous and poorly considered, despite the necessity of these resources for “provok[ing] complicated conversations about ... cisnormativity and transgender inclusivity” (Blackburn, Clark, & Martino, 2016, p. 801). Moreover, there continues to be an absence of unacknowledged lack of accountability measures that are required to ensure the provision of such bathroom spaces in schools, nor is there any indication about how *gender-complex education* (Rands, 2009) could be adopted in association with the implementation of all-gender bathrooms in order to address more pervasive issues of *cultural cisgenderism* (Kennedy, 2018) that largely impact the daily lives of trans students. Such an oversight points to the limits of a logics of accommodation that anchors and guides the policy.

However, James did acknowledge the impact of systemic bathroom regulations as they pertain to the creation of new facilities:

As I began working with facilities, maybe in 2016, a little bit more on changing their facilities guide [...] which is based largely on the building code and the building code is still binary only in terms of counting washroom spaces, so even when we would propose new construction to city inspectors, they would reject all gender bathrooms as a legitimate building code count for the minimum amount of washrooms required for males and females, because there's no accounting for it unless it's a “single stall universal”.

The building code mandates that each building must have a designated number of male bathrooms and female bathrooms, while *all-gender* bathrooms do not count in the overall tally for these numbers. Therefore, the board is restricted by a cisnormative code of conduct that allows for only certain types of facilities to be deemed “acceptable” due to a cissexist code, and consequently, accounting for only intelligible bodies that can fit within a rigid binary. In this respect, James highlights the extent to which the board is thereby limited by space and the creation of all-gender bathrooms due to these regulatory codes. A broader cissexist system has resultantly dismissed and disqualified the possibility of other enclosed spaces (Stryker, 2006), therefore curtailing the limits of intelligibility for addressing more expansive understandings of gendered embodiment and spatiality (Ingrey, 2018). In this respect, James highlights the extent to which the policy

is reactive and impeded by a cisgenderist system that remains intact and unchallenged in the actual building codes.

Overall, while this policy's creation precedes *Toby's Act*, with its inclusion of *gender identity* and *gender expression* as grounds for protection against harassment and discrimination, it is a document that is seemingly continually being modified and amended. James acknowledges that the document is “woefully out of date now” and adds that “there has been so much wonderful change that’s there”, asserting that “I’ve got a revised version that needs to come out shortly.” However, as of the writing of this paper, the current 2013 iteration of the policy remains and does little to interrogate or problematize the cisgenderist system in place (Kennedy, 2018; Martino et al., 2020).

## Implications and Conclusion

In this paper I have illustrated through undertaking a specific critical policy analysis that is informed by a critical trans analytic frame, relying on accommodation as a basis for trans inclusion does not necessarily serve the interests and needs of trans youth in schools, but rather can result in furthering their subjugation and surveillance as gendered embodied subjects (Mathers, 2017). As Spade (2015) argues, such a policy resolution does little to “improve the life chances of those who are purportedly protected by them” and that “these kinds of reforms have not eliminated bias, exclusion, or marginalization” pointing to more pervasive systemic issues that need to be addressed in addition to such policy measures (p. 40).

When it comes to the space of the all-gender bathroom, the policy itself relies on the basis of “accommodation based on request” to resolve issues of bathroom access. Through the critical and empirical analysis provided, I have drawn attention to how such a discourse is driven by a reactivity and unjust processes whereby one must openly submit and vocalize a request to be accounted for and rendered legible in a cissexist system. In this respect, I have illustrated the extent to which trans-inclusion is rendered intelligible in terms of its reliance on accommodation as a fundamental policy frame. Through this caveat of requesting accommodation, I have highlighted that the effects of

such a discourse constitutes transgender and gender non-conforming individuals as unequal to their cisgender peers – its unintended effect is to render the trans subject as visible and subjected to the cis gaze of others, underscoring Foucault’s (1984) belief that a space itself does not guarantee liberation nor resolve social problems, but rather, liberation “can only function when there is a certain convergence” (p. 247), suggesting that the promise of an all-gender bathroom upon request does not make trans students any more recognizable than they were prior to the request because the system is still inherently cissexist and restrictive of their freedom by requiring such a request in the first place. In this respect, the policy pays little analytic attention to the repercussions or inequities tied to requiring this regulatory system of spatial surveillance and its impact on the lives of transgender students. This is the fundamental lesson to be learned from this paradigmatic case (Flyvbjerg, 2006) – that the necessity of ensuring accommodation as a basis for ensuring the human rights of trans students in schools, while important, should not be employed without analytic attention to the education that is needed to address the institutionalization of *cultural cisgenderism*.

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## Article #3

### Interrogating administrator and educator impressions and configurations of the all-gender bathroom in schools: A case study analysis

#### Abstract

In this article, I provide trans-informed empirical insights into the perspectives of education stakeholders regarding the space of all-gender bathrooms in their schools. This study contributes to a growing body of literature regarding the extent to which the all-gender bathroom promotes trans-inclusivity while highlighting the limits of that very inclusion. This paradigmatic and instrumental case study relies upon the interviews of ten education stakeholders (administrators, teachers, school counsellors and a social worker) to illustrate their views regarding the visibility and inclusivity of trans youth in their schools. It specifically highlights the problematic of trans inclusion created by institutional and systemic barriers. The case study provides an illustrative example of the limits of individualized accommodation and inclusion vis-a-vis the all-gender bathroom and the problematics linked to this space that can further perpetuate trans exclusion without confronting or acknowledging the detrimental impacts of cisgenderism and cisnormativity on school climate and school community.

**Keywords:** all-gender bathrooms; gender neutral bathrooms; trans inclusion; gender justice; transgender; gender diversity

#### Introduction

All-gender bathrooms<sup>18</sup> have become a common resolution employed by schools to accommodate and support transgender and gender diverse people. In this article, I draw

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<sup>18</sup>Due to its prominence as being referred to as the “bathroom” in transgender studies, I utilize this term while also acknowledging the numerous iterations by which this space can be understood and configured (e.g. washroom, restroom, toilet, loo, lavatory, etc.).

on trans epistemological frameworks in conjunction with a Foucauldian interpretive analytics in order to interrogate the fallacy of successful inclusion and progressivism that are implied based solely upon the implementation of all-gender bathrooms in schools. I provide a *paradigmatic* (Flyvbjerg, 2006) and *instrumental* case study analysis that is concerned to “mainly provide insight into an issue or to redraw a generalization” (Stake, 2003, p. 137) about the limits of trans inclusivity vis-à-vis the all-gender bathroom. Specifically, this study reports on education stakeholder perspectives on the all-gender bathroom who work in various schools under one of the largest school boards in Ontario. It challenges the assumption that these spaces create an environment of inclusion and support for transgender and gender diverse students (Davies, Vipond & King, 2019), and rather, reveals that the all-gender bathroom continues to be a site of panoptic regulation, manifesting an illusion of inclusivity by its mere implementation. As Ingrey (2018) signals, “the binary gendered washroom is a place that risks misrecognition or gendered policing for many transgender, genderqueer or gender diverse individuals [...] Presumably, so too does the all-gender single stall washroom” (p. 781).

It is my purpose to generate knowledge and understanding about how education stakeholders view the all-gender bathroom, the extent to which they believe it to be serving as a support to transgender students, and the limitations of these spaces based on their individual observations and experiences. In generating this knowledge, I apply trans-informed theoretical frameworks that have largely been absent from bathroom literature (Bender-Baird, 2016; Cavanagh, 2010; Davies et al., 2019; Ingrey, 2012; Millei & Cliff, 2014). This study contributes to an emerging body of literature that seeks to understand the implications of the bathroom for transgender and gender diverse youth in schools (Ingrey, 2012), and contributes to a stark absence of insight about how the space of the all-gender bathroom addresses questions of inclusivity for trans youth (Ingrey, 2018).

This paper begins with an explication of how I am employing transgender- and Foucauldian-informed theoretical frameworks to provide analytic insights into the perspectives of 10 participants on the politics of creation, accessibility, and use of all-gender bathrooms in their schools. Foucault’s concepts of panoptic, disciplinary

surveillance informed my understanding of how the all-gender bathroom might continue to remain a site of continued regulation. In addition, a trans-informed framing devotes attention to and underscores the importance of teachers and administrators considering “institutionalized regimes of cisnormativity and cisgenderism and their harmful impact, which affect all individuals with respect to the constraints that they pose for embracing more creative and independent gender expansive understandings and practices” (Martino & Cumming-Potvin, 2018, p. 689). What follows is a framing of the “bathroom problem” (Browne, 2004) and a discussion of the embodied relationality attributed to these regulatory spaces that “don’t just tell us where to go; they tell us who we are, where we belong, and where we don’t belong” (Rasmussen, 2009, p. 439). I then go on to frame the study, providing an overview of participants, methods, and procedural conduct of the study prior to elucidating the common themes that emerged from my interviews with the participants regarding the all-gender bathroom(s) in their respective schools.

## Framing the Bathroom Problem: Trans-Informed Theory, Power, and Resistance

The bathroom has become a beacon of analytic attention for both transgender studies and from queer theory scholars since Browne (2004) highlighted the polemic of the “bathroom problem” in which “individuals are challenged in toilet spaces and their gender questioned” (p. 337). In fact, both queer and trans scholars alike have described the bathroom as a problematic space, “one that moves beyond a silencing of a normalised structure that perpetuates the exclusion of gender non-conforming bodies” (Ingrey, 2012, p. 801). This attention is necessary given that “bathrooms are central to access and therefore citizenship, but this access is unevenly embodied” (Travers, 2018, p. 79). Resultantly, the bathroom has been expansively theorized as a space that largely impacts bodies and influences embodied relationality (Bender-Baird, 2016; Cavanagh, 2010; Ingrey, 2012; Millei & Cliff, 2014; Rasmussen, 2009; Robbins & Helfenbein, 2018; Slater, Procter, & Jones, 2018; Spencer, 2019). This body of literature and its theorization of the space of the bathroom contributes to my own trans-informed ontological orientations given that “lack of bathroom access produces disabling consequences that

further acts to exclude the marginalized from public space and civic participation” (Travers, 2018, p. 79) and ultimately limits their livability.

Significantly, Cavanagh (2010), in her seminal study about queering bathrooms, through interviews with 100 LGBTIQ+ individuals, underscored the undeniable impact of the bathroom on the subjectivities of its occupants by highlighting it as a beacon for “gender-based hostility, anxiety, fear, desire, and unease in the present day” (p. 5). Such a heightened threat of violence and vulnerability binds Butler’s (2015) notion of *precarity* to the trans individual as “precarity is, perhaps obviously, linked to gender norms, since we know that those who do not live their genders in intelligible ways are at heightened risk for harassment, pathologization, and violence” (p. 34). Importantly, Cavanagh (2010) defines the bathroom as a prime example of “a gendered architecture of exclusion” (p. 32) that is continually “erasing trans histories and trans-specific entries” (p. 19) into this space. Incidentally, Ingrey (2012) also notes how the current bathroom system is built upon “dividing bodies by what is presumed to be normal and coherent gender and sex” and highlights the “implicit and continual messages of gender normalisation” (p. 814) that is relayed by these spaces. It is these dividing practices that ultimately ensure trans bodies are vulnerable due to this categorization and administration of gender (Spade, 2015) as “they [overtly] reveal the constructedness of gender norms” (Spencer, 2019, p. 546).

Cavanagh (2010) and Ingrey (2012) further depict the bathroom as a disciplinary space, where “no room exist[s] between for gendered bodies using the public toilet... students perceived virtually no room for their own questioning of gender binaries” (Ingrey, 2012, p. 808). Similarly, Millei and Cliff (2014) conceive of the bathroom as a disciplinary space in their empirical study on preschool children and their use of the bathroom indicating that preschool students are “taught to regulate and fashion their bodies, and to shape their conduct to fit the [gender] norms” (p. 245), which inevitably exposes “problem bodies” that necessitate adult surveillance to ensure children are fitting into rigid (gender) scripts within these spaces. Strictly defining the bathroom within a rigid binaric system ultimately impacts the identities of these students, as “how these places get defined in turn influences student performance, which impacts how those

students are defined” (Robbins & Helfenbein, 2018, p. 265). Resultantly, transgender and gender diverse folks must therefore either engage in a process that Bender-Baird (2016) refers to as “situational docility” by “adjusting their bodies to comply with the cardinal rule of gender – to be readable at a glance” (p. 983) in the public bathroom or give into the “certain[ty] about the dangers of bathroom spaces, even in the absence of support for those fears” (Robbins & Helfenbein, 2018, p. 271).

Slater et al. (2018) highlight the “intertwined relationships between toilets, embodiment and identity” while also acknowledging the tendency of literature about the bathroom to “fail to include the diverse range of identities and forms of embodiment that make up lived experience” in these spaces (p. 952). Their study involving 16 queer, trans and/or disabled participants highlights and consolidates Millei and Cliff’s (2014) findings, which point to the disciplinary “implicit lessons children learn through ‘toilet training’ and the school toilet” (p. 9961) while also indicating that “space and place shape embodied experience” (p. 954). Ultimately, they describe the bathroom as a place that conditions children to view “[d]isabled and queer bodies as out of place” (p. 951) thereby perpetuating the hegemonic “structures of ‘normalcy’ that teach us about the ‘right’, ‘ideal’ and ‘normal’ way of being child/adult/human” (p. 952) through the administration and classification of gender (Spade, 2015) and panoptic, disciplinary surveillance in this space. This exemplifies the trans and Foucauldian analytic approaches that encapsulate my approach to conceptualizing the bathroom space.

This heightened regulation and increased risk of victimization promotes this need for *situational docility* (Bender-Baird, 2016) and ultimately reinforces what Spencer (2019) refers to as a *biopolitics of trans disposability* which “works by making marginalized people disappear from public view by regulating their bodies into invisibility. They are, in a word, disposable” (p. 546) or conversely, “worthy of symbolic and material annihilation” (p. 554). Trans and gender non-conforming bathroom occupants are therefore confined to a condition of precariousness (Butler, 2015) where they “become differentially exposed to injury, violence, and death” (p. 33) due to the fact that this precarity is “directly linked with gender norms, since we know that those who do



not live their genders in intelligible ways are at heightened risk for harassment and violence” (Butler, 2009, p.ii).

Ultimately, theorizing gendered bathrooms in this way where “forced gender performance” is necessitated in order to preserve the “very possibility of existing and persisting” (Butler, 2015, p. 40) ultimately “suggests that gender neutral bathrooms are needed” (Robbins & Helfenbein, 2018, p. 274). Such a suggestion is consistent with that of Cavanagh’s participants who argue for a universal bathroom design “that will gently guide unsuspecting patrons through non-normative spatial maps. People must not feel as if they are in danger of being undone” (p. 218). My research study investigates these spaces further and embarks to address the question: How do all-gender bathrooms both promote a culture of trans-inclusivity and also implicitly limit this inclusion in the space of schools?

While schools have begun to implement all-gender bathrooms, oftentimes trans students are expected to request accommodation or announce their request for visibility in order to receive fundamental accommodations (Ingrey, 2018; Omercajic & Martino, 2020). These inequitable expectations that only reactively account for trans and gender diverse identities contribute to the reproduction of cisnormative discourses that regulate gender normativity and reinforce dominant identities, and therefore knowledges, while others are rendered subjugated knowledges (Foucault, 1980). Given that transgender and gender diverse youth are often rendered “disposable” (Spencer, 2019) due to their terms of self-knowledge through processes of cisgenderism embedded in the administration of gender (Spade, 2015), they are ultimately subjugated as a result of this foreclosure of their recognition, speaking to Namaste’s (2000) indication that trans people are made invisible in institutions and “the daily work of administration” (p. 4).

The bathroom is one such system that has been a tremendous source of regulation and contributing architect of embodied relationality as “public toilets are an architectural feature that can make us feel queer, or cause others to police gender identity” (Rasmussen, 2009, p. 440). In this sense, Rasmussen points to how toilets, through their cisgenderist and heteronormative establishments, dictate feelings of queerness when one

cannot fit into the rigidly, binaric system. Drawing on the Foucauldian concepts of the “panopticon” (Foucault 1977) and “the gaze” (Foucault 1989), the bathroom – and particularly, its location in schools – ensure that trans students remain under constant surveillance, guaranteeing that they remain subjugated in a cisgenderist system. Specifically, the bathroom has served as a disciplinary space where practices of accessibility have been steeped in what Kennedy (2018) refers to as *cultural cisgenderism*, that is, “a detrimental and predominantly tacitly held and communicated prejudicial ideology, rather than an individual attitude [which] represents a systemic erasure and problematizing of trans’ people and the distinction between trans’ and cisgender people” (p. 308). It is this *cultural cisgenderism* (Kennedy, 2018) that often requires trans students having to *out* themselves or to advocate for their own needs in order to be afforded the same fundamental facilities that their cisgender peers are unquestionably provided (Martino et al., 2020). Trans students are often expected to *request* to be accommodated by outing themselves and vocalizing that they need a bathroom space (Ingrey, 2018; Omercajic & Martino, 2020), despite alarming statistics of discrimination and harassment for this specific population of students (Human Rights Campaign, 2018; Kosciw et al., 2018; Taylor & Peter, 2011).

Spade (2015) reflects on the pervasiveness of disciplinary power that Cavanagh (2010) and Millei and Cliff (2014) also discuss in their own research, reasoning that “[cisgender] norms become internalized, [and ultimately] self-regulation would come to displace directly coercive means” (p. 55). For this reason, Spade (2015) advocates for a *critical trans politics* that rigorously scrutinizes and resists “how the administration of gender norms impacts trans people’s lives and how administrative systems in general are sites of production and implementation of racism, xenophobia, sexism, transphobia, homophobia, and ableism under the guise of neutrality” (p. 73). Embracing a *critical trans politics* is particularly useful in challenging and unearthing the mechanisms of *cultural cisgenderism* (Kennedy, 2018) that “permeate our lives, our ways of knowing about the world, and our ways of imagining transformation” (Spade, 2015, p. 6). Such imaginings must move beyond the fallacy that an all-gender bathroom is a resolution to deeply entrenched cisgenderist logics that “are enforced on all people in ways that have particularly dangerous outcomes for trans people” (Spade, 2015, p. 9).

## About the Study

This study is framed as a *paradigmatic* case that “highlights more general characteristics of the societies in question” (Flyvbjerg, 2006, p. 232), in particular, the question of trans-inclusion in schools. It is also an *instrumental* case study (Stake, 2003) that provides further in-depth knowledge and “insight into an issue” (Stake, 2003, p. 137), providing an analytic focus regarding perceptions and impressions from education stakeholders about the all-gender bathrooms in their schools and the limitations of trans-inclusivity associated with these spaces. Each participant is employed by the largest school board in Ontario and contributes to a broader instrumental case that informs how education stakeholders consider and understand the polemics of the all-gender bathroom and its effects on trans students and its implicit contributions to *cultural cisgenderism* (Kennedy, 2018) within their school(s). Resultantly, each case was “selected purposefully ... permit[ting] inquiry into and understanding of [this] phenomenon in depth” (Patton, 2002, p. 46) and therefore effectively “provide[s] insight into an issue or to redraw a generalization” (Stake, 2003, p. 137). In particular, the accounts from the participants provide insight into the case regarding the polemics of the all-gender bathroom and the limits of trans inclusion despite the implementation of these spaces.

I relied on both purposive and snowball sampling to recruit each participant, which allowed for “information-rich cases for study in depth” (Patton, 2002, p. 46). Specifically, I was interested in participants from one particular board, which is the largest in the province and country, governing just over 580 schools within its district parameters. I initially procured three participants by disseminating advertisements across public Facebook teacher groups that explicitly sought educators who were interested in discussing the all-gender bathroom(s) at their school. I also relied on personal networks to connect me with educators and administrators who worked under the board. Participants passed along my contact information, which resulted in the participation of others who showed interest in discussing the all-gender bathroom. Each interview lasted approximately one hour in length and followed a “general interview guide” (Patton, 2002, p. 342) that focused on general questions of inclusion that funnelled into specific questions about the all-gender bathroom; participants were asked to reflect on the

location of the all-gender bathroom(s) in their school(s), the frequency of its use, the circumstances under which it was created (e.g. activism, board and/or policy mandates, etc.), and their impressions of the safety of students who access the(se) space(s).

Ultimately, I conducted qualitative interviews with 10 participants: despite the diversity of the school board<sup>19</sup>, eight participants identified as white, one as Black, and the other as East Asian. Two participants openly identified as transgender, while the rest identified as cisgender. In light of the overrepresentation of cisgender voices in the data, it is my intention to amplify and highlight the voices of the two transgender participants as much as possible throughout the data analysis and discussion in order to foreground their embodied experiences and perspectives regarding a system that “fails to engage or account for them in their own terms of recognition” (Ingrey, 2012, p. 2012). Prioritizing the voices of trans educators is necessary given Namaste’s (2000) explanation that erasure is a “defining condition” of trans people’s lives (p. 4) and precisely why Stryker (2006) advocates for *transgender studies* that addresses:

anything that disrupts, denaturalizes, rearticulates, and makes visible the normative linkages we generally assume to exist between the biological specificity of the sexually differentiated human body, the social roles, and statuses that a particular form of body is expected to occupy, the subjectively experienced relationship between the gendered sense of self and social expectations of gender-role performance, and the cultural mechanisms that work to sustain or thwart specific configurations of gendered personhood. (p. 3)

Such an approach frames this study given that trans perspectives are often not prioritized or excluded altogether from research that concerns their lived experiences (see Crissman, Czuhamjewski, Moniz, Plegue, & Chang, 2019; Mathers, 2017).

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<sup>19</sup>The school board covers a large urban core that serves a school population of over 250,000 students and employs over 16,000 teachers across over 500 elementary and secondary schools.

**Table 1**  
Participant Demographic Information<sup>20</sup>

<i>Name</i>	<i>Gender Identity</i>	<i>Race</i>	<i>Role</i>	<i>Experience</i>
<i>Arthur</i>	Cisgender Male	White	Principal	10 Years
<i>Brent</i>	Cisgender Male	White	Teacher	5 Years
<i>Samantha</i>	Cisgender Female	Black	Principal	12 Years
<i>Jane</i>	Cisgender Female	White	Teacher	18 Years
<i>Eloise</i>	Cisgender Female	White	Principal	7 Years
<i>Anabelle</i>	Cisgender Female	White	Counsellor + Teacher	21 Years
<i>Cindy</i>	Cisgender Female	White	Counsellor + Teacher	18 Years
<i>Taylor</i>	Trans Man	White	Teacher	11 Years
<i>Tate</i>	Trans Man	White	Teacher	3 Years
<i>Carmen</i>	Cisgender Female	White	Social Worker	12 Years
<i>Mei</i>	Cisgender Female	East Asian	Teacher	15 Years

I approached the analysis of the data by reading through each transcript multiple times, “line-by-line” which deepened the dependability of the study (Lindlof & Taylor, 2002, p. 219). Through this process, I was able to identify and colour-code emerging themes by “marking those chunks of text that suggest[ed] a category” which were

<sup>20</sup>Each name was converted into a pseudonym that I selected for the participant. In doing so, I did my best to ensure that each pseudonym honoured and resembled the cultural and ethnic background of each participant’s name.

common across the breadth of interviews (p. 219). My thematic analysis consisted largely of this constant reading and re-reading of the interview transcripts with a focus of “identifying, analyzing, and interpreting patterns of meaning” (Clarke & Braun, 2017, p. 297). My thematic analysis was further informed by my reading of trans-informed scholarship, which speaks to Anyon’s (2009) notion of “weav[ing] . . . micro theoretical analyses into [an] exposition of macro structures” (p. 6) as a process of “mutual interrogation of data and theory [that] occurs” (p. 12). Three specific themes emerged that contributed to a more significant analysis of the polemics of the bathroom space and the limits of trans inclusion through the mere creation of all-gender bathroom spaces in schools. The remainder of the article is devoted to investigating the following emergent themes from the interview data: (1) the school office as a panoptic space of regulating bathroom access; (2) the illusion of inclusion through the creation of an all-gender bathroom space; and (3) culture and religion as perceived barriers to trans inclusion and bathroom accessibility.

## Discussion and Analysis

### The School Office as a Panoptic Space: Regulating and Monitoring Bathroom Access

Foucault (1977) and Bentham develop the idea of the panoptic prison with circular atrium with cells along the perimeter facing inwards, and with a single watchtower in the middle where the watchman would be able to observe. Incidentally, six participants signalled that the all-gender bathroom(s) in their school(s) were either within or just outside/in view of the school’s office(s), while still open to the panoptic gaze of other students, suggesting that surveillance occurs both inside *and* outside of this space, akin to the panoptic design of prisons proposed by Bentham and Foucault. In this respect, the office resembles “a single tower or centre of surveillance” (Cavanagh, 2010, p. 82) that monitors who accesses the all-gender bathroom. Ultimately, a non-compliance to gender norms “calls into question the viability of one’s life” (Butler, 2009, p. iv), resulting in the creation and use of the all-gender bathroom, highlighting the precariousness of those who choose to access this space whilst inviting an increased surveillance. The creation of the all-gender

bathroom, then, is a means of acknowledging a *lack* of recognition, whilst, at the same time, not offering “full recognition” (Butler, 2015, p. 39).

Samantha, an administrator for the past 12 years, indicated that in both of the schools she served as principal, the all-gender bathroom was in front of or right next to the office:

In my senior school, it was like basically right in the front foyer. As soon as you came into the building and you had to kind of turn left to go towards the office through the double doors, it was just past those doors in front of the office. And then in my current school, it's in the main hallway as well [...] maybe two doors down from the office.

Brent, also noted the proximity of the bathroom to the office and problematized the location of the bathroom in his school:

I think there's a further kind of relegation of this thing, right? To be a marginal service in a school because there's literally a capacity of one. That's it. It's not one of the larger washrooms that was converted, there is this single stall or single toilet washroom across from the office that is available as a gender-neutral washroom.

In this sense, by suggesting the all-gender bathroom is a “relegation”, Brent depicts this space as one that is conceived as inferior and “an alternative to what currently exists” (Ingre, 2012, p. 812). The all-gender bathroom, then, is already conceived as stigmatizing to those who access it. In addition, Brent's reflection underscores Cavanagh's (2010) assertion that “the public lavatory, as a modern-day gendered institution, embraces the pedagogy of examination [...] where] the body is, in this space, an object of visual inspection” and that “our gender is subject to survey every time we enter the lavatory” (p. 43). In this sense, Brent also signals Foucault's (1977) idea that subjects are constructed through marginal institutional spaces and become “abjected” subjects through their regulation within (and around) these marginal spaces (see also Ingre, 2012). This affirms that “public space is not a neutral space, rather it is where power is enacted” (Bender-Baird, 2016, p. 984) and because “panopticism prioritizes vision” (Cavanagh, 2010, p. 6), the location of the all-gender bathroom across from the office only invites further regulation where “prying eyes [can] attend to the body and whether or not it is in the right place” (Cavanagh, 2010, p. 43). Resultantly, the decision

to place the bathroom across from the office undermines claims from bathroom literature that conclude that “[t]hrough the implementation of all-gender or gender neutral washrooms, transgender and gender non-conforming students can escape the panoptic lens of gender-segregated washrooms” (Davies et al., 2019, pp. 877-878; see also Cavanagh, 2010).

This decision to place the all-gender bathroom directly opposite the school’s main office is incidentally not an anomalous school decision, given that six participants echoed that their schools have done the exact same thing when creating all-gender bathroom spaces. For example, Mei, an educator of 15 years, noted that the office is the epicentre for numerous bathrooms:

Our office has a bathroom inside for staff. And then it has two bathrooms on the outside that will have always been used for students. So, there’s two bathrooms on the outside. Now one of them is all-gendered and then the other one is a secondary staff bathroom.

In Mei’s school, the office is in sight of three bathrooms, the newly converted all-gender bathroom being one of them. In this sense, the office serves as a metaphorical “watchtower” of regulation and surveillance that allows administrative staff to monitor and observe who accesses each bathroom space. This resemblance of Foucault’s (1977) panopticon is translatable to the school context regarding the all-gender bathroom where the prisoner – or in this case, the trans student – cannot escape the unwavering gaze of watchman in the central watchtower (i.e., administrative staff in the office). As Nicolazzo (2017) asserts:

[T]o be a visible trans\* person means to be increasingly watched, scrutinized, and surveilled. In a sense, we are opting into the panopticon of surveillance in a way that remaining invisible, or using virtual back channels to develop and maintain trans\* community, may not invite into our lives. (p. 17)

Nicolazzo (2017) reaffirms Foucault’s discussion of the panopticon, explicating that – to some extent – trans people must submit to an increased process of surveillance invoked by disciplinary power, resulting in their docility. Resultantly, the trans students are docile bodies that are “manipulated, shaped, trained” (Foucault, 1977, p. 136), largely through *cultural cisgenderism* (Kenney, 2018) that has sanctioned the institutionalization of



cisnormativity and cisgenderism. Ultimately, the “bodies” (i.e., trans students) are inducted into a system whereby they must give up some of their rights (i.e., privacy) in exchange for their safety (i.e., accessing a monitored all-gender bathroom) (Foucault, 1977). Such a compromise is consolidated by Millei and Cliff (2014) who note that “being seen in the bathroom had disciplinary effects” where ultimately “problem bodies” are “placed under surveillance and disciplining regimes” (pp. 253-254). In this sense, precarity is distributed among bodies, spaces and populations in a way that divides precarious bodies (i.e., the trans body) into precarious spaces (i.e., the all-gender bathroom) with heightened mechanisms of discipline and surveillance (Butler, 2006).

In this respect, Brent signalled his concern regarding the panopticism associated with the all-gender bathroom and its proximity to the office:

Some of the things that I would think about are... the all-gender bathroom’s visibility from the office: there’s a big glass window. You know, there are multiple adults who sit within eyeshot of the bathroom. There have... I am thinking of a couple of students from the past who were part of the GSA who – I didn’t ask them about their gender identity – but you know, there have been a couple of students who were involved in student leadership who may have seen the office as a threatening space.

While Cavanagh (2010) explains that where bathrooms are concerned, “there is no one bathroom warden, no single tower of surveillance” (p. 82), Brent conversely highlights the potentiality of the office as a regulatory space that effectively monitors who enters the space through multiple adults (who serve as a “warden” of sorts) as well as how the office itself and its “big glass window” might as a “single tower of surveillance”. In this sense, Cavanagh’s declaration is opposed by Brent’s analysis of the proximity of the office to the bathroom space. Moreover, the high visibility of the bathroom from the office largely influences subjectivities through the panoptic and disciplinary gaze of administrative staff working in the office (Foucault, 1977). Such a design only highlights the precarity of the trans and gender non-conforming individual (Butler, 2006). This precariousness ensures that “one’s life is always in some sense in the hands of the other. It implies exposure both to those we know and to those we do not know” (Butler, 2009, p. 4). Resultantly, the proximity of the office to the bathroom guarantees that the all-gender bathroom, despite its hypothetical shedding of gender scripts, continues to serve as a site

of crystallization of surveillance where bodies, their functions, and their gender norms are segregated and monitored ensuring that the design and location of the bathroom “visually apprehend[s] gender” (Cavanagh, 2010, p. 36). Stryker (2014) reasons that “[b]odies that manifest such transgender phenomena have typically become vulnerable to a panoply of structural oppressions and repressions” (p. 40), which includes heightened mechanisms of surveillance such as ensuring the “transgender washroom [which] is always considered as an alternative to what currently exists” (Ingrey, 2012, p. 812) can be monitored by the administrative office. In this sense, the all-gender bathroom, despite being implemented, receives the most rigorous regulation and surveillance due to its proximity to the office.

Conversely, Taylor, who advocated for the presence of an all-gender bathroom in his school given that is where he felt safest as a trans man, indirectly echoed Nicolazzo (2017) who prioritizes the presumed student safety as a result of the all-gender bathroom’s location across from the office:

There was no violence with the washrooms, like they [the general student body] all felt safe going in and out. And it’s also, I think, the location was awesome because the office is across the hall. And so, there was a visibility and students couldn’t be bullied. Well, if they were, they’d be caught immediately from office staff and from admin. And so, maybe that had something to do with it as well: There was this safety and, “we’re right in front of the office, so nobody’s going to hurt us.” And so, maybe once that’s normalized, and it’s more comfortable and more education has been done in the school, maybe safety would happen on the third floor [once an all-gender bathroom is implemented there].

For Taylor, the office fulfilled its panoptic responsibility in ensuring students became subjects through self-discipline and refrained from bullying behaviour through the conditioned fear of punishment by administration who might be inspecting the bathroom space from the office at any given moment. This speaks to Foucault’s idea that “where there is power, there is resistance” and that power ultimately both creates and constrains the individual subject (Foucault, 1990, p. 95). The creation of these spaces afforded a resistance to a cisgenderist system that has historically contributed to “injury, violence, and death” (Butler, 2009, p. ii) for those who access it (Cavanagh, 2010). Taylor believed that the resistance to this system provided a power to interrupt this history of violence.

Nevertheless, while Taylor praised the safety afforded to trans students through the panoptic gaze of the office, Tate, a trans man with three years of teaching experience, indicated that there is an inconvenience and discomfort component that may impact use of the space:

There are some [bathrooms] that have been located in the office themselves, and they're in like a separate portion of that, but are typically like staff washrooms. So, those have been converted and are allowed to be used. So, I feel like those aren't necessarily used by the wide range of the school. I think in part because it's in the office and it's a busy place. They kind of have to go out of their way to use it.

In this sense, the non-use of the all-gender bathroom showcases an act of resistance by students to oppose mechanisms of surveillance by adults in the building. Carmen, a social worker for the board, questioned what it is that might inspire such resistance and how it can be remedied:

What is it about the washroom near the office that no one uses it? Is it an inconvenient location? Do people not like it because it's close to the office? Or is it because it's single stall, it feels more singled out. So then, how do we then shift the messaging so that that's just another bathroom?

In light of Tate's point, Carmen seemed to suggest that a shift in "messaging" has the capacity to address and minimize resistances to mechanisms of surveillance. However, such resistances can be rooted in the awareness and rejection of a cisgenderist system that continues to subjugate and require submission from the trans student body in order to be granted their fundamental human rights of bathroom access. As Foucault (1980) ascertains:

it is only if we grasp these techniques of power and demonstrate the ... political utility that derives from them in a given context for specific reasons, that we can understand how these mechanisms come to be effectively incorporated into the social whole. (p. 101)

and ultimately, resist these practices of disciplinary power. Nevertheless, this aversion and resistance by trans students accessing the all-gender bathroom either in front of or inside of the office highlights the fallacy of inclusivity implied by the mere act of creating a bathroom. It signals the tendency of administrative governance to engage in a process of *performative inclusion* (i.e., by creating an all-gender bathroom, the school

appears inclusive through the symbolic presence of the all-gender bathroom). Consequently, while Davies et al. (2019), Robbins and Helfenbein (2018), and Cavanagh (2010) all advocate for the implementation of universal, all-gender bathrooms to foster trans inclusivity, there are limits to the extent of inclusion resulting in the all-gender bathroom being constructed as a precarious space where access to it is heavily regulated by the office and its staff. Moreover, there are further limits to trans-inclusivity where all-gender bathrooms are concerned that are further elucidated in the subsequent section.

### All-Gender Bathrooms as an Illusion of Inclusion

The mere creation of an all-gender bathroom invites questions about the extent to which such spaces are actually providing inclusivity to transgender and gender diverse students in the school. All of the participants in this study provided further insight into specific problematics surrounding the all-gender bathroom in their respective schools. Specifically, they underscored the issues of implementation by raising questions and concerns regarding misconduct issues in the bathroom along with the hesitation of creating such a space due to hypothetical backlash from religious communities. In addition, participants also noted their schools did not have room or space to create an all-gender bathroom.

### “We Don’t Have Room”: The Polemic of Inaccessibility and Inaction

Taylor, a trans educator who has been the reason for the creation of all-gender bathrooms in all of the schools where he has taught by always having to request them, posed a significant question for school boards and school administrators:

I think this is a question for schools and school boards and staff... Why are we waiting until students advocate for these washrooms? Like, why not just create them and make sure they're safe spaces in schools? ... We're not going to wait with special needs students, right? We're not going to say, "Well, we'll wait until they tell us what they need and then we'll create an IEP [Individual Education Plan] for them." Of course not! We're going to create what they need to support them, and we should be doing the same thing in all schools and creating these all-gender washrooms for students so that they don't have to ask for them.

Often, the creation of these bathrooms is entrenched in policies that place the onus on students through an “accommodation based on request” stipulation that ultimately

necessitates trans students outing themselves in order to be provided with an all-gender bathroom (Ingrey, 2018; Omercajic & Martino, 2020). Taylor, instead, advocated for a more proactive approach that would introduce these spaces prior to them having to be asked for by students, something that he, himself, had to do in his former school as a result of personal transphobia he experienced:

Unfortunately, it was one particular individual who no longer works for the board, which is great, but he didn't want me to come out as trans. He was like, "Oh, you can't come out on Pink Day." And I'm like, "I'm already out to like half the school..." And I'm really just saying that I'm trans to anyone who doesn't know, like it shouldn't be a big deal. But he was like, "No, no, we need to come in and do *training* before you do that." And I'm like, "I've been working here for a long time. Like, that's not necessary. I've done a lot of work with staff and students; you don't need to do that." ... So, I went home, called Human Rights, called my union – they're really, really supportive. So, we fought it. And like, came back and put an all-gender washroom at our school. It helped both myself and students. Students started coming out after that. And I demanded... I said, "I'm not coming back to work unless these things are in place; unless we have an all-gender washroom for me when I return, we have a student all-gender washroom for kids. And we have to have the actual Pink Day where I do get to come out."

Taylor spoke to the importance of having this space included among his criteria for returning back to work, underscoring the importance of these spaces being afforded to trans and gender diverse folks. Moreover, Taylor explicated how he had to fight “for recognition within a cisgender and gender binary privileging system” (Ingrey, 2018, p. 780) that ultimately perceived his coming out as requiring “training” of the school population. Such a response emphasizes the pervasive cisgenderist and cisnormative system that “fails to reform itself to be able to recognize the transgender person and to provide conditions for a liveable life” (p. 780). Ultimately, when he moved schools, Taylor, again, had to advocate for his recognition in the system by ensuring that such a space could be created for him to have a livable life:

I had that negative experience at my former school. And when I changed schools, when they offered me the job over the phone ... I said, “Great, before I accept the position, just so you know, I need an all-gender washroom when I come to your school” because I knew they didn't have one. I had visited there for the interview. And I said, “I'm gonna need this. Are you able to do that for me?” And they're like, “Of course, yeah!”

While the school was accommodating and created the space for Taylor, the fact remains that a request needed to be made in order for this to be actualized. This reality exposes a cissexist system that requires submission to a cisgenderist system and permission from those in privileged positions in this system in order to preserve the “artificial hierarchy” (Serano, 2007) that ultimately assumes that “the trans person’s gender is ‘fake’” and therefore effectively “validate their own gender as ‘real’ or ‘natural’” (p. 13) through the preservation of *cultural cisgenderism* (Kennedy, 2018). Such a reality points to the fact that despite procuring the all-gender bathroom, the process itself demonstrates an overt lack of inclusivity and illuminates the extent to which trans and gender diverse folks remain subjugated by a cissexist system (Serano, 2007). However, this cissexist system is often sheathed by excuses from school board officials or administrations, as expressed by the participants in this study, who justify the lack of all-gender bathroom due to spatial limitations or teacher complaints about the staff bathroom being taken away from them.

For example, Arthur, a school administrator, discussed the structural limitations based on the current bathroom situation within the school:

Facility-wise, it would be a challenge here. So, we have bathrooms – boys and girls – on both floors. And the only other bathrooms we have are the ones that are used by adults. And there are two on the lower level that are actually gender neutral already.... I feel like in this school, we might actually need something because of what some students have spoken to me about in terms of their gender identity.

Even though Arthur is aware that the school needs an all-gender bathroom for students given his interactions with his students, he excuses the creation of one by suggesting that there is no viable space for it. However, he mentions two staff all-gender bathrooms on the lower level without entertaining the idea of converting one of the two into a *student* all-gender bathroom in order to provide the space for the students he believes might actually require it (but who have not requested it). Such a response feeds into a *biopolitics of disposability* that ultimately constitutes trans students “as disposable” (Spencer, 2019, p. 2) and contributes to their “disappear[ance] from public view by regulating their bodies into invisibility” (p. 5).

Conversely, Carmen elucidated why administrators like Arthur might be averse and problematizes this line of thinking:

Most of the concern have just been, “We don’t have the room.” Like, “if we make a staff washroom an all-gender bathroom, staff are going to be pissed off.” So, someone’s rights are going to suffer because of that? There’s clearly a “It’s really hard. We just don’t have extra washrooms. We need all the staff washrooms we have!” Like, yes and your students also need washrooms! Why can’t we see both of those things? And I still think the language around, “Well, my staff will be really upset about it. Because it’s taking something away from them,” even though it’s not trying to be against the kids. The language itself is problematic. It sets up an indirect way of saying, “their needs are less important than ours.”

Problematizing the conversion of a staff bathroom into an all-gender bathroom for trans students to use demonstrates the extent to which *cultural cisgenderism* permeates the institution of education, as it “represents a systemic erasure and problematizing of trans’ people and the distinction between trans’ and cisgender people” (Kennedy, 2018, p. 308). It further highlights the precariousness of the trans student given that their lives remain “in the hands of the other”, which in this case, is the administrator who subsequently fails to make room for their viability (Butler, 2009, p. 4). It further demarcates trans students as “biopolitically disposable populations: those most worthy of social fear and erasure become the least deserving of the protections of the social contract, or even respect and decency as basic as the right to exist in public” (Spencer, 2019, p. 14). Ultimately, as Carmen highlighted, the rights and *needs* of trans students suffer due to fear of angering teachers, ultimately leaving a cissexist system intact.

However, both Taylor and Tate, as trans educators, problematized this rationalization:

**Taylor:** “There’s this mentality of “Well, we don’t have the money. We don’t have the budget. We can’t create it.” When it’s like, No, it’s just like just... put a sign on the door. You don’t have to create. You don’t have to build a new washroom. It’s not as hard as you think.

While, Tate, also remarked on the tendency for schools to avoid such implementations:

**Tate:** Like, why can’t we just change individual stalls into all-gender washrooms? I don’t really see why it needs to be such a separate issue. And like, students are very

much like, “Well, I need that. What do I do?” I’ve had students say to me, “I go to the bathroom right before I leave for school, and then as soon as I get home.”

By emphasizing the problematic of spatial capacity for the creation of all-gender bathrooms, administrators are exposing a cisgenderist system which renders those who do not or cannot conform to the binary category of gender as invisible or subject to erasure (Namaste, 2000). In essence, it is only trans students and trans teachers who have to request these spaces, ultimately rendering them “inherently problematic” due to a system that does not account for them and reduces them to inconveniences, both spatially and personally (Kennedy, 2018, p. 310).

In Carmen’s work, visiting various schools and providing guidance for accommodating trans students, she also remarked on the location of these bathroom spaces:

I’ve entered into schools where they’re like in the back of a dark hallway or up hidden on the fourth floor and nobody used it, didn’t feel safe or they didn’t have time to get there between classes. Like, ideally, you’d have it in as accessible as all the other ones. ... I mean, I guess the thing is that some students would feel more comfortable using it if it is more hidden. But at the same time, that kind of makes it like, this is a strange or weird thing. I think it’s probably more powerful to have it as open as all of the other ones with the appropriate messaging around it. It’s a bathroom for everyone.

The suggestion that students might feel more comfortable using the bathroom if it is in a more hidden or secluded location speaks to the pervasiveness of cisgenderism and the prospect of violence and bullying that affect trans students at alarming rates (Human Rights Campaign, 2018; Kosciw et al., 2018; Taylor & Peter, 2011). Importantly, Carmen highlighted the need for messaging, underscoring the implicit limitations of performative inclusion that integrates an all-gender bathroom into school through a logics of individualized ethic of liberal inclusion but does not address broader systemic issues of cisgenderism. In this regard, what is required is a strategic and coordinated plan that goes beyond just creating a bathroom space, but rather, confronts policy and administrative barriers that ultimately confronts the “administration of gender norms [which] causes trans people the most trouble” (Spade, 2015, p. 16). In particular, this requires addressing



the polemic of the illicit space that becomes constructed as one rife with misconduct (i.e., sexual activity, drug use, and vandalism).

## Sex, Drugs, and Toilet Paper Rolls

Commonly, conservative opponents to all-gender bathrooms often infer that these spaces are conducive to “drug activity, smoking, sex, drinking, and bullying” (Eckes, 2017, p. 260). There is some credence to these concerns, but they are attributed to deeper issues than the space itself and rather speak to the pervasiveness of *cultural cisgenderism* (Kennedy, 2018) that effectively allows primarily cisgender people to capitalize and take advantage of gender-neutral spaces afforded to trans people in order to carry out illicit or crude acts.

Jane explicated how issues of misconduct manifested in her school, and in particular, in the all-gender bathroom in the basement:

There’s been a huge issue with kids vaping in it because the gender-neutral washrooms are the only washrooms in the school where the main door is closed and not propped open, and that was done for privacy issues. But as soon as you close the main door, it becomes a very private space. And so, what has been happening the last few years is that kids go into the gender-neutral washroom, primarily the one in the basement because it’s so quiet and it doesn’t have a lot of traffic, and they vape<sup>21</sup> in it.

Incidentally, this is not an issue that is isolated in one particular school, as Eloise – a principal of 12 years – spoke to the tendency for students in her own school to also vape in the all-gender bathroom: “I think there might have been some Grade 8’s vaping in there, too. So, I think it was a hot spot for that...” Students who do not identify as trans occupy the space, not necessarily for the purpose of excretion, but to engage in activity that they would otherwise be punished for, and therefore, while the bathroom is a space where “gender norms [are] more painfully acute and subject to surveillance” (Cavanagh, 2010, p. 4; see also Millei & Cliff, 2014), subject to the “gaze” (Foucault, 1989) that

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<sup>21</sup>Vaping, which has grown popular among youth in recent years, involves inhaling and exhaling vapor that contains nicotine and flavouring through a device similar to an e-cigarette.

monitors (and perhaps stigmatizes) those who enter, there is also the potentiality “for creating spaces of [momentary] freedom ‘within the frames set’” (Millei & Cliff, 2014, p. 257). This is couched in the privacy of the all-gender bathroom that affords illicit liberatory practices for cisgender folks. However, this liberation comes at the expense of cisgendered capitalizing and occupation of a space that is the only space trans and gender diverse folks might feel comfortable, ultimately intensifying and exposing the extent of their subjugation.

These misconduct issues regarding drug use are further exacerbated by other forms of disrespect toward the all-gender bathroom – a space meant for safety and privacy for transgender and gender diverse students. For example, Jane also highlighted the issues of vandalism in the all-gender bathroom at her school:

One of the other issues that’s come up with the bathrooms is there’s graffiti or toilet paper all over, or it gets defaced, and then the school closes it to get repainted or cleaned. And they don’t notify the kids who use that bathroom, they don’t notify the students and then the students get really angry that their washroom has been closed ... But it has been an ongoing issue and I think it’s still a source of tension that the kids feel that well, if the boys’ washroom got defaced, they wouldn’t close it and not give the boys a bathroom. So, why are they doing that to queer and trans kids in the school?

Jane pointed not only to the problematic of the bathroom itself being defaced in some capacity, but the repercussions of having it shut down to be cleaned without any alternative being offered to the students who require that space. Trans students are thus forced to either use bi-gender bathroom options, or conversely, as Tate noted above, pee before and after school. This demonstrates the manner in which “trans people experience more extreme vulnerability” (Spade, 2015, p. xiv) as a result of administrative systems that “often appear ‘neutral’ especially when discrimination has been framed as a problem of individuals with bad intentions who need to be prohibited from their bad acts” (Spade, 2015, p. 16). In this respect, the bathroom is rendered a precarious space that highlights the “distribution of vulnerability, differential forms of allocation” (Butler, 2006, p. xii).

Importantly, Carmen contextualized the necessity of these spaces while addressing concerns about *transgender panics* (Currah, 2016) that invite sex and violence into all-gender bathrooms:

There's sometimes concerns, less so in recent years, around like... if we open the all-gender washroom, there's going to be problems in it of like, all of the genders mixing and maybe kids going in and having sex or fears of violence that's going to happen. ... Early on, I remember saying a lot of times like... there's absolutely no statistics or no evidence to show anything. And you know, based on the statistics that we *do* have about gender specific washrooms, there's violence and there's sex and things happening, so this is not making that worse. And we've talked a lot about like, the washrooms are most dangerous for your trans and non-binary students much more than they are for anybody else. And so, this is actually increasing safety.

Carmen's point highlights that "despite all the ways that bathrooms serve as sites of gender disciplining and violence against trans people", it is ultimately this discourse of "safety [that] is the most common justification for gender-segregated bathroom and for transphobic bathroom legislation" (Spencer, 2019, p. 4). And specifically, this discourse of safety is specific to the "safety of cisgender, able-bodied White women" at risk of victimization by trans bodies (p. 4). However, as Eckes (2017) points out, there "is no evidence that any transgender student has tried to assault another student or created any such safety hazard in a restroom" (p. 260) and it is actually transgender bathroom occupants that are heavily victimized in segregated bathrooms (Cavanagh, 2010). This is further addressed by Carmen who noted that acts of violence already occur in gender-segregated bathrooms, including a case where a female student was killed by two other girls in the girl's bathroom over a fight about a boy (Cuellar, 2016). Dispelling and challenging these narratives of fear is necessary through more strategic trans-informed administrative governance and policy intervention and highlights the problematic of reactive discourses of individualized inclusion built upon a human rights frame (Martino, Airton, Kuhl, & Cumming-Potvin, 2018).

## The Problematic of Individualized All-Gender Bathroom Implementation

The all-gender bathroom is often implemented as a reactive measure that is done either through the request from a school staff member or student (Ingrej, 2018; Omercajic &

Martino). In certain cases, the significance of their implementation is not explained nor is it announced to the school body at large, rendering them simply a space that is not utilized or one that develops a stigma of being the “trans bathroom”. In some cases, the administrators even regard them that way. Jane explained how the school’s new vice principal understood the all-gender bathroom not as an option for all students, but specifically for trans students:

We got a new vice principal last year while I was away, and he kind of inherited the portfolio of gender at our school. So, he's the one who does the stuff around changing kids' names and we have these pronoun forums and all these kinds of things. So, he's done that and he's been really good about learning about it and handling it. But I had a conversation with him at the beginning of the year around the bathroom being closed for cleaning. And then he was the one who put that sign up that said the washroom was for trans kids at the school to use. And I had this conversation with him where I said, "No, when those bathrooms were created, they were created explicitly for everyone to use," and he did not know that and he had been going into the washrooms and when he found, I mean, obviously, he's making assumptions that the kids in those washrooms are cisgender. And he's saying, "You're not supposed to be using this. This is for trans kids."

The onus was on Jane to explicate to administration the problematics of framing the all-gender bathroom as a strictly “transgender washroom”, which ultimately inscribes a label on the users of that space, as opposed to allowing all people to use that space freely without such intensive regulation. Ultimately, the emergence of this problem highlights the limits of administrative governance that are a direct result of an individualized ethic of liberal inclusion that fails to address more expansive systemic problems of the institutionalization and pervasiveness of cisgenderism and cisnormativity and its extreme regulation. In this respect, what is required is a more nuanced “analysis of how the administration of gender norms impacts trans people’s lives” and ultimately, “how harm and vulnerability operate and are distributed” to trans students (Spade, 2015, p. 73). Unfortunately, it is also this individualist logics that drives the creation of trans-affirmative policy that endorses the creation of all-gender bathrooms but only through the visibility of a trans student(s) in order to maintain and provide recognizability (Ingrey, 2018; Omercajic & Martino, 2020) through the precarious space of the all-gender bathroom specifically created for them (Butler, 2006).

According to numerous participants, while their schools had implemented all-gender bathrooms, they were not being used frequently or at all. Eloise, an administrator of 7 years, reflected on the lack of regular use of the all-gender bathroom in her school:

I'm wondering if perhaps the lack of regular use, and that doesn't mean that some kids don't use it, is because maybe there's more work for us to do to encourage everyone to use it. So, that it doesn't become like... a trans bathroom. So, I think it comes back to that compliance piece where "I'm a girl, I'm going to go to the girl's bathroom. There's where I'm supposed to go." And so, when we call it "gender neutral", I don't know if that's enough of a roadmap for a lot of our students to say that's you. So, I wonder, I don't know if they recognize that they're all permitted to use it.

Eloise indicated a potential lack of understanding from her student body about the purpose of the all-gender bathroom. This absence of understanding of the significance of the space underscores how "trans visibility and recognition through administrative mobilization and deployment of trans-inclusive policies in schools does not necessarily ensure or result in a more gender expansive education" (Martino et al., 2020, p. 3). In fact, this highlights the necessity of a more strategic and coordinated response beyond the mere implementation of the bathroom, but instead, one that includes proactive trans-affirmative policies and frameworks that explicitly address trans-inclusion and gender identity that are not "primarily focused on the management of individual people and cases rather than institutional change" (Meyer & Keenan, 2018, p. 749). However, Eloise explained how the creation of the all-gender bathroom was actually translated to the school community:

We talked about it with our parents, like I do a weekly newsletter that has everything. So, that information was there. There wasn't necessarily like a formal announcement. It was more kind of a little organic than that. Like, people kind of laugh at me because everything is in these newsletters, and probably no one reads them. But I do it because I think it's really important that we're being transparent about the learning that we're offering so that there's no surprises and people start over time to kind of grasp the overall ethos.

While Eloise suggested there was conversation that happened with parents (and not with students) through the form of a newsletter, she simultaneously acknowledged that "probably no one reads them". The information about the bathroom is couched in a newsletter that is largely unacknowledged, simultaneously dismissing the needs and

importance of trans students and rendering them “biopolitically disposable populations” who are stripped of “decency as basic as the right to exist in public” and in education beyond a newsletter (Spencer, 2019, p. 14).

Tate problematized this notion of couching this vital information in a newsletter, explaining that it must be more pervasive, accessible, and digestible:

I feel like it needs to go beyond like here’s your school newsletter for the year. It needs to be like, “Okay, what is there? Where can I find these things?” Because I find a lot of times students are like, “Oh, I didn’t know we had that. Oh, where did you see that?” We forget to engage them in the space and through their education, which is really important!

Tate indirectly emphasized Luecke’s (2018) notion of a *gender facilitative school* that encourages that the “school building as a whole is a safe space for children of all-gender expressions” (p. 281). The all-gender bathroom is often employed as a solution where “instead of fostering a productive dialogue” about the needs of transgender and gender diverse folks *in addition* to this space, it is instead steeped in a “a question of safety and privacy” and where the creation of a bathroom is a “way of protecting transgender people from harassment and assaults” (Sanders & Stryker, 2016, p. 781). However, the space itself remains a precarious one despite the assumption that stripping it of gender scripts effectively combats “against precarity” instilled through gender norms (Butler, 2015, p. 59). It also helps avoid instances of misunderstanding about the purposes of all-gender bathroom, such as the one outlined by Anabelle:

My understanding is nobody really used the all-gender washroom. I had seen the DD [Developmentally Disabled] kids go in and out. So, I suspect everyone just thought it was just for the DD kids. But it was never announced. Nobody knew about it, not even the kids.

Here, Anabelle insinuates that “nobody” used the bathroom because they assumed it was only for students with disabilities, while at the same time, suggesting that students with disabilities did, in fact, access this space. In this regard, while suggesting the bathroom appeared to other students as strictly reserved for students with disabilities, Anabelle also undermines the very viability of these students, enshrouding them in precarity (Butler, 2006). Cindy also noted that no students accessed this space:

To be honest, when I'm there, I have never seen a student actually access the washrooms. As far as I know, I haven't seen any students waiting for them or accessing them during lunch time ... I think the teachers and adults in the building have to say "just use it". Make it very clear that it's available. If it's free, use it. If you want to wait for it, use it. I think the messaging just has to be consistent. Anyone, whether they identify or not, can use that washroom.

Based on these teachers' interpretations and observations, students may not understand or be aware of the purposes of the bathroom or that they are to be used by all folks and not just those who identify as transgender or gender diverse. The lack of discussion around these spaces ensures that "trans individuals are silenced through various forms of epistemological oppression" (Kean, 2020, p. 13) that is perpetuated by an unchallenged broader system of institutionalized cisgenderism and cisnormativity. Grace and Wells (2015) also note that this system has historically positioned trans and gender diverse bodies "within a politics of silence, exclusion, and debasement, often deliberately, sometimes by default" (p. 117). In this respect, what is required is for policy and practice in terms of administrative governance to be more dutifully informed by trans epistemologies that confront systems of cisgenderism and cisnormativity that deny the fundamental precondition of safe access to toilets and therefore participation in a public life (Plaskow, 2008).

Ultimately, addressing these systemic issues requires "work" as Taylor had called it in his recounting of what he had done to ensure that the all-gender bathroom in his school was used by all people:

As soon as we did a few minor things like having an all-gender washroom for them and continually reiterating that it's a trans open space for everyone, we had students saying, "Oh, by the way, I'm trans." And it's like, yeah, that's all you needed. ... But there were kids who thanked me, there were parents who thanked me. Like I even ran into a kid after leaving the school who came up and said that washrooms' still there and it was really amazing all the work that you did to educate the school about what it means.

For Taylor, he understood the importance of more than just the space of the bathroom, but the value of and rhetoric around the space and its occupants. In essence, Taylor understood that "a gender-neutral washroom on its own, without 'practices of freedom' that recognize transgender subjects as people complete with value, dignity and self-

expression, cannot guarantee their recognizability alone” (Ingrey, 2018, p. 780). In part, it is Taylor’s identity as a trans man that allowed for the prioritization of this space and appealing to the student body about his value that humanized this space as a liberatory one. Namaste (2008) explains that “if people are marginalized in and through the production of knowledge, then a truly transformative intellectual practice would collaborate with such individuals and communities to ensure that their political and intellectual priorities were addressed” (p. 27). However, the onus should not strictly fall on trans educators to do this educative work. Educators, school leaders, and administrators must also “take steps to interrogate their own assumptions about gender and assess their own practices to avoid erasing trans identity” and therefore begin “the work of practicing epistemic resistance and moving us toward gender justice” (Kean, 2020, p. 17). Addressing these assumptions also includes dispelling mainstream myths about the values and perspectives of cultural and religious communities where gender identity is concerned.

## Religion and Culture as Assumed Barriers to Trans Inclusion and Bathroom Accessibility

Half of the participants in this study remarked on their own concerns, hesitations, and observations regarding the assumed backlash of religious and minority culture communities should trans-affirmative measures be put into place in their schools. This concern feeds into broader questions of belonging in the Canadian context where religious, racial, cultural, and gender identities are concerned. In actuality, the presumed rejection of gender diversity from religious communities is rooted in the Western and Canadian tendency to construct certain religious groups as better assimilated to Canadian society than others. While Canada is “conceptualized as a mosaic, in which separate and distinct [religious and] cultural groups contribute to the construction of the whole” (McCarthy, 1998, p. 155), it is often the Anglo-Christian population that is afforded the benefit of ideological heterogeneity while Muslim populations are largely constructed as homogenous who are “struggling to cope in a liberal secular society” (Martino et al., 2018, p. 319). Specifically, and as McCarthy (1998) reasons, “the term *Christian* seems to have conveyed much of the idea and feeling of ‘we’ against ‘they’: to be *Christian* was



to be civilized rather than barbarous” (McCarthy, 1998, p. 58). These ethnocentric assumptions contribute to the hesitance of administrators to promote progressive trans-affirmative considerations in their schools and also limit their proclivity to work collaboratively with religious communities to ensure a more trans-inclusive school environment due to their ethnocentric assumptions (Meyer, Tilland-Stafford, & Airton, 2016). Meyer et al. (2016) identified ethnocentrism as a significant barrier to supporting transgender youth where White educators “depict[ed] homo- and transphobia as characteristic of particular racialized and immigrant groups, primarily those coming from predominantly Muslim countries” (p. 15).

Arthur has 15 years of experience as an administrator and 10 years as a teacher. He had only just transferred to a new school three months prior to when he was interviewed for this study, but when speaking about his previous school that had a majority Chinese population, he remarked about his unwillingness to be open about his own sexual identity and the implied community constraints he felt:

So, in this school, I have made it quite clear, I haven't hidden the fact that I'm gay. I've been honest with them about that. And as a result, some students have been sharing their own experiences around that. In my previous school, I was less willing to do that because – culturally – that was a sticky thing for some of the families. I mean, it bothered me sometimes, but I didn't feel the need to change people's thoughts and minds about gender identity and gender fluidity [...] So, I guess, if you're asking a bit about barriers, I think there are some, and I don't know that they come from educators as much as they might come from *out there*.

Arthur's decision to avoid trans-affirmative discussions in his previous school points to his sensitivity about the clash between assumed Chinese values and the struggle to cope within a liberal secular society. Ultimately, “it is the active agency and subjectivities of students and teachers [and administrators] that really matter and that can make a difference in race relations” (McCarthy, 1998, p. 54). However, this assumption from Arthur dismissed the notion that not all racial groups “are unified in their approach on the topic of equality rights based on gender, sexuality or sexual orientation” (Martino et al., 2018, p. 319). Arthur's assumption and resultant avoidance of prioritizing gender identity issues in his previous school speaks to a more pervasive reluctance from administrators and teachers that stems from ethnocentrism which embraces the “narrow ideological

perspective among White, European or 2nd, 3rd, or 4th generation Canadians that people like them are necessarily more likely to affirm and accept sexual and gender diversity” (Meyer et al., 2016, p. 14).

Conversely, Carmen – a social worker of 12 years – problematized this tendency of administrators and educators to dangerously categorize all members of a particular religion or culture as ignorant or unaccepting of gender diversity. Specifically, Carmen reasoned:

I think it’s acknowledging you may have experiences in your community that would suggest that there’s less openness, but we have to be careful around who we label as less open from the get-go because we’re talking about individual humans and we’re also talking about members of queer and trans community as well, intersecting with all different identities. So, we can’t make blanket statements about anyone. But if, you know your community, regardless of whatever religion or cultural background that you’re concerned about, and you know in your community that homophobia and transphobia is present, then it’s our responsibility to start creating that bridge and having that conversation ... You can’t just ignore it.

Given that studies in Canada have found that “religiosity can be an effective predictor for HBTH [homophobic, biphobic and transphobic] bullying in schools, with biblical tenets often leveraged by ... school staff as justification for a lack of response” (Carlile, 2020, p. 629), Carmen stressed the importance of supporting trans-affirmative policies and encouraging all-gender bathrooms in order to support transgender students, regardless of the community’s perceived personal or religious values. Administrators and educators must look for opportunities for resistance that may not necessarily transcend power relations but could very well shift them enough to have significant implications for the livability of trans personhood (Stryker, 2006).

Similarly, Brent, a teacher of five years, reflected on the primary concern that is always raised by administrators and teachers when discussing gender identity accommodations:

They’ll say, “What about the religious and conservative community that’s really vocal?” And there’s this idea of comfort, which will be relevant to this question of washrooms, especially if it becomes not just a single stall washroom. This idea of the *unnamed student* who will be or *might be* uncomfortable has come up on a number of occasions.

In his example, Brent speaks to the tendency to prioritize the *fear* of backlash from religious and conservative communities over the needs and fundamental rights of transgender students. He identifies the *unnamed student* as one who is often deployed as a hypothetical to baselessly validate and embolden *transgender panics* (Currah, 2016) due to the presumed discomfort of cisgender students having a trans peer in the bathroom with them. Such hypotheticals give credence to “the imaginary predator” (Dastagir, 2016) in the bathroom that ultimately stimulates a process whereby trans students are “adultified” and framed as sexual predators (Stone, 2018, p. 3). The unnamed student is theorized to be a religious conservative who is positioned and deployed as a variable that justifies inaction from administrators.

When asked about whether such religious assumptions serve as a barrier to creation of all-gender bathrooms, Cindy, a school counsellor and teacher for 18 years who works between two schools – one with a predominantly Muslim student population while the other is a predominantly Christian population – responded affirmatively:

I definitely think religion is an issue. A barrier, maybe – not an issue. Because a lot of the teachers at that one school are very religious, they’re like... church is a big deal for them. A lot of the students, too. They spend a lot of their time in church on the weekends.

However, she was quick to clarify that religion does not necessarily mean that schools need to foreclose the possibility of discussing gender identity altogether:

The school where I told you that had a high Muslim student population, they had a gender-neutral washroom. Everybody used it, it was right off the main entryway ... Very religious [school], but the teachers went to training! This school’s response was starkly different from the one who has fairly religious [Christian] teachers. So, even though they’re both faced with a religious community, they [the school with predominantly Muslim students] have teachers who are more so invested, so they made more progress. So, I guess the teachers are really the gatekeepers!

Cindy is able to differentiate between the two schools by indicating that teacher preparedness to discuss gender identity influenced the capacity for students – regardless of their religious affiliation – to embrace gender identity. Such a clarification emphasizes the importance of providing learning opportunities, rather than foreclosing them due to the dangerous assumptions about the correlation between religion and gender identity

intolerance that only further marginalizes minoritized religious communities whose values are depicted as backwards, un-Canadian, or “barbarous” (McCarthy, 1998, p. 58). Ultimately, regardless of barriers – religious or otherwise – the creation of an all-gender bathroom alone does little to address institutionalized regimes of cisnormativity and cisgenderism, “which affect all individuals with respect to the constraints that they pose for embracing more creative and independent gender expansive understandings and practices” (Martino & Cumming-Potvin, 2018, p. 687; see also Lennon & Mistler, 2014; Malatino, 2015; Serano, 2007).

Taylor, a transgender teacher of 11 years, specifically spoke to the importance of exposing religious students to trans-affirmative education when he elucidated how his conversation with a Muslim female student had unfolded when she inquired about the tensions between religion and gender identity:

She started becoming an ally because she was in my class. And I was always talking about trans stuff and LGBTQIA stuff... She was asking me questions like, “What if your religion doesn’t support it?” And I’m like, “Well, if you have views that are homophobic or transphobia, you have to keep them to yourself. People aren’t allowed to discriminate against others. But also, did you know that there’s this whole queer Muslim community out there?” And she was like, “Wow, that’s amazing!” because I think it affirmed her right to be an ally. And she was nervous, as a Muslim person, feeling like, “Oh, maybe I can’t be an ally. Maybe there aren’t any queer Muslim people out there.”

By discussing “trans stuff and LGBTQIA stuff” and engaging his class and by extension with the Muslim student in his class, Taylor ultimately inspired her to become an ally for LGBTQIA+ students in the school. Taylor further explained how she had wound up spearheading the creation of a second all-gender bathroom in the school:

And then she started realizing that saying, "Okay, I'm fighting for Muslim students, but I can also be an ally," because she wanted people to be an ally for her. She started to make those connections and being like, "Oh, I can be an ally for the GSA, too." So, one day she just raised her hand and said, “Can we create an all-gender washroom on the second or third floor for non binary students?” So, I teamed her up [with the GSA]. And I just said to the GSA, “We have a student who wants to be an ally and wants to fight for what you're fighting for, as well.” So, the three of them went to admin and said, "We would actually like an all-gender washroom on the third floor and second floor” and admin was like, “Yeah”.

Taylor's recounting of his conversation with this Muslim student speaks to the necessity to rethink essentialized constructs of Muslim students as transphobic and conservative which ultimately "erases heterogeneity in the Muslim community and positions Muslims as a threat to Canadian society" (Bialystok & Wright, 2017, p. 352). Further, this kind of "essentialism significantly inhibits a dynamic understanding" of these religious relations and policies in education and society (McCarthy, 1998, p. 52). It is often the Otherness of Muslims that is highlighted and believed to be homogenous despite the existence of oppressive and rancorous Christian perspectives that are excused due to assured heterogeneity. This is fuelled by Islamophobia embedded in Western secularism that is starkly opposed to Muslim ways of knowing which accounts for diverse beliefs among Christians, but that same diversity is not extended to Muslims. It is the national Canadian identity to be tolerant of diversity where the outsider is intolerant, placing loyalty to ties of kin and clan above all else" (Thobani, 2007, p. 5). If Taylor had assumed that the student would not be accepting due to her religion, then the creation of another all-gender bathroom may very well have not been actualized.

## Implications and Conclusion

In this paper, I have presented paradigmatic and instrumental case study research into the impressions of various education stakeholders under one particular school board to understand the limitations regarding the all-gender bathroom(s) in their schools. This case study has enabled me to provide some particularity and context specificity about the pervasiveness of *cultural cisgenderism* (Kennedy, 2018) and its effects of creating all-gender bathroom spaces in schools. In doing so, I have highlighted the limitations of inclusion that require the trans subject to submit to perpetual surveillance through the gaze of the school office (Foucault, 1980) or otherwise have their space become stigmatized by being placed in a hidden part of the school or subjected to vandalism. Moreover, I have signalled the necessity to move beyond an individualized ethics of administrative governance and policy rhetoric in order to truly a genuine commitment to fostering gender justice and gender democratization in order to achieve a more authentic commitment to inclusion (Connell, 2009; Kean, 2020).

Indeed, my research has highlighted that there is a specific need for administrators and teachers to assess not only the location of the all-gender bathroom within their schools, but also to interrogate the logics around the creation of the space in order to promote and foster authentic inclusivity rather than performative inclusion, while also minimizing mechanisms of surveillance and regulation (Foucault, 1980; Spade, 2015). Ultimately, my study has highlighted how the creation or presence of the all-gender bathroom within a school provides an excuse and a symbolic validation for the avoidance of addressing broader systemic impacts of institutionalized cisgenderism and cisnormativity. In this respect, my research signals a need for knowledge about cisgenderism and cisnormativity in order to embrace a gender facilitative school that “promote[s] language and narratives that embrace students across the gender spectrum, challenge gender privilege and stereotyping through inclusive curricula and extracurricular activities, and implement gender nondiscrimination policies system-wide, advancing inclusion of gender expansive students” (Luecke, 2018, p. 273).

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## Article #4

### Confronting “Basement Boys” in the all-gender bathroom: A case study of the possibilities and limitations of trans-activism in one urban school

#### Abstract

This article presents a case study of one urban school that implemented two all-gender bathrooms as a result of trans-activism that emerged from a Gender Studies class group project. Through trans-informed empirical insights and the voices of three students in addition to their Gender Studies teacher, I elucidate the potentialities as well as the limitations associated with student-led trans-activism that grew out of their participation in this particular Gender Studies class. Specifically, this study offers insight into the significant role of gender diverse students and their teacher in securing two all-gender bathroom spaces at their school, while also signalling the emergent limits and barriers to its access due to the virulence and persistence of cisgenderist, heteropatriarchal systems of domination which are personified by a group in the school known as “The Basement Boys”. Consequently, the absolute necessity of a supportive teacher (and administration) is highlighted in order to secure the success of trans-activism and ensure its stability and efficacy over time. Moreover, the case study offers more detailed and nuanced insights into the politics of creation and sustenance of all-gender bathroom spaces and the specific contingencies at play that elucidate the difficulties attributed to eroding institutionalized cisgenderist hegemonic structures that govern attitudes within and around these spaces.

**Keywords:** all-gender bathrooms; gender neutral bathrooms; trans inclusion; gender justice; transgender; gender diversity; trans-activism; gender facilitative schools

## Introduction

Debates and policymaking about bathroom rights in K-12 schools have largely excluded the embodied experiences and voices of the youth who actually access these spaces. Only a handful of studies have prioritized student perspectives regarding their bathroom experiences in their schools (Crissman, Czuhajewski, Moniz, Plegue, & Chang, 2019; Ingrey 2012, 2018; Porta et al., 2017; Wernick, Kulick & Chin, 2017). Additionally, studies about LGBTQIA+ youth have highlighted the high rates of victimization and harassment endured by trans and non-binary students in bi-gender bathrooms in their schools (Human Rights Campaign, 2018; Kosciw, Greytak, Zongrone, Clark & Truong, 2018; Taylor & Peter, 2011), while other scholars propose all-gender bathrooms as a solution that will foster “a more inclusive school climate and a more positive experience for transgender and gender non-conforming students” (Davies, Vipond & King, 2019, p. 867). This study draws specifically on the accounts of gender diverse students and their Gender Studies<sup>22</sup> teacher to provide insight into the limits and the possibilities associated with trans-activism and the politics of creation and sustainability attributed to the all-gender bathroom space in one urban school<sup>23</sup>. Specifically, it represents a paradigmatic case that “operates as a reference point” (Flyvbjerg, 2006, p. 232) which “maximize[s] what we can learn” (Stake, 1995, p. 4) from one particular urban school that implemented two all-gender bathrooms as a result of student activism and highlights specific emergent cisgenderist and heteropatriarchal systems of domination that discourage these attempts to confront and challenge them. By drawing on interviews of three student participants and their Gender Studies teacher, I interrogate the limitations of inclusion afforded by these bathroom spaces by highlighting the emergent capitalization and invasion of this space by white cisgender, heterosexual boys – known to the students at the school as the “Basement Boys”, who personify broader systems of cisgender, white hegemonic

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<sup>22</sup>As of 2013, in Ontario, an elective course in Gender Studies is offered as part of the curriculum at the senior levels, but it is only offered in a small number of schools throughout the province.

<sup>23</sup> I categorize this school as urban in that it is not geographically located in a suburban nor rural area. The school is located in a city centre which aligns with the definitional meaning of *urban* (i.e., “of the city”).

masculinity implicit in cisgenderist and heteropatriarchal structures of oppression. As such, the case is also *instrumental* in that it points to specific questions about confronting these systems of privilege that undermine trans-activism which is constituted and enshrined by the pervasiveness of *cultural cisgenderism*<sup>24</sup>. It is also instrumental in that it offers insight into the crucial role of gender facilitative teachers who “provide inclusive and comprehensive educational opportunities” for gender expansiveness in schools (Luecke, 2018, p. 279).

I begin this paper by highlighting the polemics associated with the space of the traditional bathroom design that normalizes binary structures of gender which ultimately ostracizes and forecloses recognition of trans and non-binary identities. The following section details trans-informed and feminist scholarship that informs this work. In doing so, I foreground my reliance on Kean’s (2020) *critical trans framework* and Spade’s (2015) *critical trans politics* to interrogate how the all-gender bathroom both challenges and reinforces *cultural cisgenderism* (Kennedy, 2018) and how a *critical trans politics* emboldens trans-activism to challenge cisgenderism. I prioritize the use of trans scholarship in order to foreground trans epistemological awareness which, “as informed by transgender and non-binary scholars, are central to building on and elaborating the critical terms of gender democratization” as it pertains to theorizing the bathroom space (Martino & Ingrey, 2020, p. 79). I proceed by discussing and presenting the methods of the study before framing and contextualizing the case of the school that I refer to as *Underwood High*. The themes are thereafter presented based on the four interviews conducted with three students and their Gender Studies teacher from which the implications are expounded.

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<sup>24</sup>Kennedy (2018) defines *cultural cisgenderism* as “a detrimental and predominantly tacitly held and communicated prejudicial ideology, rather than an individual attitude [which] represents a systemic erasure and problematizing of trans’ people and the distinction between trans’ and cisgender people” (p. 308).

## The Significance of Space and the Problematics Presented by the Bathroom

The bathroom continues to remain a site of segregation due to the “regulation of such spaces” where “binary gender is produced and becomes embodied” (Cavanagh, 2010, p. 78), prompting trans activists to challenge the bi-gender system that excludes and endangers transgender and non-binary folks that struggle to fit within (Browne, 2004; Ingrey, 2012; Porta et al., 2017; Taylor & Peter, 2011). Specific to this exclusion, Browne (2004) explains how bathrooms foster *genderism*, which she clarifies as “hostile readings [of gender]” and resultantly trans “individuals are challenged in toilet spaces and their gender questioned”, ultimately presenting this as “the bathroom problem” (p. 337). Halberstam (1998) offers an autobiographical account of his own experiences of the bathroom problem and gender regulation. Relatedly, Rasmussen (2009) explicates how bathrooms are therefore exclusionary for those who are unable to ascribe to hegemonic, cisnormative scripts, indicating that “toilets don’t just tell us where to go; they also tell us who we are, where we belong, and where we don’t belong” (Rasmussen, 2009, p. 440). Ingrey (2012) builds further on the emergent embodied relationality attributed to these spaces and explicates through Foucauldian analytics that the effects of regulation and self-disciplining through the bathroom leaves no room “for gendered bodies using the public toilet” (p. 808). Such an assertion echoes Cavanagh’s (2010) problematization of the bathroom in that social subjectivity is spatialized, and therefore, bodies “are either incorporated (aggressively assimilated) or abjected (ejected or defensively refused)” (p. 50). This kind of “[t]heorizing [about] gendered bathroom spaces in this way leads to a question about the way forward. The forced gender performance that gendered bathroom spaces create suggests that gender neutral bathrooms are needed” and are the solution (Robbins & Helfenbein, 2018, p. 274).

While these studies have all highlighted the critical role that bathrooms play in dictating gendered personhood, it is also critical to understand how these disciplinary spaces enforce the gendered embodied relationality of students in schools. The experiences of trans students in bathroom spaces in schools are largely underexplored, as is the trans-activism by students to procure these spaces. However, a number of scholars

have embarked on unfolding the “complex relationships between toilets, embodiment and identity” (Slater et al., 2018, p. 952), that showcase how “these subjectivities are forced by the place of gendered bathrooms to reinscribe dominant narratives about gender” (Robbins & Helfenbein, 2018, p. 273) indicating the extent to which the bathroom effectively signals “problem bodies” (Millei & Cliff, 2014), and therefore “disqualifie[s] entry... of the object [body]” (Ingrey, 2012, p. 810). Currently, only one other study has focused *specifically* on the all-gender bathroom in schools and the policy rhetoric surrounding it that “forecloses ‘norms for recognition’ that affirm self-determined legitimacy and personhood for trans- gender and genderqueer youth” (Ingrey, 2018). My research study provides further insight into the agency that is suffused within student trans-activism, which was mobilized through the school’s Gender Studies teacher, as a final class project to foster inclusivity in their school through the creation of two all-gender bathroom spaces. It also points to the problematic of a broader cisgenderist, heteropatriarchal system that mobilizes and permits privileged student groups within the school to take advantage of and capitalize on the creation of these trans-inclusive spaces, which highlights emergent limits as a result of trans-activism.

## Centering Trans-Informed Frameworks

In order to navigate these broader structures that feed into individual acts of cisgender privilege in the site of the all-gender bathroom, this study is primarily informed by Spade’s *critical trans politics* that advocates for a rethinking of “power and systems of meaning” (p. 15) and that demands going beyond mere “recognition and inclusion” (p. 1). Given that the creation of all-gender bathrooms are often a result of individualized accommodation (Ingrey, 2018; Omercajic & Martino, 2020), Spade’s (2015) *critical trans politics* encourages moving beyond such individualized “liberal and rights-based frameworks” that are often depicted as addressing issues of inclusion, when in actuality, this “model of inclusion and recognition ... leaves in place the conditions that actually produce the disproportionate ... violence trans people face while papering it over with a veneer of fairness” (p. 86; see also Martino, Kassen & Omercajic, 2020). Consequently, I foreground *critical trans politics* to highlight both the limits and possibilities of trans-activism.

I also employ Kean's (2020) *critical trans framework* that is a "reverberation" of Spade's *critical trans politics*, which is comprised of three principles which collectively ascertain that "gender operates on individual, institutional, and cultural levels" (p. 2). These principles signal the various levels in which cisgenderism is institutionalized and therefore effectively constrains the possibility of holistic and meaningful inclusion due to the implicit and explicit "preservation of hegemonic gender norms" (p. 8). However, I also employ and underscore the significance of Luecke's (2018) *gender facilitative school* framework which "support[s] children of all genders by ensuring that they have an equal opportunity to learn in safe environments" (p. 273) and equips both teachers and students with the capacity to begin resisting the "systematic erasure" and ongoing "problematizing of trans people" (Kennedy, 2018, p. 308) that is saturated within cisgenderist logics. Such a framework emboldens teachers to ensure that the school system grows "from merely reacting to gender creativity... to truly facilitating gender diversity" (Luecke, 2018, p. 273), which is exemplified by the Gender Studies teacher in this study and her commitment to trans-inclusivity.

The aforementioned cisgender privilege allows for various transgressions of epistemic violence that contribute to a particular erasure that is a "defining condition" of trans people's lives (Stryker, 2006, p. 3) or which allow for the colonization of trans subjectivities under the guise of "social ignorance" (Kean, 2020, p. 12). By colonization, I am referring to "dominant displays of masculinity" (Cavanagh, 2010, p. 163) that are suffused with a "colonizing will to conquer the space of an 'other' while simultaneously protectively en-closing the space of the self, in an attempt to establish ever greater sovereignty of self and consequent otherness of the other" (Pronger, 1999, p. 376). Cavanagh (2010) identifies that "The bathroom space is colonized by [white] heterosexual men" (p. 169) which contributes to feelings of unsafety and (self-) surveillance by bathroom occupants. This is largely due to the fact that "[w]hite bodies are comfortable as they inhabit spaces that extend their shape. The bodies and spaces 'point' towards each other, as a 'point' that is not seen as it is also 'the point' from which we see" (Ahmed, 2007, p. 158). Consequently, these occupied "spaces are lived as comfortable as they allow bodies to fit in" (p. 158) and it is white bodies that "come to feel at home in spaces by being orientated in this way" (p. 160). Conversely, non-white



(and non-cis) bodies who cannot pass become subject to “constantly having your legitimacy thrown into question” (Ahmed, 2016, p. 32) and therefore enduring a “hammering, a constant chipping away... at our being” (p. 22). This whiteness and incessant hammering resemble covert “technique[s] for exclusion” that contribute to the silencing and invisibility of trans identities from public participation (Spencer, 2019).

While bathroom scholars have importantly pointed to the extent to which students are subject to the “surveillance of their bodily presence [...and] how they are constituted as a gendered subject” (Ingrey, 2012, p. 799; see also Cavanagh, 2010; Millei & Cliff, 2014; Slater et al., 2018), how they are specifically subjugated through cisgenderist logics in the all-gender bathroom is entirely absent. This supplements Ingrey’s (2012) analysis of the paradox of how students might be able to “resist the regulatory and potentially punitive structure of the space of the washroom” (p. 800) – through the activism and creation of an all-gender bathroom – while also experiencing the ramifications and individualized manifestations of a cisgenderist, heteropatriarchal system that emerges in the form of white, cisgender boys misbehaving in the all-gender bathroom that was advocated for by trans students.

The pervasiveness of cisgenderism and cisnormativity particularly in schools impose limits upon the livability and heightens the vulnerability of trans students. However, there is a capacity to resist these dominant systems as exhibited through the trans-activism at Underwood High where bodies assembled to express their “indignation”, and resultantly “demand[ed] to be recognized, to be valued” and that they have “a right to appear, to exercise freedom,” in their advocacy and pursuit of “a livable life” at school (Butler, 2015, p. 26). In this regard, Butler’s conceptualization of precarity is commensurable with my dependence on trans studies and analysis of the embodied relationality that is attributed to the space of the bathroom. The pervasiveness of cisgenderism and hegemonic structures fosters a state of precarity for trans students which “characterizes that politically induced condition of maximized vulnerability” (Butler, 2009, p. ii).

Butler (2015) reasons that “if we accept that there are sexual and gender norms that condition who will be recognizable and ‘legible’ and who will not, we can begin to see how the ‘illegible’ may form as a group” (p. 38) and oppose their unintelligibility through their very assembly and advocacy as a result of their Gender Studies class and group project, which, demonstrates that “bodies in their plurality lay claim to the public, find and produce the public through seizing and reconfiguring the matter of material environments” (p. 71). In this sense, the trans-activism and the subsequent creation of the all-gender bathroom showcases that “sometimes it is not a question of first having power and then being able to act; sometimes it is a question of acting, and in the acting, laying claim to the power one requires” (Butler, 2015, p. 58) which affords the capacity for disciplinary power to be “resisted through transgression and embodiment” and activism (Kjaran, 2019, p. 1036). In this sense, I further this analysis by demonstrating how student-led activism attempts to resist, or at the very least, disrupt cisgenderist hegemonic structures and therefore acts “from and against precarity” (Butler, 2015, p. 58) that is imposed on trans identities through their assembly. Moreover, this study reaffirms the significance of having a gender facilitative teacher who does not “fail to take action toward gender inclusion because they are unsure of what to do or afraid of making mistakes” (Luecke, 2018, p. 279), while problematizing the fact that gender disruptive work tends to largely become the responsibility of solely one teacher and her students in the school (see also Luecke, 2018).

## About the Study and Framing the Case

This study investigates the creation of two all-gender bathrooms in one particular school, which I refer to as *Underwood High*, located in one of the largest school boards in Ontario, Canada. In particular, I examine the trans-activism that emerged as a project from a Gender Studies class which resulted in the creation of two all-gender bathrooms, and subsequently detail the limits (i.e., broader cisgenderist and hegemonic systems that inhibit this activism) and possibilities (i.e., the success of all-gender bathroom enactment and gender expansive knowledge mobilization) associated with this activism. Given the specificity of this context and the emergent activism, I deploy case study methodology in order to generate further “in-depth knowledge” and to “construct a clearer reality” about

how these all-gender bathrooms were created, utilized, and understood by the students at the school (Stake, 1995, p. 101). In doing so, I conceive of this as a *paradigmatic case study* (Flyvbjerg, 2006) that contributes to the literature that investigates the creation and accessibility of all-gender bathrooms. It is considered paradigmatic as it “operates as a reference point” (p. 232) regarding the possibilities associated with student trans-activism in the creation of all-gender bathroom spaces in schools, while also highlighting the limits of trans inclusivity that emerge within and around this very space as a result of broader hegemonic structures. In this regard, it is also considered an *instrumental case study*, which, in its particularity, is devoted “mainly to provide insight into an issue or to redraw a generalization” (Stake, 2005, pp. 444-445) about the tensions between trans-activism and the dominance of white cisgenderist logics that capitalize on progressive advances that are earned by transgressive movements. Altogether, the case study design allowed for “gather[ing] comprehensive, systematic, and in-depth information” (Patton, 2015, p. 536) regarding student activism to implement all-gender bathrooms that emerged from the school’s Gender Studies class, the subsequent impressions of the all-gender bathrooms, and the limitations of these spaces that have emerged as a result of broader cisgenderist, heteropatriarchal systems that permit a colonization of this space by white, cisgender boys who render the all-gender bathroom an illicit space that becomes exclusionary to some transgender students.

In recruiting participants, I relied on both purposive and snowball sampling (Patton, 2015). Initially, the Gender Studies teacher was recruited through my own personal network connections and met the criteria of discussing the implementation of the all-gender bathrooms that were implemented in her school that resides within one of the largest school boards in Ontario. Emerging from these discussions was the understanding that students drove the activism and creation of these spaces as a result of the final project of her gender studies class, and therefore, she subsequently extended an invite to them to participate in the study. Through snowball sampling, three students e-mailed me to be interviewed regarding these spaces in the school. Each interview lasted approximately 60 minutes in length and comprised of questions regarding the locations of the all-gender bathrooms, participant impressions of the design of the bathrooms, their use of each bathroom, and how the general student body treated these spaces. This study relied on

“data triangulation” through “multiple perspectives” (Patton, 1999) of the Gender Studies teacher and her students who collectively provided insight into specific contingencies at play in an ongoing struggle to secure accessible bathroom spaces for gender diverse students and were therefore able to verify the findings through the convergence and corroboration of their insights and allowed for a comprehensive understanding of the phenomenon (Patton, 1999). Moreover, my use of multiple theories and scholarship to interpret the data provided a “theory/perspective triangulation” (Patton, 1999, p. 1193).

The following four participants<sup>25</sup> were interviewed: *Nora*, a white cisgender female gender studies teacher, who has been a teacher for 18 years and who created the grade 11 gender studies class six years ago; *Casey*, a white *genderqueer*<sup>26</sup> former student at Underwood High who was responsible for the initial advocacy behind the creation of both all-gender bathrooms in the school as a result of their final gender studies class group project; *Quinn*, a South Asian cisgender female who is a recent graduate from Underwood High; and *Lucy*, a white cisgender female who is currently a grade 11 student at the school.

Due to their awareness of the school, the history of the Gender Studies class, the ensuing trans-activism as well as their experiences in these bathrooms, the participants were able to provide “in-depth knowledge about particular issues” related to these spaces as well as the history of their creation (Patton, 2015, p. 219). In order to generate further knowledge about these issues, I asked some of the following questions: “What can you tell me about the all-gender bathroom at your school?”, “How were the all-gender bathrooms established at your school?”, “How comfortable do you believe students are accessing the all-gender bathroom?” and “What can you tell me about your impressions of the school climate?” These questions resulted in nuanced responses about the productiveness of trans-activism in the school – which was spearheaded by a genderqueer

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<sup>25</sup>Each participant was assigned a pseudonym in order to avoid being identified.

<sup>26</sup>Casey self-identified as “genderqueer”, a term that is generally understood to describe “people who feel that they are in between male and female or are neither male nor female” (Teich, 2012, p. 115).

student who desired access to a bathroom space that accounted for their embodiment, the limitations and questions of (in)accessibility due to feelings of unsafety due to white cis heterosexual boys occupying the all-gender bathroom, and the importance of Nora – the Gender Studies teacher – in facilitating an inclusive and respectful environment for transgender and gender diverse students.

All participants signed consent forms agreeing to audio recording of the interviews, and because *Lucy* was under the age of 18, a parent signed on her behalf. After interviews were completed, they were transcribed by me and a thematic analysis was conducted by means of “identifying, analyzing, and interpreting patterns of meaning” (Clarke & Braun, 2017, p. 297) through a method of reading and re-reading the interview transcripts “line-by-line” which deepened the dependability of the study (Lindlof & Taylor, 2002, p. 219. By colour-coding “chunks of text that suggest[ed] a category [or theme]” (p. 219) and a “mutual interrogation of data and theory [that] occurs” during this process, the three following themes emerged: (1) Education as mobilization for (trans-)activism; (2) The limits of trans-activism: the all-gender bathroom as a social site; and (3) white cis colonization of trans-inclusive spaces. Each theme will be discussed in further detail below, however a more nuanced understanding of the school culture will first be presented in order to contextualize the specificity of the case.

## Contextualizing Underwood High as a Case Site

In order to contextualize the school as a case site, I employ the insights of the four participants of the study to demonstrate how they view the school culture and explain their understandings and depictions of the school. The contextualization of Underwood High is necessary – first and foremost – because it is public high school that is also an arts school which anomalously does *not* require auditions in order to be accepted. This promptly separates Underwood High from the traditional public arts high school as most require a rigorous audition process. Due to the fact that this school is a non-audition arts school, Nora, the school’s Gender Studies teacher, reasoned that “it was always envisioned as a more equitable, equity-focused arts school.” Nora further expounded upon her impressions of Underwood High as also a particularly queer-friendly space:

I think our school is very well known in the board as probably being the most queer-friendly school. In fact, one of my students last week said, "Miss. Nora, I don't know if you know this, but Underwood's nickname is the Gayest School in the [district]." Which is probably true. I think the school census says 30% of the kids identify as LGBTQ, but all of us think that is probably higher, it's probably more like 35% or 40% ... So, it's a safe school. It's a school for kids who don't fit inside a mainstream box.... So, I think we started to attract queer kids who were maybe bullied at their former schools.

Importantly, Nora signals that the school itself has come to resemble a safe haven of sorts for queer students who might otherwise feel unsupported, unacknowledged, or unconsidered. In this sense, Underwood High encompasses a space that offers LGBTQIA+ students “recognition within a cisgender and gender binary privileging system that fails to reform itself to be able to recognize the transgender person and to provide conditions for a liveable life” (Ingrei, 2018, p. 780). Hence, Nora constructs the school as a queer and gender affirming space.

Additionally, students, themselves, believed Underwood High serves as a protective bubble for queer youth. Quinn, a recent graduate from the school who identifies as bisexual, explained the following:

I kind of forget that the world is whack sometimes. Because definitely, at Underwood, you live in a bubble where you're like, “everyone is fine with my sexuality. Everyone's fine if I question my gender a little bit!” And then you come home and you're like, “Actually maybe I don't want to talk to my mom about that kind of stuff...”

In this sense, Quinn highlights how the inclusivity that students might feel at Underwood High is not transferrable outside of its walls, signalling that while “society's views of sexual orientation and gender identity have significantly evolved” (Eckes, 2017, p. 247), there is still tremendous policing and stigma that ensures that these students are “reminded that despite finding some acceptance on campus, they weren't entirely accepted and part of what made them different still had to remain hidden” (Mayo, 2017, p. 533). Casey, a genderqueer former student of Underwood High, also specified their comfort when exploring their gender identity during the time they spent at the school, and in particular, in Nora's Gender Studies classroom which enshrined a gender facilitative

framework that “nurtured gender identity skills and peer support” (Luecke, 2018, p.273) and resulted in Casey feeling safe enough to question and explore their gender identity:

It was during my time there that I learned about more gender identities and I was in this space where it was totally fine to talk about that... Everyone was just like, “Yeah that’s very interesting” and very accepting. So, when I started to explore my own gender identity, I didn’t worry that no one would accept me, I mean, at school at least. So, I came out as genderqueer in my fourth of five years at Underwood.

In this sense, Underwood High is an atypical case in that often, genderqueer students are characteristically at heightened risk at their school(s) in disclosing or openly questioning their gender identity (Kosciw et al., 2018; Taylor & Peter, 2011). However, Casey expressed feeling comfortable about openly questioning their gender identity during their time at Underwood High, which was affirmed and facilitated by Nora when Casey entered her grade 11 Gender Studies class which openly “embrace[d] students’ identities across the gender spectrum, including gender expansive, gender fluid, and gender-questioning children” and “recognize[d] gender identity exploration as developmentally appropriate for children, including gender ambiguity and shifting gender identities” (Luecke, 2018, p. 274).

Lucy, a grade 11 student, noted that the school had a Gay Straight Alliance (GSA) that they ultimately eliminated:

We had a Gay Straight Alliance up until about two or three years ago... But it eventually stopped because students just sort of just saw Underwood High as a Gay Straight Alliance type of school on its own. And students just really didn’t see the need for it.

This further demonstrates the extent to which the school culture is one that seemingly embraces sexual and gender diversity. While GSAs are “important contributors to a welcoming environment and fostered advocacy efforts for gender-neutral bathrooms” (Porta et al., 2017, p. 107), students at Underwood High felt the environment was welcoming enough to LGBTQIA+ students and therefore discontinued the club. Moreover, given that trans-advocacy for bathrooms occurs through and as a result of GSAs (Porta et al., 2017), it is – instead – Nora’s Gender Studies class that provided the

platform for this advocacy to emerge in the first place – a theme that will be discussed in more detail below.

Indeed, while Underwood High is perceived to be a queer-friendly school, Lucy also noted that the school is “predominantly white” and explicated why she thinks this is the case:

I think a reason it's predominantly white is because it's an art school and with internalized and systemic racism and all that, a lot of BIPOC people aren't given access to the arts as much as white students are. I think that plays a role in it as well.

These categories of access are “made invisible through privilege” (Ahmed, 2007, p. 149) and are reinforced by the fact that “when you inherit class privilege, for instance, then you have more resources behind you, which can be converted into capital, into what can ‘propel’ you forward and up” and in particular, “bodies ‘move up’ when their whiteness is not in dispute” (p. 160). In effect, Lucy is signalling that arts schools “acquire the ‘skin’ of the bodies that inhabit them” (p. 157).

Quinn, as a South Asian student, also reflected on the disproportionately white student body that made up a majority of Underwood High’s population:

It's a lot of middle upper-class people, and therefore, a lot of white people. And so, it's a lot of white queer people, which really puts a weird type of stamp on the type of – on what queer means to the school.

Importantly, in addition to Lucy signalling the reality that students entering “arts high schools are more than twice as likely to be white—and nearly twice as likely to come from a wealthy family” (Sandals, 2017, para. 1), Quinn being of South Asian descent is able to demonstrate how “[w]hiteness is only invisible for those who inhabit it” which ensures that “[s]paces are orientated ‘around’ whiteness, insofar as whiteness is not seen” (Ahmed, 2007, p. 157).

In addition, Lucy also noted the conflating ubiquity of toxic masculinity that underpins this pervasive whiteness, which demonstrates the tensions within the school



that, while a LGBTQIA+ affirming space, is fraught and entangled with institutionalized cisgenderism and hegemonic masculinity:

I stand by that Underwood High struggles with toxic masculinity a lot as well. A lot of the straight cisgender males there are very ... stereotypical macho men, if you will. And will use “retard” or something as like, “Oh my God, that’s a retarded.” Not as a slur, but it *is* a slur, it’s not really something you should be saying.

Altogether, the participants highlight how Underwood High, as an arts school – and as a case – is one that offers a school culture that is primarily accepting to the LGBTQIA+ population, but also one rife brimming with white queerness and white toxic masculinity and privilege that is observably saturated within the overall school culture.

## Data Analysis

### Education as Mobilization for (Trans-)Activism

The implementation of the two all-gender bathrooms at Underwood High emerged as a result of a gender studies class that Nora had pitched to be created in 2013 given the school’s large LGBTQIA+ population:

I pitched the grade 11 Gender Studies course to my principal, because at that time, that course was approved under the Wynne government, and I was on leave at the time doing my masters. And so, I said to my principal, “I think we should run this course because the school has a high LGBTQ population.” Though I think I was initially coming at it from a very like, white lady feminism. And I thought it was going to be more about women’s issues. In 2013, it felt like an explosion in the school of kids who were identifying as trans or non-binary, they were more visible than they had been before. And they were in that class.

The Gender Studies course emerged due to eight years of advocacy by the *Miss G Project*, a group of former women's studies university students who successfully lobbied the Kathleen Wynne Ontario government to add gender and equity courses to the curriculum in 2013 (Goldberg, 2013). The inclusion of gender and equity courses into the curriculum laid the foundation for Nora to create the course at Underwood High. Nora signalled the importance of creating the Gender Studies class but had initially fallen into the trap of failing to account for trans personhood and overlooked Beauchamp and D’Harlingue’s (2012) encouragement for “careful positioning of transgender bodies

necessitates an extensive theoretical reframing of how we design women's studies and curriculum, and how we teach and conceptualize gendered bodies more broadly" (p. 26). It was only when Nora had consulted trans scholarship that she was able to account for more than just "women's issues" and transcend her "white lady feminism":

I read *Whipping Girl* by Julia Serano<sup>27</sup> and my head exploded. And I think like that book still is like the one that kind of taught me the most. So, then that along with what my trans students or my non-binary students were telling me and the conversations we were having in class, I was able to figure it out. And then it's kind of grown from there.

Resultantly, Nora was able to equip herself with "incredibly valuable foundations for challenging binaries and disrupting long-held assumptions about sexuality and gender in education and other contexts" (Kean, 2020, p. 2). It was her engagement with trans scholarship and the phenomenological experiences of her own trans and gender diverse students that allowed her to gain further insight into the potential of the Gender Studies course for challenging institutionalized cisgenderism or "gender oppression matrix" (Rands, 2009) which ultimately amounted to the creation of the final project. Each of the students spoke about the significance and relevance of this project. Lucy, a current grade 11 student at Underwood High, for example, referenced this final project:

I know that in Gender Studies, the culminating activity is you have to create a social action initiative. So, I did mine about getting menstrual boxes in all washrooms because not all women menstruate and not all menstruators are women. But one of the projects was actually getting an all-gender bathroom. So, it was recent because the gender studies class hasn't been around that long. I'm not entire sure the exact year it came in...

Lucy demonstrated her comprehension that gender segregation in traditional binary bathrooms "erases trans people, particularly those who are non-binary, genderqueer, or gender fluid or trans men who menstruate and therefore find women's rooms discordant with their identities and men's rooms unequipped for their needs in that moment"

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<sup>27</sup> Serano's (2007) book is comprised of a collection of essays that confront and debunk myths about trans women, sifting through debates between essentialism and constructionism, and presenting complex and personalized reflections that draw from her own experiences in transition, as well as those of others in order to critique dominant cisgenderist systems and rhetoric.

(Spencer, 2019, p. 4). This awareness largely emerged from her enrolment in Nora's Gender Studies class and Nora's own engagement with trans scholarship. While it is usually a school's GSA that mobilizes students into positions of activism (Porta et al., 2017), the school no longer has a GSA, and it is now Nora's Gender Studies class that has taken on this work of creating queer and trans affirming spaces and advocacy projects. In this sense, the creation of the Gender Studies class has seemingly cancelled out the need for the GSA, despite the fact that GSAs *in addition to* "supportive educators, LGBT-inclusive curricula, and comprehensive anti-bullying/anti-harassment policies" (Day, Perez-Brumer, & Russell, 2017, p. 1739) improve school climate for LGBTQIA+ students.

However, despite the school being gender and queer friendly, the necessity of this activism in the first place illuminates the dominant cisgenderist system that still obligates trans students to make "a public insistence on existing and mattering" (Butler, 2015, p. 37). And yet, the view of the school as queer and gender friendly, simply due to the significant LGBTQIA+ population, absolves the school administration of their responsibilities for both educating about gender diversity and also ensuring that trans and gender diverse student are supported throughout the school. It is only through Nora and her Gender Studies class that such gender-expansive commitments occur within the school, despite the school board's trans-affirmative policy<sup>28</sup> that dictates these very expectations from all teachers and the administration. Such a gap in the policy-practice nexus demonstrates that even when such policy "reforms are won, conditions do not improve" (Spade, 2015, p. 68) and therefore necessitates "mov[ing] us away from an uncritical call to 'be counted' by the administrative mechanisms of violent systems and instead" underscores the need "to strategize... interventions on these systems with an understanding of their operations" (Spade, 2015, pp. 86-87).

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<sup>28</sup>The school board created a trans-affirmative policy that emerged as a result of a mediation settlement following a human rights complaint filed against the board by a trans student whose request for accommodations in bathrooms and overnight trips was denied by his school. This resulted in the school board pioneering the first trans-affirmative school board policy in the country in 2011, predating both federal and provincial trans-affirmative legislation.

Casey, the genderqueer student who was primarily responsible for the creation of the all-gender bathrooms spoke about how the final project in Gender Studies inspired their thinking about the implementation of this space. In fact, they note that the school did not have any all-gender bathrooms, despite the fact that Underwood High has a significant LGBTQIA+ population, and moreover, the school board had a trans-affirmative policy at that time (in 2013) that encouraged the creation of all-gender bathroom spaces:

We didn't have any all-gender bathrooms... So, when Ms. Nora said, "OK, we're going to do a big project at the end of the year, and it has to do with activism, you'll pick something you want to accomplish." And I looked at some of my other friends and went, "I really want a bathroom. Really, really would like a bathroom." Not just so that I can use it and feel comfortable, but so that my friends can use it and feel comfortable. And we had a whole plan for it: whether we wanted a single stall or multiple stalls. And we had these whole conversations about what would make people more – most comfortable.

For Casey, as a genderqueer student, their non-compliance to gender norms "calls into question the viability of one's life" (Butler, 2009, p. iv), and in this case, amplified their desire for an all-gender bathroom to be afforded some measure of recognition and liveability. In this sense, Casey understood Butler's assertion that "it is not only that we need to live in order to act, but that we have to act, and act politically, in order to secure the conditions of existence" (p. 58). And it was Nora's Gender Studies class that provided the capacity for "the assembly of bodies, plural, persisting, acting, and laying claim to a public sphere by which one has been abandoned" (Butler, 2015, p. 59).

Casey explicated what the petitioning and advocacy for this space looked like, indicating the extent to which trans and non-binary students become active agents and demonstrates how "subjects can be constituted through hegemonic discourses of gender, race, and sexuality while remaining reflexive of, and (potentially) intervene in, that process" (Nelson, 1999, p. 341). In other words, bodies do not have to be completely submissive to relations of power and there is capacity to resist docility, where students can problematize "taken-for-granted knowledge about gendered bodies in schools to show the forming of their own subjectivity and the troubling of gender norms" (Ingrey,

2012, p. 800). In addition, they explicate the importance of the support that their group was shown by both Nora and the school principal:

Ms. Nora was amazing in that regard. She said, “Well, OK, I can take you on a tour of the bathrooms we aren’t really using. So, we can just turn one of these into a bathroom. And I can set up a meeting with the principal.” So, we went to the principal and he basically just said, “Which bathroom do you want?” and we said, “OK, well we want one of these two.” And he said, “You can have them both.” He was like, “I just don’t want this to be a big deal, I want it to be put into place like it’s normal. Not make a big show of it like it’s something special we’re doing, but like it should have been here all along.”

Nora’s role in facilitating this activism and being involved in the process demonstrates her role as a gender facilitative teacher and understanding that “[e]xploring the schemas that shape our interpretations and put parameters around gender is productive work that teachers and students engage in together” (Luecke, 2018, p. 277). As Luecke points out, it is this collaborative work that characterizes a gender facilitative school through the promotion of “expanded understandings of gender identities, language, and narratives that recognize each child’s unique experiences” (p. 273).

Meanwhile, the school principal wanted the implementation to be organic without any kind of announcement about its creation, as though “it should have been here all along.” However, the fact of the matter is that while it *should* have been in the school, its creation necessitated a genderqueer student *advocating* for it through a gender studies class which required Nora, herself to *pitch* and advocate for as well. Moreover, the absence of this space in the school given that a third of the school’s population is LGBTQIA+ identifying and the school board’s trans-affirmative policy that encourages the creation of all-gender bathrooms underscores Spade’s (2015) point regarding the limitations of policy that “prove to have little impact on the daily lives of the people they purportedly protect” (p. 12). This “raises important questions about the power relations inherent in the production of knowledges about spaces” (Nash, 2010, p. 588) which contributes to “consequently erasing trans histories” (Cavanagh, 2010, p. 19) and the necessity of this advocacy in order to be accounted for in the school. In this sense, the school board’s trans-affirmative policy is both eclipsed and dictated by administrative enactment which demonstrates precisely why administrative systems “are the greatest

sources of danger and violence for trans people” as their very liveability hinges on them (Spade, 2015, p. 16). It also demonstrated the necessity of having a gender facilitative conduit like Nora who “functioned as a bridge” between the students and administration (Luecke, 2018, p. 280), without whom such activism may have not been possible or may have not materialized given the institutionalization of cisgenderism in the education system. Frohard-Dourlent (2018) problematizes the tendency of “[s]tudents being tasked with making decisions within an institution whose established norms work to erase trans and gender-nonconforming subjectivities” (p. 338) without any kind of support from educators and administrators. However, due to Nora’s vigilance and investment in supporting her students, she actively “enable[d] students to be recognised and integrated into established school practices” (p. 329).

Resultantly, Casey and their Gender Studies group subsequently engaged other students in the school to become involved in the project. Specifically, when asked how students became aware of these bathrooms, Casey explained that they mobilized engagement by bridging activism with education:

We started thinking about “how do we put proper signs on this?” And then we realized we’re at an art school and it’s time for culminating activities. So, we went to some of the grade 12 art classes and we said, “Does anybody want to make their culminating project painting a door for the all-gender bathrooms?” And so, we actually did find two students and they both picked one of the doors and they came up with a whole design and the doors became these art pieces. So, it was impossible to walk past these doors and not realize that something had been done with them.

Much in the same way that Nora mobilized her students through the Gender Studies course to create two all-gender bathrooms in the school as a result of their trans-activism, Casey and their Gender Studies project group were able to *assemble* more students through education to not only become involved in this project but to implicitly promote these spaces through their artwork in a “form of political performativity that puts livable life at the forefront” (Butler, 2015, p. 18). As a consequence, these bathrooms garnered attention and were regularly used by all students, becoming congregating spaces.

## The Emergent Limits of Trans-Activism: The All-Gender Bathroom as a Social and Illicit Site

The two all-gender bathrooms that were created at Underwood High were done so with the intention of widespread use by *all* of the school's student body as Casey pointed out:

We really wanted a space where you could just go and there wouldn't be any expectation of what you are or how you identify. We didn't want something that was going to turn into the "trans bathroom" and people would feel like even if they're just exploring their gender identity, that they couldn't walk in or people would think they're trans.... So, we had a lot of conversations about that and we did settle on we'd like something that's multiple stalls and we want everyone to feel like they can use it!

By creating these bathrooms, Casey and their Gender Studies group "did not conceive of re-doing the entire system, but responded to how it could be reworked" and resultantly, created these bathrooms "as an alternative to what currently exists" (Ingrey, 2012, p. 812) that can be accessed by all students in order to minimize stigma and labels of trans students who might access this space. Despite this intention, Nora explained the problematic that began to emerge as this space was open to all students to use freely:

Some of them eat their lunch in it. Someone caught some, like, dying a girl's hair in the sink in it, like they just hang out there. It's weird. I don't know why anyone would want to hang out in the bathroom, but they do. And so, what has been happening with that bathroom is it becomes a place where kids congregate, and it is largely cisgender kids. It's often couples, and they just hang out there and so what happens is they hang out there and they vape in there and then when someone wants to use the washroom, they don't feel comfortable because they open the door and it's like these people, they don't know are hanging out there. And so, then they don't use it.

While the all-gender bathrooms were created to dispel the stigma ascribed to those who might access them, these spaces also became social sites that deterred students from accessing them due to the discomfort that emerges from cisgender folks recreationally congregating in the bathrooms and colonizing these spaces. Resultantly, while these cis students "inhabit or enact naturalized states of being [and therefore] remain culturally intelligible, socially valuable, and as a result, gain and retain the privilege of citizenship" (Boyd, 2006, p. 421), it is their transgender and gender diverse peers who do not have access to this cisgender privilege (Serano, 2007). This emphasizes Ingrey's (2018)

indication that while “[g]ender neutral washrooms must permit all genders access and thus avoid denying entry to any person; the concern is rather with how that access is represented and under what terms” (p. 779). This also highlights Cavanagh’s (2010) insistence that “the institutionalization of gender-neutral toilet designs is an urgent and important political project to ensure access for all who depart from conventional sex/gender body politics” (p. 5). Indeed, even a gender-neutral design does not ensure equitable access due to the pervasiveness of cisgenderism and cisgender privilege that forecloses this possibility for some trans and gender diverse students.

Ultimately, the bathroom had a very particular appeal, structurally, that made it conducive for students to congregate as Quinn described in her analysis of this space:

I was there a lot. I think it was two stalls... The real kicker of this bathroom and the reason why everyone was there all the time was the counter and the giant mirror situation. So, you could fix your makeup, sit on the counter and talk to your friends, that kind of thing ... And there was just an open space in that area, so you could fit a lot of people in it.

In this sense, while the bathroom is “designed to authorize an invasive and persecutory gaze” where “[m]irrors, fluorescent lighting, and metallic surfaces all invite voyeuristic attention” (Cavanagh, 2010, p. 43), it is also conducive to socialization that was prioritized over the regulation invited by the “giant mirror”. Quinn elaborated on the bathroom serving as a common room where students could congregate and fraternize rather than use it for its intended purpose of natural bodily functions. In this sense, Quinn viewed the bathroom as a space “where students can act more freely from the surveilling gaze of teachers and ‘(re)negotiate’ this space by giving mutual support to each other” (Kjaran, 2019, p. 1023):

Sometimes, I would go in and be like, “There's boys in here, I'm not peeing.” Because they weren’t just sort of using the space as a bathroom. And yeah, I imagine that's kind of what a common room at Hogwarts<sup>29</sup> would kind of be like, it

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<sup>29</sup>Hogwarts is a fictional school in the *Harry Potter* novel series. Within this school, there are common rooms which are shared lounge areas. These areas are often occupied by students for the purposes of completing homework and to socialize with other housemates.



felt like. You kind of go, you hang out a little bit, you talk a little bit of shit, and then you go back to your classes.

However, the design and the ample number of cisgender students congregating in the bathroom also deterred, according to Nora, trans students from accessing this space because “people they don’t know are hanging out in there.” Incidentally, trans students feel “[t]he felt reality of the threat is so superlatively real” and therefore, they “become certain about the dangers of bathroom spaces, even in the absence of support for those fears” (Robbins & Helfenbein, 2018, p. 271). These feelings emphasize the *colonization* of the bathroom by these cisgender students, and as a result, the trans student is rendered precarious as their “life is always in some sense in the hands of the other. It implies exposure both to those we know and to those we do not know; a dependency on people we know, or barely know, or know not at all” (Butler, 2009, p. 4). Their access to the bathroom is contingent upon who they might find occupying this space. And in this sense, the “gender neutral washroom is constructed within an ontological presupposition that denies a liveability of transgender subjecthood, that delimits the terms of their recognisability” which is why “we must ask in what ways a space alone supports human rights or social justice” (Ingreys, 2018, p. 779). We must also ask in what ways a space might become antithetical to these social justice ventures and how it inhibits human rights, justice, and livability.

Particularly, each participant remarked on the tendency for students – primarily cisgender students – to vape, graffiti, and hang out in this space:

**Casey:** I personally haven’t heard any big issues with regards to safety, at least physical safety with those bathrooms. It really – it’s mainly just been the vaping, the graffiti, people hanging out.

**Quinn:** Unfortunately, a lot of cis people took advantage... because it’s two stall bathrooms and a lot of people went in there to vape ... People knew it was a safe space to pee, but it was also a safe space to vape... I would always see people posting on their Instagram stories like, “If I see one more person vaping in the gender-neutral bathroom, I will drop kick them into outer space.” So, there was definitely a lot of frustration around that.

**Nora:** What has been happening the last few years is that cis kids go into the gender-neutral washroom, primarily the one in the basement, because it’s so quiet and it doesn’t have a lot of traffic, and they vape in it.

The pervasiveness of *cultural cisgenderism* (Kennedy, 2018) effectively permits cisgender students to capitalize and take advantage of gender-neutral spaces afforded to trans people in order to carry out illicit or crude acts. The space affords these students the opportunity of “creating spaces of freedom ‘within the frames set’” (Millei & Cliff, 2014, p. 257) which allows cisgender students to engage in illicit liberatory practices that emerge through their socialization with one another that is afforded to them by the all-gender bathroom. This speaks directly to the problematic of administrative governance; while the bathrooms were granted without question, there was no motivation or desire to confront or challenge more expansive systemic problems of the institutionalization of cisgenderism and heteropatriarchy. Such an approach demonstrates “how harm and vulnerability operate and are distributed” to trans students, even in the space of all-gender bathrooms (Spade, 2015, p. 73), when broader systems are not confronted by the administration.

Students and teachers had to retroactively try to educate those who misused the bathroom about its significance and necessity for transgender students in an effort to make them aware of their cisgender privilege (Serano, 2007). For example, Lucy explained having to confront students about their misuse of the space:

It's kind of a hook up/hang out spot for a lot of people. Which we've made it very clear that you know, “Hey, you know, I get you want to hang out and that's totally fine, but there's an outside world to do that.” ... And Ms. Nora comes in or some other teachers who are really good with their students and will sort of say, “Hey, I totally get that you want to hang out and there's lot of spaces to do that, but this is the only space where a lot of non-binary or trans folk feel comfortable using.”

In fact, Nora herself had clarified that this was an issue and how she has been trying to make students aware of their actions in this space:

The issue we've been grappling with for like three years is trying to educate the students about what that space is, why it was created, and why they should not be hanging out there... I think the VP made a sign for the upstairs one. And it was just like, “This is the gender-neutral washroom. We're really proud of having these gender-neutral washrooms. We ask that you not use them as a space to hang out.”

Both Nora and her Gender Studies students carried on Casey's activism after they had graduated five years previously by continually working with the school's administration

to facilitate education and awareness about the effects of cisgenderism with respect to securing the space of the all-gender bathroom as a safe space for gender diverse students in the school. Nora served – and continues to serve – as a key ally in her leadership and “collaborative spirit of shared responsibility and multiple communication pathways” (Luecke, 2018, p. 274) that bridged discussions between administration and the student body to confront emergent cisgenderism that threatened the all-gender bathrooms. Addressing this kind of cisgender privilege and the institutionally ingrained nature of cisgenderism are important given that “how these places get defined in turn influences student performance, which impacts how those students are defined” (Robbins & Helfenbein, 2018, p. 265). Hence, it is Nora – as a key ally – and by association, the students in her Gender Studies class who unremittingly confront cisgender students in an effort to inform them of their privilege and the significance of the all-gender bathroom. It is a consequence of Nora’s Gender Studies class that students have “the tools and space ... [so] they can challenge the tyranny of oppressive narratives” (Luecke, 2018, p. 278) in the school outside of the classroom itself.

This ongoing activism is something that Casey discussed when considering the nuances of the all-gender bathroom as a space:

We pay attention more because these spaces are new and they don’t feel like rights yet, they feel like privileges. And so, we’re constantly worried they’re going to get taken away. And even if they’re not taken away, we’re worried about people congregating and looking threatening because these are supposed to be safe spaces for people who are already not feeling that safe. And you don’t want somebody who is trans or non-binary who thinks this is the only bathroom I can use to go and then feel uncomfortable and unsafe and then not have anywhere to use the bathroom. So, I think it is kind of a mix of where we have greater concerns over the all-gender bathrooms because we’re worried they’re going to get taken away and we’re worried that they’re making these hopefully safe spaces unsafe.

Casey identified the productivity of their activism in procuring a bathroom for transgender and gender diverse students. They also highlighted the necessity of a confrontation and continued analysis by teachers and administrators in reflecting on the “administration of gender norms [which] causes trans people the most trouble” (Spade, 2015, p. 16) and how unmarked cisgender privilege contributes to the reality of “the relentless nature of harassment against trans people” (Ahmed, 2016, p. 28) which is

experienced as a continued “hammering away at our being” (p. 22). Consequently, it is Nora who largely takes up this role through educating her Gender Studies students and mobilizing continued student activism through the class project and thereby exposing “how the administration of gender norms impacts trans people’s lives” (Spade, 2015, p.73) which allows them, in turn, to consider “how the administration of life chances through traditional gender categories produces trans vulnerability” (p. 15). Without Nora as a gender facilitative leader in the school and without her Gender Studies class (and due to the absence of a GSA), dominant hegemonic structures fester and expand, encroaching on the productivity of the trans-activism that created the all-gender bathrooms, regardless of the fact that one-third of this school is comprised of LGBTQIA+ students. Confronting these systems becomes increasingly difficult when “time-beleaguered colleagues expect a single person to bear the entire responsibility” in the way that is expected of Nora (Luecke, 2018, p. 279).

## Male Privilege and the White Cis Colonization of the All-Gender Bathroom

While the all-gender bathrooms at Underwood High are largely social hubs that invite student socialization, these spaces are also primarily occupied by a particular group of young men as described by Lucy:

From my experience using the gender-neutral bathroom, I’ve only seen white cis macho men in there for the sole purpose to vape or to pop [pills]. I’ve never seen them use it for its intended purpose. They don’t really care about the purpose of the bathroom and that some people can’t use any other one.

While the school’s population is one-third LGBTQIA+ identifying and the school is depicted as being queer friendly, there is still a “culture of masculinity sustained” by these white cis macho boys who are “endorsing and performing a particular heteronormative and cisnormative masculinity, which is embodied” and exemplified through their colonization of the all-gender bathroom for their own illicit activities (Martino & Cumming-Potvin, 2017, p. 137). This was further consolidated by Quinn when she remarked on her own observations of who primarily accesses this space:

I'm sure this was 10 times weirder for my friends who weren't cis, but there'd just be... OK, so there's a group of guys called the "Basement Boys" and they were skater boys or the cool boys... And you'd always just see them in there with their beanies vaping in the corner and you're like, "I kind of just need to pee" and also, "I kind of need to change my pad and I don't really want you in the bathroom at all, especially when you're only in here to vape."

These "Basement Boys" represent a compounding of cis, white, straight, hegemonic masculinity that afford them the authority and privilege of colonizing this space for their own illicit ends. Consequently, their hetero- and cisnormative masculinity observably emerged following "queer and gender independent activism that were initiated by the students" (Martino & Cumming-Potvin, 2017, p. 138). While the activism successfully lobbied for an all-gender bathroom for transgender and gender diverse students, the limitations bound to this activism emerged thereafter due to the dominance of white cis boys and "the settler colonial ideologies that undergird our understanding of gender as a restrictive binary are one and the same as the ideologies that establish white supremacy and racial oppression" (Kean, 2020, p. 5). Resultantly, Nora and her current Gender Studies students have had to build upon and preserve Casey's activist legacy by confronting these problematic ideologies and by educating white cisgender heterosexual students in the all-gender bathrooms.

Ultimately, participants highlighted the ignorance that governs the behaviour of these privileged cis heterosexual boys and equips them with indifference whilst annexing this space from those who actually need to use it without any regard for how their presence in the all-gender bathroom affects trans and gender diverse students in particular:

**Quinn:** It's supposed to be a safe space and I think out of the entire school, those are the people who are at most risk for being homophobic or transphobic and that kind of stuff. And also, it's kind of awkward to pee in there with boys who probably don't understand why that bathroom is there and so don't really have the great attitude of being in this bathroom while someone else is peeing there. And that someone else is not a cis guy.

**Lucy:** They see it as a space where every gender can go in and hang out in there, but not realizing that I have this incredible privilege of having a bathroom that I feel comfortable using where I go. And me being in here and hanging out or

blasting my rap music or whatever, doesn't really help create this safe welcoming space for people who don't have that same privilege.

Lucy specifically speaks to the fact that these young men are “not realizing” the impact their presence and misconduct in the bathroom might be having, and the extent to which they are overlooking their own privilege. Ultimately, this “ignorance causes or contributes to a harmful practice, in this case, a harmful practice of silencing” (Dotson, 2017, p. 239) where trans students are made “invisible (driven from public spaces for fear of harassment, violence, or arrest)” (Spencer, 2019, p. 10). and “to be unseen, to be unrecognizable ... is to have one's legitimate access to public participation thrown into question” (Cavanagh, 2010, p. 53). This underpins a kind of discipline that “denote[s] a reduction of violence because control often becomes internalized and thus rendered largely invisible” both to the victim and the perpetrator (Spade, 2015, p. 55).

Quinn framed this space as one of safety, despite the occupation of this space by cisgender white boys:

I'm going to go and pee and wash my hands, leave. I'd still rather not do it with a bunch of cis het[erosexual] guys in the bathroom... But I think that as long as people weren't occupying the bathroom, the space itself wasn't dangerous. It was just sometimes white cis dudes would misuse the space, but it was always meant to be a positive one.

Such a suggestion ignores the fact that “[c]isnormativity couples with White supremacy to produce particular precarity for trans people of color” (Spencer, 2019, p. 2) and given the overwhelmingly white population of the school, what *might* be considered safe for the trans white student, may not be the same for the trans student of colour. In this way, “non-white bodies... are made invisible” (Ahmed, 2007, p. 159), consequently illuminating the limitations of trans-activism as “not sufficiently alter[ing] conditions facing [trans] people of color” (Spade, 2015, p. 10).

Incidentally, Quinn – being of South Asian descent – was also able to remark on the inconceivability of race by the white population at Underwood High, and certainly by these cisgender white boys seizing the all-gender bathroom:

I think a lot of the race things at Underwood, people don't really think about it because everyone's white and everyone who is white doesn't really think about their... how their race plays into their part in society because that's one of the privileges you get, you don't have to think about it.

Quinn explains that “whiteness is invisible and unmarked... to those who inhabit it, or those who get so used to its inhabitance that they learn not to see it” (Ahmed, 2007, p. 157). This ignorance is often excused by others as unintentional despite the implicit harm and precarity that it invokes for transgender and gender diverse students. In fact, Nora elaborated on this ignorance that – in some sense – justifies their presence in this space, despite how they render it an illicit one through their misconduct:

They see that as a space where they can hangout and they're not sympathetic to it. That's the thing is people use it and don't think about it or they think: “Why would someone be scared of me coming into the washroom? I'm a friendly person!” But the reality is some people just don't and they certainly don't feel that way when they walk in and it's like... four guys just hanging out and chatting.

Nora is referring to the fact that “many people tend to inhabit a position of ‘social ignorance’ regarding trans identities and experiences” and though “[t]hat ignorance may not be an individual's active intention ... it is certainly a deliberate outcome of settler colonialist and heteropatriarchal ideologies” (Kean, 2020, p. 12). However, as Spade (2015) insists, the “conditions under which we live do not result solely from ignorance” and therefore, “convincing elites to think about those conditions in a certain way is not the path to building meaningful transformation” (p. 104), much in the same way that convincing these white cis students that their actions are problematic will not resolve the broader systemic issues emerging within and around these spaces. This is something that Casey had noted, too:

Do you have a population of students accepting enough to let this go right? If you're in a place where half of the student body is not accepting of trans identities, then these bathrooms aren't going to go right... Even if you try to push that these bathrooms are for everyone, you're probably still going to get people who call it “the trans bathroom”, who use it as a place to target others. So, I think you can't just put an all-gender bathroom in any school and hope that it'll be fine. I think that you need to make sure that the space itself is welcoming first.

Casey highlighted not only why they believe their activism for this space was successful due to a significant LGBTQIA+ population in the school, but also signals the potential

future problematics that inevitably emerged following their graduation from Underwood High. While the bathroom is being used by all of the students at Underwood High, it is still a space that provides “all agency and visibility to the White enforcers” (Spencer, 2019, p. 10) and emboldens cisgenderism and cisnormativity which permits a *biopolitics of trans disposability* whereby “those most worthy of social fear and erasure become the least deserving of the protections of the social contract, or even respect and decency as basic as the right to exist in public” (p. 14). Quinn spoke to the problematic of this culture that resultantly heightens the vulnerability of trans students at Underwood High:

I would like to alter the culture around those being the bathrooms to vape in. Because those bathrooms aren't just there so that people can pee, those bathrooms are there so people feel safe and you kind of get angry on your friends' behalf because you're like, “Well if I get a safe bathroom to pee in and you get a safe bathroom to pee in, why can't we give them a safe bathroom to pee in, right?”

I would [also] like to change the level of respect the white cis guys have for those bathrooms because they're not just bathrooms, they're symbols of safety and symbols of our school's commitment to being a safe place and just go vape in your own bathroom. Go anywhere but the gender-neutral bathrooms... They just assume that the other toilets are just a viable option for everyone. And when they do that, they forget the entire point of those bathrooms.

Quinn was able to appropriately signal the problematic of these spaces being turned into repositories for the illicit (Cavanagh, 2010), rendering them unsafe for trans and gender diverse students. More broadly, it speaks to a pervasive polemic of cis white straight male privilege that is saturated even in the school culture where a third of the student population identifies as LGBTQIA+. In this sense, if this problem is emerging in the “gayest school” in the district, then it signals a more significant issue regarding the omnipresence of *cultural cisgenderism* (Kennedy, 2018) and white privilege that effectively permits white cisgender boys to occupy and befoul gender-neutral spaces which ultimately renders trans students as precarious due to these very “conditions that threaten life in ways that appear to be outside of one's control” (Butler, 2009, p. i). This cisgenderism and privilege were further elucidated by Nora:

But I've discussed it a lot with my classes. And they definitely think that there is a contingent of kids in the school who just don't give a shit. Like, they just don't



care. They see that as a space where they can hang out and they don't care how it affects anyone else.

While the trans-activism that advocated for these bathrooms was carried out with good intentions, the resultant problems emerging within these all-gender bathrooms reaffirm Ingrey's (2018) assertion and precisely why "the gender neutral washroom in schools cannot be an add-on" (Ingrey, 2018, p. 784). Largely, the emergent limitations of this activism are elucidated by the very materialization of the "Basement Boys" who are the embodiment of cisgenderist and heteropatriarchal colonizing forces. However, Nora and her students continue their activism by "confronting the harms that come to trans people at the hands of [these] violent systems" (Spade, 2015, p. 19) and further, by lobbying the "administrative systems that distribute life chances and promote certain ways of life" (Spade, 2015, p. 52).

## Implications and Conclusion

This case study has demonstrated the possibilities of success that student-led trans-activism can have in creating all-gender bathrooms in the school. Moreover, it has underscored the significance of supportive educators, such as Nora, and LGBT-inclusive education (e.g., Nora's Gender Studies class) that collectively contribute to the overall trans-inclusive climate of "Gender Facilitative Schools... [which] ensure that the school building as a whole is a safe space for children of all gender expressions" (Luecke, 2018, p. 281). In this sense, this case study points to the potentialities associated with trans-activism and gender facilitative teachers in creating a gender supportive school climate.

However, this case study has also highlighted that despite the creation of all-gender bathrooms, the virulence of cisgenderist hegemonic structures are deeply institutionalized and subsequently impact to thwart the maintenance and sustainability of these bathroom spaces for trans and gender diverse students. The collaborative activism exhibited by Nora and her students in addressing these structures points to the significance of chipping away at these very cisgenderist foundations, exemplifying Ahmed's (2016) assertion that "hammering, however exhausting, can become a tool" of the subject, where we can

direct our attention toward those institutions that chip away at us. We chip away at those walls, those physical or social barriers that stop us from residing somewhere, from being somewhere. We chip away at those walls by trying to exist or trying to transform an existence. (Ahmed, 2016, p. 32)

This political project of “hammering” away at these institutionalized cisgenderist and hegemonic structures were and continue to be addressed by the trans-activism at Underwood High through the creation of the all-gender bathroom and the ongoing education afforded by Nora in the Gender Studies course. However, such interventions are fragile and would have likely dissolved had Nora decided to leave the school at any point, exemplifying the tenuousness of “designating a point person in the school” (Luecke, 2018, p. 279). However, because Nora is seen “as reliable” and “function[s] as a bridge” (p. 280) and a conduit to consulting with administration to address systemic issues, she is therefore instrumental in inspiring activism from her students who gravitate toward her as we “become attracted to those who chip away at the worlds that accommodate our bodies” (Ahmed, 2016, pp. 32-33). It is this collaborative relationship between Nora and her activist students that results in the fearless confrontation of the “Basement Boys” and their embodied white cis male privilege by the students from Nora’s Gender Studies class in order to “facilitate lives of rich authenticity for children of all genders” (Luecke, 2018, p. 282).

Finally, and more broadly, the findings of my study reaffirm the necessity of Sanders and Stryker’s (2016) reimagining of the all-gender bathroom design in order to “begin to rethink the way *all* embodied subjects interact with one another in public space” (p. 782). In this sense, the study points to the necessity of broader bathroom reform that does not simply switch the sign on the bathroom door to “gender neutral” or “all-gender” which has the capacity to invite a colonization of the space, but rather, requires a reimagining of bathroom design that “accommodates diversity, not only gender diversity but also human diversity, by providing different ways that a wide range of embodied subjects can perform the same commonplace activity according to their individual needs and temperaments based” (Sanders & Stryker, 2016, p. 785). Such an undertaking requires moving beyond just schools but also challenging cisgenderist building codes that mandate a certain number of male and female bathrooms within any

given building, which ultimately points to how broader these systems govern intelligibility in “shaping identity through design, as well as acknowledging that such codes are not neutral functional objectives but rather reflect and reproduce deep-seated cultural beliefs” (p. 788). Without confronting these hegemonic systems of control, student activists and gender facilitative teachers will have to continue the tireless work in their schools of confronting symptomatic materializations of oppressive systems, such as those embodied and enacted by the “Basement Boys”.

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# Conclusion: Beyond Performative Inclusion

## Introduction

The purpose of this thesis was to interrogate the space of the all-gender bathroom among various school sites in one of the largest school boards in Ontario. In doing so, I was concerned to provide insight into the extent to which such spaces afford livability and viability to transgender students (Butler, 2006) in schools, and to reflect on their capacity for challenging and addressing *cultural cisgenderism* (Kennedy, 2018) in schools. Below, I detail the implications and my assessment of the contribution of this study to the overall understanding about all-gender bathrooms in schools while explicating and problematizing the pervasiveness of what I have referred to as *performative inclusion*. This notion of performative inclusion emerged from my empirical research and refers specifically to a surface-level commitment to accommodating trans and gender nonconforming students in schools. I also highlight the obstacles and limitations associated with the conduct of this study.

## Implications and Impressions of the Research

Scholars such as Cavanagh (2010) and Davies, Vipond, and King (2019) have looked to the all-gender bathroom as a space that could provide opportunity for increased livability and viability (Butler, 2006) for transgender and gender non-conforming students. However, this thesis has demonstrated that while the all-gender bathroom has the capacity to offer an alternative to traditionalist gender norms and opposition to systems of gender surveillance, broader hegemonic systems permitted an encroachment of this space with particular effects for continuing to hamper bathroom access for transgender and non-binary students. Moreover, these spaces are often created in schools as an act of *performative inclusion*. Specifically, schools implement these spaces and subsequently present the school as trans-inclusive or trans-considerate in light of the presence of observable structures of inclusivity, such as the all-gender bathroom, without due consideration of the ways in which these spaces are actually utilized or perceived by students, or the extent to which they are receptive to access for trans and gender diverse students. In this respect, the all-gender bathroom serves as a visible symbol of inclusion



on a school's behalf, regardless of whether transgender students are using it or not, and therefore, discounts its importance "to an individual's integrity" and neglects "respect for one's subjectivities" (Grace & Wells, 2015, p. 45).

This *performative inclusion* extends to trans-affirmative policies as well, which seemingly invoke and implicitly support *cultural cisgenderism* (Kennedy, 2018) by failing to intentionally and proactively disrupt cisgenderist and hegemonic systems. In this sense, it appears that trans-affirmative school board policies, particularly the one analyzed in this study, do not adequately support trans-informed understandings of gender democratization (Connell, 2009). Such policies are necessary and the existence of them cannot be dismissed; the fact that the board has created such a policy is significant. The caveat of requesting bathroom accommodation, however, prioritizes a discourse of individualization being mobilized at the expense of addressing broader systemic forces of institutionalized cisgenderism in the education system. Ultimately, the policy implicitly situates the transgender student as unequal to their cisgender peers by having to *request* to be seen, to *plead* for their viability (Butler, 2006) through their very submission (Ingrey, 2018) to a cisgenderist system. In this sense, the logics of accommodation of the individual trans student that drives such policies highlights a failure to understand and address the systemic forces that affect the lives of transgender people, and hence, the terms of necessary intervention to address them. As Grace and Wells (2015) rightfully note, "[t]his speaks to the need to engage school administrators, teachers, and other school staff in professional development that builds their knowledge of trans youth and the ways that they can support and accommodate them in policymaking and practice as part of the school community" (p. 122).

Importantly, while I am critical of accommodation stipulations in trans-affirmative policy, I am not denying the need for this very accommodation. However, such a policy and enactment focus must also simultaneously address a commitment to more systematic education about gender diversity in schools that tackles *cultural cisgenderism* and its material effects (Kennedy, 2018). Often, while policies are constructed with the purpose, as Bacchi (2009) explains, to solve "social problems" that are "difficult to deal with, as in the problem of... transgender youth" (Loutzenheiser,

2015, p. 105), the implication that accommodation alone can solve the spectrum of issues that trans youth must endure is reductionist and eschews the impact of the impressive forces of *cultural cisgenderism* (Kennedy, 2018) and its impact on these students. As such, what is required is a more intentional enactment of these policies by administrators and various education stakeholders which provides a more committed, contextualized focus to disseminating resources, such as “professional development training for all school staff with a focus on developing a whole-school approach to supporting sexuality and gender diverse students” (Ullman, 2015, p. 42). Moreover, enactment requires building and facilitating community engagement and drawing on resources from various organizations, such as EGALÉ Canada, teachers’ unions, or even such a model of support for schools as embodied by initiatives as Toronto District School Board’s “Gender-Based Violence Prevention” team<sup>30</sup>.

There are numerous resources available to support administrators and educators, and yet limited systemic support that allows for the deployment of these resources or even awareness about the existence of these resources. As my case study highlighted, Nora appeared to be one of the few teachers at her school, working by herself and doing her own research and clearly committed to gender expansive education. Ultimately, “because policy guidelines cannot anticipate every scenario that might arise during implementation,” (Leonardi & Staley, 2018, p. 769; see also Loutzenheiser, 2015) my research points to the necessity of more meaningful enactment and dedication from administrators to providing opportunities for gender expansive education for teachers and

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<sup>30</sup>The primary function of this team, which has since its formation been reduced in size due to limited funding, is to prevent and address gender-based violence, homophobia, sexual harassment, and inappropriate sexual behaviour by students towards other students in schools. The team is comprised of a total of four people (i.e., social workers and teachers) who provide support with enacting the board’s trans-affirmative policy. The team is contacted by principals or educators who scheduled one team member to come into their school to collectively educate about gender diversity. This is comprised of running workshops, providing mini-lectures to classes, and providing feedback about the school’s inclusivity – all of which are aimed at addressing gender inclusivity and gender diversity. Due to the fact that the team is only comprised of four members, their ability to support more expansively is limited, but such models of support are significant and have received acclaim from those who have accessed this service. This sort of model is important for providing support and resourcing to administrators and teachers.

school staff, which also requires them to improve their own “understanding of gender and sexual diversity [which] must reflect the complex lived experiences of diverse populations of LGBTQ students” (p. 769). In this sense, this study points to a need for more dedicated support at the board level for this kind of systematic engagement that has to extend beyond a one-off seminar for administrators.

The board must ensure accountability and follow-up, and equally, resources that are already available to administrators (and teachers) must be made clear and accessed proactively. It is not enough for one committed teacher to petition for the creation of a Gender Studies course and for the administrator to sign off on it. Despite the Ontario curriculum including Gender Studies as of 2013, this course is still not offered in every high school. While school boards may be limited by funding, board officials and equity officers must encourage the use of existing resources that have been developed and promote them throughout the schools. For example, The Elementary Teachers Federation of Ontario (ETFO) has developed a curriculum resource where it has provided a list of classroom resources such as picture story books with LGBTQIA+ content that are targeted at every grade level. Such resources can be shared with school administrators and be provided to teachers in schools to integrate into their lesson planning. Additionally, The Canadian Federation of Teachers has developed a guide to support teachers in fostering a trans-inclusive classroom with a specific checklist of considerations. *Gender Spectrum* has provided a website that allows users to select what kind of resources they require for supporting transgender students (i.e., articles, events, stories, or videos). These are just a few examples of innumerable possibilities for administrators and educators to access and utilize.

Unfortunately, with respect to the aforementioned trans-affirmative policies, many other school boards have the exact same accommodation stipulation which expects transgender students to request their viability through accommodation (Ingrey, 2018; Martino, Kassen, & Omercajic, 2020; Omercajic & Martino, 2020). In this sense, trans-affirmative policies must heed Spade’s (2015) advice to move beyond individual, rights-based legislation that do not interrogate cisgenderist and cisnormative administrative systems. Instead, we see changes occurring on an individualized level, such as the

activism mobilized by the students and their determined Gender Studies teacher at Underwood High, which belies an institutional commitment to addressing the pervasiveness of cisgenderism and cisnormativity, along with the gender regulatory mechanisms that are embedded in these systems of control. The work to address and consider these broader systems of cisgenderism and cisnormativity ultimately rests on the shoulders of a few, and more often than not, it is students who are tasked with proactively advocating for themselves due to a fundamentally reactive system, underscoring the prevalence of “the ‘student in charge’ narrative” (Frohard-Dourlent, 2018, p. 332). My research points to the limitations of an approach where “youth are tasked with becoming agentive adults” (p. 333), particularly where the bathroom is concerned given that despite the implementation of an all-gender bathroom through student-led activism, the pervasiveness of cisgenderism and hegemonic systems that permeated the school impacted accessibility to this space. In this sense, not only must teachers “still ‘evaluate and guide [their] development’” (p. 333), but they must also guide the advocacy and be involved in the way that Nora continued to be a leader through her gender facilitative role (Luecke, 2018).

This research provides significant empirical insight into the assertion that “fighting for gender neutral bathroom spaces is an important, but insufficient, response to the problem in schools” (Robbins & Helfenbein, 2018, p. 264). In particular, this study revealed that a more authentic commitment from cisgender researchers, teachers, and administrators is required in order to address their own gender privilege whilst working alongside trans scholars and teachers. This requires an understanding that addressing cisgenderism which permeates all aspects of society cannot be work that is done in silos or by the work of individual teachers and students alone. In particular, responsibility for challenging deeply embedded systems of cisgenderism and cisnormativity cannot rest on the shoulders of committed individual teachers and students in schools. It cannot just be expected that “designating a point person in the school or district” (Luecke, 2018, p. 279) will resolve and address cisgenderism in the school. This is showcased by Nora at Underwood High who has taken on the role of confronting these systems through her Gender Studies class, but who is combatting more pervasive issues of cisgenderism and cisnormativity on her own, which are manifesting in the all-gender bathrooms, despite the

perception that the school is LGBTQIA+ friendly. Therefore, cisgender teachers must move beyond the belief that it is “‘not their role’ to discuss sex, sexuality, and gender with their students” (Payne & Smith, 2014, p. 401) and embrace a commitment to a gender facilitative role that “promote[s] expanded understandings of gender identities, language, and narratives that recognize each child’s unique experiences” (Luecke, 2018, p. 273). In this sense, discussion cannot be strictly about a focused intervention on the bathroom per se but needs to include an embrace of gender expansive and *gender-complex education* that “moves beyond a dichotomous view of gender to incorporate a more complex lexicon of gender and a more nuanced framework for understanding gender privilege and oppression” which requires systemic support (Rands, 2013, p. 109). A commitment to enacting gender expansive education is necessary beyond just the space of one *Gender Studies* class but must be taken up by teachers more broadly. Such an approach holding all education stakeholders, including (but not limited to) administrators, teachers, and other school staff, accountable in ensuring that their schools “promote language and narratives that embrace students across the gender spectrum, challenge gender privilege and stereotyping through inclusive curricula and extracurricular activities, and implement gender nondiscrimination policies system-wide, advancing inclusion of gender expansive students” (Luecke, 2018, p. 273). In this sense, there is a need for more devoted professional development that encourages teachers to imagine possibilities for engaging in trans education in their classrooms. It also requires holding school administrators responsible for ensuring that the teachers in their school are devoted to gender expansive education possibilities. Such a commitment provides opportunities for students to understand the problematics associated with their actions of colonizing and monopolizing all-gender bathroom spaces which have the capacity to undermine access of trans students to these spaces.

When reflecting, specifically, on the space of the bathroom, I place my support behind Sanders and Stryker’s (2016) conceptualization of a universal bathroom design that accounts for a spectrum of identities, regardless of age, gender, race, religion and disability. In particular, Sanders and Stryker propose the creation of a “public restroom as one single open space with fully enclosed stalls” (p. 783) that actually “dispenses with the wall that typically divides public space from private bathroom and instead treats the

restroom as a well-defined, clearly marked but open precinct that can be located adjacent to lobbies and circulation corridors” (p. 784). Sanders and Stryker (2016) reason that this bathroom design is accommodating of human diversity. In this sense, the series of single stalls solves issues of surveillance and the more communal design addresses concerns of safety and misconduct. With respect to actualizing this in schools, however, it is a possibility to accomplish this in newly constructed schools, but this might be a more difficult, perhaps even implausible endeavour for old school buildings that structurally cannot account for such a remodelling of the bathroom space. Moreover, the education system is already limited in its budgetary commitments, which was exacerbated further in Ontario by Doug Ford’s budget cuts (Tasker, 2019). If such remodels are not possible in schools, we must look to ensuring that the current all-gender bathroom models are accessible.

### **Intersectionality: Racialized Transphobia and the Colonizing Influences of Whiteness**

Importantly, what emerged from this research is some evidence of the tendency for some administrators and teachers to project assumptions of transphobia onto racialized and religious minoritized communities, which equips them with an excuse to circumvent proactive measures of trans-inclusivity due to the fallacy that racialized and religious members of their school community will oppose such actions. Meanwhile, there was generally an allowance of the transphobic behaviours associated with whiteness that permitted the colonization of the all-gender bathroom for the purposes of illicit behaviour and socialization. This points to the intersecting vectors of racism, xenophobia, Islamophobia, and transphobia, and highlights the necessity of prioritizing intersectionality when “examining purportedly neutral administrative systems to see their targeted violences” (Spade, 2013, p. 1046) in order to capture “how the[se] systems of meaning and control that concern us permeate our lives, our ways of knowing about the world, and our ways of imagining transformation” (Spade, 2015, p. 6). In effect, this research has pointed to how administrative governance “perpetuates intersectional violence” through assumptions imposed on racialized and religious communities whilst failing to confront and address the problematic behaviour emerging due to white privilege

in the school(s), thus “identify[ing] purportedly neutral administrative systems as key vectors of that violence” (Spade, 2013, p. 1047). In this sense, intersectionality is a vital component to questions of trans education, and also policy enactment, where these intersections are largely unconsidered and unacknowledged. Intersectionality must be interwoven into gender expansive education and into professional development that encourages and supports administrators and teachers in identifying the biases that perpetuate these vectors of violence. As Grace and Wells (2015) note, “professional development needs to represent gender identity and trans\* as complex constructions in cultural intersections and in interactions with other relationships of power, including race and Indigeneity” (p. 75).

## Research Obstacles and Limitations

The conduct of this research was not without its obstacles, and by far, challenged me in ways that I have never thought imaginable. In its initial formulation, this study was concerned to investigate a case study of the student activism that led to the first school to successfully implement an all-gender bathroom in an entirely different school board in Ontario, which also precipitated the development of the board’s trans-affirmative policy with an “accommodation based upon request” stipulation. It was my intention to assess how this activism emerged and the impact of the newly established all-gender bathroom on the school culture and student understandings of gender. However, when submitting this study’s research proposal to this school board’s ethics review committee, it was rejected without any explanation or provision of feedback. Meanwhile, when this study was submitted to the board where it was actually conducted, it was accepted without question. To me, this highlighted the very issue and prominence of *performative inclusion*. I surmise that the first school board was uncomfortable with a researcher assessing (and perhaps criticizing) the extent to which their schools are gender facilitative and authentically supportive of gender diversity. However, rejecting this sort of research that has the capacity to inform and engage in a *productive* dialogue about trans inclusivity with the board is a disservice to their transgender and gender non-conforming students (and staff). It also demonstrates a lack of commitment to interrogating spaces and

capacities for improvement that are necessary to embracing a gender democratized system.

Speaking further to this question of accessibility, once this study was accepted by the school board where the research was carried out, I spent one year actively attempting to recruit participants for this study by way of e-mailing and relying on personal networks. Firstly, there was very little commitment or engagement from various education stakeholders under the board, particularly principals in the district. Specifically, I e-mailed approximately 95 school principals and received responses from *five*, one of whom provided an apologetic refusal to participate in the study due to a busy time for teachers and students (i.e., mid-term exams). While that principal invited me to reach out to him at a later point in time, I received no response after doing so three months later. This highlighted to me – yet again – a question of “commitment to creating a truly hospitable environment” (Robbins & Helfenbein, 2018, p. 274) by engaging in a productive dialogue and consideration of transgender students in schools. Research that is meant to support and question their viability in schools is not seen as a priority and relegated by a majority of principals. However, there were other barriers that emerged that hampered access to participants and delayed the completion of this study.

Specifically, “for the first time in two decades,” all four of Ontario’s teacher unions became “involved in job action — ranging from work-to-rule to rotating one-day strikes” (Rushowy, 2020, para. 1) that started in January 2020. In this sense, the administrators with whom I was able to make contact could not request or ask teachers to consider participating in this research study due to the emerging tensions as a result of the work-to-rule. While I was able to interview the administrators, gaining access to these prospective teacher participants became hampered by political tensions that emerged as a result of the Ford government’s intention to increase class sizes, cut teaching positions, mandate online classes, and limit wage increases to one per cent a year (Rushowy, 2020). This was further compounded by the Covid-19 pandemic that forced all schools to shut down just two months after this job action.



Importantly, in my process of recruiting participants, I was committed to including transgender and non-binary educators and students given Stryker's (2006) stipulation of the necessity for the field to embrace trans desubjugation, given the long history of harm, pathologization and epistemological violence that has been enacted against that trans people (Prosser, 1998; Teo, 2010; Tosh, 2016; Winters, 2008;). I had hoped that I would have more of this representation in my research, as this was always my intention, though the study only has the voices of two transgender teachers and one genderqueer student. While I value their contributions and tried to prioritize their voices as much as possible, I acknowledge the limitation of not providing access to the voices and perspectives of more trans and gender diverse educators and students in the school system. In this respect, it has caused me to reflect on my own positionality as a white, cisgender researcher doing this work, and how there may be an understandable hesitance and resistance from transgender and gender non-conforming individuals to collaborate when they have already endured such a repugnant history of epistemological violence (Teo, 2010), harm and disservice at the hands of cisgender people (Martino & Cumming-Potvin, 2018; Nicolazzo, 2017; Radi, 2019).

In this sense, I believe future research must be collaborative and participatory which involves working alongside trans scholars in the generation of knowledge in order to form a bridge that allows for productive contributions. Such a collaborative approach allows for more trans perspectives and trans-informed research to emerge that encapsulates an ethic of working with and for trans people – no research about trans people without them. In this respect, such an approach requires working with trans youth and communities to find ways to support the authoring of their own embodied accounts of their lives at schools. However, it is important to stress confrontation of cisgenderist systems *needs* to be done by cisgender researchers and teachers and must not fall solely on the shoulders of transgender scholars and youths. Given that most people in the system identify as cisgender and there is a failure of enactment of gender-complex education (Payne & Smith, 2014; Rands, 2013), we must mobilize cis populations in order to confront these systems, but it must be done collaboratively with trans folks in order to promote a politics of (de)subjugation (Stryker, 2006) that reimagines the space of the bathroom through the implementation of all-gender bathroom spaces, which have the

capacity to account for more expansive gender representation and understanding of embodiment. Through trans-informed insights, cisgender researchers, teachers, and students must continue to confront the polemics around this space that continue to exclude or ostracize transgender people.

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# Appendices

## Appendix A: The Semi-Structured Interview Guide

**Project Title:** All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study

**Contact Information:**

Principal Investigator, Dr. Wayne Martino

Co-Investigator, Kenan Omercajic

What can you tell me about yourself?

- What year are you in? / What is your position at the school? How old are you?
- How long have you been at this school?

What has your experience at the school been up to this point?

What are your thoughts about the all-gender washroom at your school?

Can you talk to me about what you know about your school's bathroom policy? What can you tell me about the school's overall policy for supporting transgender and gender diverse students?

How did the all-gender washroom come to be established at your school?

What are your impressions of the bathroom's usage? Is it being used? Who is using it? How often do you believe it is being used? Do students other than transgender and gender diverse students use the all-gender bathroom?

Do you believe that the all-gender bathroom is safe for students to use? Why or why not?

How comfortable do you believe that a transgender or gender diverse student would feel using an all-gender bathroom at this school?

Do you think a trans student would feel comfortable at school using a male or female bathroom that aligned with their gender identity instead of using the all-gender bathroom?

Is there anything further that can be done to support transgender and gender diverse students at your school?

## Appendix B: Student Letter of Information and Consent

**Study Title:** All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study

**Contact Information:**

Principal Investigator, Dr. Wayne Martino  
Co-Investigator, Kenan Omercajic

### **Introduction**

My name is Kenan Omercajic, and I am a PhD candidate at the Faculty of Education at the University of Western Ontario. You are being invited to participate in this research study that is seeking to generate knowledge and to learn from board officials, administrators, teachers, and students about the all-gender washrooms in their schools.

### **Purpose of Study**

This study seeks to gain insight into how students, teachers, administrators and board officials view the impact of all-gender bathrooms in their schools, respectively, and to learn more about trans-affirmative policies that were created to foster an inclusive school environment for transgender and gender diverse students. This study is important because there is very little research on trans-affirmative policies in schools and their implementation.

### **Study Design**

If you wish to participate in this study, you may agree to participate in the following procedures:

**One-on-one Interviews:** Interviews with students and former students who are interested in participating will take place at a time, and date that is convenient for each participant who volunteers to be a part of the study. Interviews will be conducted using Zoom, where a Meeting ID number will be provided to the participant after initial e-mail contact is established. Each interview will take place in a private online meeting room as provided by Zoom, where all of the participant's answers will be confidentially discussed between the participant and the researcher. Based on recommendations from Western's IT department, these meetings will also be password protected, so that there is no risk of anyone entering the interview outside of the researcher and the participant. Participants will be e-mailed a copy of the consent form that they can sign and e-mail back to the researcher. If a student exhibits discomfort in retrieving the signature of a parent/guardian, the student may disclose this to the researcher and the student's signature alone will be accepted. The interview would not commence without the retrieval of this form. The duration of the interview will last approximately one hour in length. With the participant's consent, the interview will be audio-recorded. If the participant does not consent to being audio-recorded, the interviewer will record the responses by hand in his field notes. The nature of the

interview will revolve around the participant's views, ideas and opinions about their school's culture and climate, past and present student advocacy at the school, and the presence of the all-gender bathroom at their respective school. If the participant does not feel comfortable discussing any question that is asked, they are free to not provide an answer.

It is expected that you will be involved in the study throughout the summer (June 2020 to September 2020). The study also has the option for member-checking; participants will be offered the opportunity to look over the interview transcripts to comment on any mistakes or to clarify any points that they had made. The transcripts will be uploaded on Western's OneDrive SharePoint, where only the participant can access the file. The file will be encrypted, and should the participant like to look over the transcript, the participant will need to call the researcher for the code to decrypt the file to gain access.

### **Confidentiality**

The information collected will be used for research purposes only, and neither your name nor information, which could identify you, will be used in any publication or presentation of the study results. All information collected for the study will be kept confidential. Nevertheless, while we do our best to protect your information there is no guarantee that we will be able to do so. If data is collected during the project which may be required to report by law, we have a duty to report that information. If the results of the study are published, your name will not be used. Representatives of The University of Western Ontario's Non-Medical Research Ethics Board may require access to the study-related records to monitor the conduct of the research.

After the completion of the dissertation, the data will be transferred to the Principal Investigator as the Student Investigator will not be at the school for the 5-year retention period. Paper data will be placed in a lock box during the transfer of the material, along with the electronic data that will be placed on an encrypted and password protected folder on an external hard drive. This will be placed in a locked cabinet that only the Principal Investigator will have access to during the remainder of the 5-year retention period. Following the transfer of data from the Student Investigator to the Principal Investigator, any data the student has on the local hard drive will be deleted from the Student Investigator's work station by using DBAN Sourceforge software to 'sanitize' the hard drive and by applying a write/delete procedure to the server.

After five years, the data – which will be in possession of the Principal Investigator – will be destroyed following Western University's Information Security procedures/guidelines, thus, paper data will be confidentially shredded and electronic data will and the same procedure as above will be used to wipe the hard drive, using DBAN Sourceforge software to clear the hard drive and by applying a write/delete procedure to the server. I will use the transcribed interviews only for my research. As such, there are no known or anticipated risks or discomforts associated with participating in this study. You may not directly benefit from participating in this study, but information gathered may provide benefits to society as a whole which a more defined understanding about how an all-gender bathroom can affect school culture.

### **Withdrawal from Study**

We will give you any new information that is learned during the study that might affect your decision to stay in the study. If you decide to withdraw from the study, you may do so at any time, and also have the right to request withdrawal of information collected about you. If you wish to have your information removed please let the researcher know. **Your participation in this study is voluntary.** You may decide not to be in this study. Even if you consent to participate you have the right to not answer individual questions or to withdraw from the study at any time. If you choose not to participate or to leave the study at any time it will have no effect on academic standing.

### **Participant's Rights**

You do not waive any legal right by signing this consent form.

You will not be compensated for the participation in this study.

If you have questions about this research study please contact: Principal Investigator: Dr. Wayne Martino or Project Member: Kenan Omercajic

If you have any questions about your rights as a research participant or the conduct of this study, you may contact The Office of Human Research Ethics.

*This letter is yours to keep for future reference.*

### **Consent Form**

**Project Title:** All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study

**Principal Investigator:** Dr. Wayne Martino

**Research Member:** Kenan Omercajic

I have read the Letter of Information, have had the nature of the study explained to me and all questions have been answered to my satisfaction. I agree to participate in the following:

I agree to participate in a one-on-one interview:

YES  NO

I consent to being audio-recorded during one-on-one interviews:

YES  NO



I consent to the use of unidentified quotes obtained during the study in the dissemination of this research

YES  NO

---

Print Name of Participant

Signature

Date (DD-*MMM*-  
YYYY)

My signature means that I have explained the study to the participant named above. I have answered all questions.

---

Print Name of Person

Signature

Date (DD-*MMM*-  
YYYY)

Obtaining Consent

---

**If Applicable:**

Parent / Legal Guardian / Substitute Decision Maker (Print):

---

Parent / Legal Guardian / Substitute Decision Maker (Sign):

---

Parent / Legal Guardian / Substitute Decision Maker (Date):

# Appendix C: Teacher and Principal Letter of Information and Consent (School Site)

**Study Title:** All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study

## **Contact Information:**

Principal Investigator, Dr. Wayne Martino  
Co-Investigator, Kenan Omercajic,

## **Introduction**

My name is Kenan Omercajic, and I am a PhD candidate at the Faculty of Education at the University of Western Ontario. You are being invited to participate in this research study that is seeking to generate knowledge and to learn from school board officials and those in schools about the all-gender washrooms in schools.

## **Purpose of Study**

This study seeks to gain insight into how students, teachers and administrators, and board officials view the impact of all-gender bathrooms in their schools, respectively, and to learn more about trans-affirmative policies that were created to foster an inclusive school environment for transgender and gender diverse students. This study is important because there is very little research on trans-affirmative policies in schools and their implementation.

## **Study Design**

If you wish to participate in this study, you may agree to participate in the following:

**One-on-one Interviews:** Interviews with the teachers and administrator(s) of the school will take place during school hours at a time and date that is convenient for each participant. This interview will take place at the school in a private room where all of the participant's answers will remain privately discussed between the participant and the researcher. The duration of the interview will last *one hour in length*. With the participant's consent, the interview will be audio-recorded. If the participant does not consent to being audio-recording, the interviewer will record the responses by hand in his field notes. The nature of the interview will revolve around the participant's views, ideas and opinions about the school culture, the presence of the all-gender bathroom at the school, and their views about the perceived impact of trans-specific policies at their school. If the participant does not feel comfortable discussing any question that is asked, they are free to not provide an answer.

It is expected that you will be involved in the study throughout a portion of the second semester of school (May 2018 and October 2018). The study also has the option for member-checking; participants will be offered the opportunity to look over the interview transcripts to comment on any

mistakes or to clarify any points that they had made. The transcripts will be uploaded on Western's OneDrive SharePoint, where only the participant can access the file. The file will be encrypted, and should the participant like to look over the transcript, the participant will need to call the researcher for the code to decrypt the file to gain access.

### **Confidentiality**

The information collected will be used for research purposes only, and neither your name nor information, which could identify you, will be used in any publication or presentation of the study results. All information collected for the study will be kept confidential. Nevertheless, while we do our best to protect your information there is no guarantee that we will be able to do so. If data is collected during the project which may be required to report by law, we have a duty to report that information. If the results of the study are published, your name will not be used. Representatives of The University of Western Ontario's Non-Medical Research Ethics Board may require access to your study-related records to monitor the conduct of the research.

After the completion of the dissertation, the data will be transferred to the Principal Investigator as the Student Investigator will not be at the school for the 5-year retention period. Paper data will be placed in a lock box during the transfer of the material, along with the electronic data that will be placed on an encrypted and password protected folder on an external hard drive. This will be placed in a locked cabinet that only the Principal Investigator will have access to during the remainder of the 5-year retention period. Following the transfer of data from the Student Investigator to the Principal Investigator, any data the student has on the local hard drive will be deleted from the Student Investigator's work station by using DBAN Sourceforge software to 'sanitize' the hard drive and by applying a write/delete procedure to the server.

After five years, the data – which will be in possession of the Principal Investigator – will be destroyed following Western University's Information Security procedures/guidelines, thus, paper data will be confidentially shredded and electronic data will and the same procedure as above will be used to wipe the hard drive, using DBAN Sourceforge software to clear the hard drive and by applying a write/delete procedure to the server. I will use the transcribed interviews only for my research. As such, there are no known or anticipated risks or discomforts associated with participating in this study. You may not directly benefit from participating in this study, but information gathered may provide benefits to society as a whole which a more defined understanding about how an all-gender bathroom can affect school culture.

### **Withdrawal from Study**

We will give you any new information that is learned during the study that might affect your decision to stay in the study. If you decide to withdraw from the study, you may do so at any time, and also have the right to request withdrawal of information collected about you. If you wish to have your information removed please let the researcher know. **Your participation in this study is voluntary.** You may decide not to be in this study. Even if you consent to participate you have the right to not answer individual questions or to withdraw from the study at any time. If you choose not to participate or to leave the study at any time it will have no

effect on your employment status.

**Participant's Rights**

You do not waive any legal right by signing this consent form.

You will not be compensated for the participation in this study.

If you have questions about this research study please contact: Principal Investigator: Dr. Wayne Martino or Project Member: Kenan Omercajic

If you have any questions about your rights as a research participant or the conduct of this study, you may contact The Office of Human Research Ethics.

*This letter is yours to keep for future reference.*

**Consent Form**

**Project Title:** All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study

**Principal Investigator:** Dr. Wayne Martino

**Research Member:** Kenan Omercajic

I have read the Letter of Information, have had the nature of the study explained to me and all questions have been answered to my satisfaction. I agree to participate in the following:

I agree to participate in a one-on-one interview:

YES  NO

I consent to being audio-recorded during one-on-one interviews:

YES  NO

I consent to the use of unidentified quotes obtained during the study in the dissemination of this research

YES  NO

\_\_\_\_\_

Print Name of Participant                      Signature                      *Date (DD-MMM-  
YYYY)*

My signature means that I have explained the study to the participant named above. I have answered all questions.

\_\_\_\_\_  
Print Name of Person                      Signature                      *Date (DD-MMM-  
YYYY)*

## Appendix D: Teacher and Principal Letter of Information and Consent (Off Site)

**Study Title:** All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study

**Contact Information:**

Principal Investigator, Dr. Wayne Martino  
Co-Investigator, Kenan Omercajic

### **Introduction**

My name is Kenan Omercajic, and I am a PhD candidate at the Faculty of Education at the University of Western Ontario. You are being invited to participate in this research study about the presence of the gender neutral bathroom at your school and engaging in a dialogue regarding your impressions of this space.

### **Purpose of Study**

This study seeks to gain insight into how students, teachers and administrators at schools make sense of the impact of gender neutral bathrooms and the conditions under which these bathrooms are implemented. This study will also investigate the effects of the gender neutral washroom on the school culture through the lens of students, teachers, and administrators. Due to the fact that there is very limited research that investigates the perceptions from students, teachers, and administrators regarding the presence of a gender neutral bathroom in their schools, this study may highlight the potential of student voice for invoking change at school, and moreover, the potential benefits (or drawbacks) of a gender neutral bathroom on school culture.

### **Study Design**

If you agree to participate in this study, you may agree to participate in the following:

**One-on-one Interviews:** Interviews with the teachers and principals who are interested in participating will take place at a location, time, and date that is convenient for each participant who volunteers to be a part of the study. If meeting in person is not possible (or not preferable to the participant), interviews will be conducted using Zoom, where a Meeting ID number will be provided to the participant after initial e-mail contact is established. Each interview will take place in a private location or private online meeting room as provided by Zoom, where all of the participant's answers will be confidentially discussed between the participant and the researcher. Based on recommendations from Western's IT department, these meetings will also be password protected, so that there is no risk of anyone entering the interview outside of the researcher and the participant. If interviews take place online, they will be e-mailed a copy of the consent form that they can print, sign, and scan and return to the researcher. The interview would not commence without the retrieval of this form. The duration of the interview will last *one hour in length*. With the participant's consent, the interview will be audio-recorded. If the participant does not consent to being audio-recorded, the interviewer will record the responses by hand in his field notes. The nature of the interview will revolve around the participant's views, ideas and opinions about their school's culture and climate, past and present student advocacy at the school, and the presence of the gender neutral bathroom at their respective school. If the participant does not feel comfortable discussing any question that is asked, they are free to not provide an answer.

It is expected that you will be involved in the study throughout the middle of the year (May to August). The study also has the option for member-checking, that is, participants are offered the opportunity to look over the interview transcripts to comment on any mistakes or to clarify any points that they had made. The transcripts will be uploaded on Western's OneDrive SharePoint, where only the participant can access the file. The file will be encrypted and should the participant like to look over the transcript, the participant will need to call the researcher for the code to decrypt the file to gain access.

### **Confidentiality**

The information collected will be used for research purposes only, and neither your name nor information, which could identify you, will be used in any publication or presentation of the study results. All information collected for the study will be kept confidential. Nevertheless, while we do our best to protect your information there is no guarantee that we will be able to do so. If data is collected during the project which may be required to report by law we have a duty to report that information. If the results of the study are published, your name will not be used. Representatives of The University of Western Ontario's Non-Medical Research Ethics Board may require access to your study-related records to monitor the conduct of the research.

After the completion of the dissertation, the data will be transferred to the Principal Investigator as the Student Investigator will not be at the school for the 5-year retention period. Paper data will be placed in a lock box during the transfer of the material, along with the electronic data that will be placed on an encrypted and password protected folder on an external hard drive. This will be placed in a locked cabinet that only the Principal Investigator will have access to during the remainder of the 5-year retention period. Following the transfer of data

from the Student Investigator to the Principal Investigator, any data the student has on the local hard drive will be deleted from the Student Investigator's work station by using DBAN Sourceforge software to 'sanitize' the hard drive and by applying a write/delete procedure to the server.

After five years, the data – which will be in possession of the Principal Investigator – will be destroyed following Western University's Information Security procedures/guidelines, thus, paper data will be confidentially shredded and electronic data will and the same procedure as above will be used to wipe the hard drive, using DBAN Sourceforge software to clear the hard drive and by applying a write/delete procedure to the server. I will use the transcribed interviews only for my research. As such, there are no known or anticipated risks or discomforts associated with participating in this study. You may not directly benefit from participating in this study, but information gathered may provide benefits to society as a whole which a more defined understanding about how a gender neutral bathroom can affect school culture.

### **Withdrawal from Study**

We will give you any new information that is learned during the study that might affect your decision to stay in the study. If you decide to withdraw from the study, you may do so at any time, and also have the right to request withdrawal of information collected about you. If you wish to have your information removed please let the researcher know. **Your participation in this study is voluntary.** You may decide not to be in this study. Even if you consent to participate you have the right to not answer individual questions or to withdraw from the study at any time. If you choose not to participate or to leave the study at any time it will have no effect on your employment status.

### **Participant's Rights**

You do not waive any legal right by signing this consent form

You will not be compensated for the participation in this study.

If you have questions about this research study please contact: Principal Investigator: Dr. Wayne Martino or Project Member: Kenan Omercajic

If you have any questions about your rights as a research participant or the conduct of this study, you may contact The Office of Human Research Ethics.

*This letter is yours to keep for future reference.*

### **Consent Form**

**Project Title:** Gender Neutral Bathrooms in Public Schools: An Ethnographic Case Study

**Principal Investigator:** Dr. Wayne Martino

**Research Member:** Kenan Omercajic

I have read the Letter of Information, have had the nature of the study explained to me and all questions have been answered to my satisfaction. I agree to participate in the following:

I agree to participate in a one-on-one interview:

YES  NO

I consent to being audio-recorded during one-on-one interviews:

YES  NO

I consent to the use of unidentified quotes obtained during the study in the dissemination of this research

YES  NO

\_\_\_\_\_

Print Name of Participant

Signature

*Date (DD-MMM-  
YYYY)*

My signature means that I have explained the study to the participant named above. I have answered all questions.

\_\_\_\_\_

Print Name of Person

Signature

*Date (DD-MMM-  
YYYY)*

Obtaining Consent



# Appendix E: Board Official Letter of Information and Consent

**Study Title:** All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study

**Contact Information:**

Principal Investigator, Dr. Wayne Martino  
Co-Investigator, Kenan Omercajic

## **Introduction**

My name is Kenan Omercajic, and I am a PhD candidate at the Faculty of Education at the University of Western Ontario. You are being invited to participate in this research study that is seeking to generate knowledge and to learn from school board officials and those in schools about the all-gender washrooms in schools.

## **Purpose of Study**

This study seeks to gain insight into how students, teachers and administrators, and board officials view the impact of all-gender bathrooms in their schools, respectively, and to learn more about trans-affirmative policies that were created to foster an inclusive school environment for transgender and gender diverse students. This study is important because there is very little research on trans-affirmative policies in schools and their implementation.

## **Study Design**

If you wish to participate in this study, you may agree to participate in the following:

**One-on-one Interview:** Interviews with board officials will take place at a time and date that is convenient for the participant in a private location (decided upon by the participant), where all of the participant's answers will remain privately discussed between the participant and the researcher. The duration of the interview will last *one hour in length*. With the participant's consent, the interview will be audio-recorded. If the participant does not consent to being audio-recording, the interviewer will record the responses by hand in his field notes. The nature of the interview will revolve around the participant's views, ideas and opinions about trans-affirmative policies as they relate to all-gender bathrooms in schools . If the participant does not feel comfortable discussing any question that is asked, they are free to not provide an answer.

It is expected that you will be involved in the study at some point during the second semester of school (May 2018 and October 2018). The study also has the option for member-checking; participants will be offered the opportunity to look over the interview transcripts to comment on any mistakes or to clarify any points that they had made. The transcripts will be uploaded on Western's OneDrive SharePoint, where only the participant can access the file. The file will be encrypted, and

should the participant like to look over the transcript, the participant will need to call the researcher for the code to decrypt the file to gain access.

### **Confidentiality**

The information collected will be used for research purposes only, and neither your name nor information, which could identify you, will be used in any publication or presentation of the study results. All information collected for the study will be kept confidential. Nevertheless, while we do our best to protect your information there is no guarantee that we will be able to do so. If data is collected during the project which may be required to report by law, we have a duty to report that information. If the results of the study are published, your name will not be used. Representatives of The University of Western Ontario's Non-Medical Research Ethics Board may require access to your study-related records to monitor the conduct of the research.

After the completion of the dissertation, the data will be transferred to the Principal Investigator as the Student Investigator will not be at the school for the 5-year retention period. Paper data will be placed in a lock box during the transfer of the material, along with the electronic data that will be placed on an encrypted and password protected folder on an external hard drive. This will be placed in a locked cabinet that only the Principal Investigator will have access to during the remainder of the 5-year retention period. Following the transfer of data from the Student Investigator to the Principal Investigator, any data the student has on the local hard drive will be deleted from the Student Investigator's work station by using DBAN Sourceforge software to 'sanitize' the hard drive and by applying a write/delete procedure to the server.

After five years, the data – which will be in possession of the Principal Investigator – will be destroyed following Western University's Information Security procedures/guidelines, thus, paper data will be confidentially shredded and electronic data will and the same procedure as above will be used to wipe the hard drive, using DBAN Sourceforge software to clear the hard drive and by applying a write/delete procedure to the server. I will use the transcribed interviews only for my research. As such, there are no known or anticipated risks or discomforts associated with participating in this study. You may not directly benefit from participating in this study, but information gathered may provide benefits to society as a whole which a more defined understanding about how an all-gender bathroom can affect school culture.

### **Withdrawal from Study**

We will give you any new information that is learned during the study that might affect your decision to stay in the study. If you decide to withdraw from the study, you may do so at any time, and also have the right to request withdrawal of information collected about you. If you wish to have your information removed please let the researcher know. **Your participation in this study is voluntary.** You may decide not to be in this study. Even if you consent to participate you have the right to not answer individual questions or to withdraw from the study at any time. If you choose not to participate or to leave the study at any time it will have no effect on your employment status.

### **Participant's Rights**

You do not waive any legal right by signing this consent form.

You will not be compensated for the participation in this study.

If you have questions about this research study please contact: Principal Investigator: Dr. Wayne Martino or Project Member: Kenan Omercajic

If you have any questions about your rights as a research participant or the conduct of this study, you may contact The Office of Human Research Ethics.

*This letter is yours to keep for future reference.*

### **Consent Form**

**Project Title:** All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study

**Principal Investigator:** Dr. Wayne Martino

**Research Member:** Kenan Omercajic

I have read the Letter of Information, have had the nature of the study explained to me and all questions have been answered to my satisfaction. I agree to participate in the following:

I agree to participate in a one-on-one interview:

YES  NO

I consent to being audio-recorded during one-on-one interviews:

YES  NO

I consent to the use of unidentified quotes obtained during the study in the dissemination of this research

YES  NO

---

Print Name of Participant

---

Signature

---

Date (DD-MMM-

YYYY)

My signature means that I have explained the study to the participant named above. I have answered all questions.

_____	_____	_____
Print Name of Person	Signature	Date (DD- <i>MMM</i> -
Obtaining Consent		YYYY)

## Appendix F: Email Script for Recruitment (for Principal)

### **Subject Line: Invitation to participate in research**

Hello,

We have received your email address from The Ontario Principals' Council. You are being invited to participate in a study that we, Kenan Omercajic (Student Investigator) and Dr. Wayne Martino (Principal Investigator) are conducting. Briefly, the study involves one hour in length interviews with the school administrator(s), educators, board officials, and students. The study also involves conducting three one-hour long focus groups with students in order to gain insight into how students, teachers, administrators and board officials view the impact of all-gender bathrooms in their schools, respectively, and to learn more about trans-affirmative policies that were created to foster an inclusive school environment for transgender and gender diverse students. This study is important because there is very little research on trans-affirmative policies in schools and their implementation. The interviews and focus groups will occur on the school premises in private classrooms.

There will be no compensation for this study.

If I do not receive a response to this e-mail within a week, I will send one reminder e-mail. If I receive no response to the reminder e-mail, I will no longer e-mail you about the study.

If you would like more information on this study or would like to receive letters of information about this study, please contact the researcher at the contact information given below.

**Student Investigator:**

Kenan Omercajic  
Western University

**Principal Investigator:**

Dr. Wayne Martino  
Western University

## Appendix G: Email Script for Recruitment (for Board Official)

**Subject Line: Invitation to participate in research**

Hello,

You are being invited to participate in a study that we, Kenan Omercajic (Student Investigator) and Dr. Wayne Martino (Principal Investigator), are conducting. Briefly, the study involves one hour in length interviews with school administrators, educators, board officials, and students, as well as conducting three one-hour long focus groups with students in order to gain insight into how each of these groups view the impact of all-gender bathrooms in their schools, respectively, and to learn more about trans-affirmative policies that were created to foster an inclusive school environment for transgender and gender diverse students. This study is important because there is very little research on trans-affirmative policies in schools and their implementation. If you choose to participate in the study, we can set up an interview location and time that is most convenient for you.

There will be no compensation for this study.

If I do not receive a response to this e-mail within a week, I will send one reminder e-mail. If I receive no response to the reminder e-mail, I will no longer e-mail you about the study.

If you would like more information on this study or would like to receive a letter of information about this study, please contact the researcher at the contact information given below.

**Student Investigator:**

Kenan Omercajic  
Western University

**Principal Investigator:**

Dr. Wayne Martino  
Western University

## Appendix H: Email Script for Recruitment (Teacher)

**Subject Line: Invitation for Students to Participate**

Hello (Name of Participant),

I hope you're doing well.

I am following up – as I indicated at the end of our interview – about the prospect of your students participating in this study. I have attached a recruitment form to distribute to your students. Interested students will need to contact me directly and their confidentiality and participation will be ensured. If you have any questions about this form or procedure, please do not hesitate to contact me.

**Student Investigator:**

Kenan Omercajic  
Western University

**Principal Investigator:**

Dr. Wayne Martino  
Western University

## Appendix I: Student Recruitment Form

**Project Title:** All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study

**Contact Information:**

Principal Investigator, Dr. Wayne Martino

Co-Investigator, Kenan Omercajjic

The purpose of this study is to learn more about all-gender washrooms in schools. It seeks to learn more about both the policy and the implementation or practice by speaking with students, teachers, and administrators of schools across the school board. The study will involve participants being individually interviewed for approximately one hour.

As a student participant, while your teacher has passed along this form, your participation in this study is *entirely voluntary*. You will not be penalized for deciding to participate or *not* participate in this study. This means that you will face no repercussions academically, socially, nor in terms of your extracurricular activities for your involvement (or lack thereof) in this study. As such, your relationships with your (former) GSA, teacher(s), nor any academic or extracurricular affiliations will be compromised due to your decision to be (or not be) involved in this study.

Those who are 18 years of age or older are free to sign the consent forms on their own. Those under the age of 18 will require parental consent. If a student is concerned about attaining parental consent, please e-mail the researcher privately to address this concern. The time commitment to the study is only one hour long during a remote Zoom interview, where you will be e-mailed a private link by the researcher containing a password, so only you can access the session.

The information collected will be used for research purposes only, and neither your name nor information, which could identify you, will be used in any publication or presentation of the study results. All information collected for the study will be kept confidential. Nevertheless, while we do our best to protect your information, there is no guarantee that we will be able to do so. If data is collected during the project which may be required to report by law, we have a duty to report that information. If the results of the study are published, your name will not be used.

Thank you and if you have any questions or concerns, you can reach the researchers at the contact information provided at the top of the form.

Kenan Omercajjic

## APPENDIX J: Facebook Advertisement

### TEACHER AND PRINCIPAL PARTICIPANTS NEEDED FOR STUDY ABOUT ALL-GENDER BATHROOMS

My name is Kenan Omercajic and I am a PhD candidate at the Faculty of Education at the University of Western Ontario. I am currently conducting a research study, under the supervision of Principal Investigator, Dr. Wayne Martino, that is interested in understanding how students, teachers, and principals are responding to the presence of an all-gender bathroom in their respective school(s).

For this specific part of the study, I am interested in speaking with teachers and/or principals who might be willing to share their views and insights on the space of the all-gender bathroom in their school(s).

For more information about this study, or to volunteer for participation in this study, please contact:

**Kenan Omercajic**  
**University of Western Ontario**

**Dr. Wayne Martino**  
**University of Western Ontario**



# Appendix K: Ethics Approval Forms



Research Ethics

## Western University Non-Medical Research Ethics Board NMREB Delegated Initial Approval Notice

**Principal Investigator:** Dr. Wayne Martino  
**Department & Institution:** Education\Faculty of Education, Western University

**NMREB File Number:** 109679  
**Study Title:** Gender Neutral Bathrooms in Public Schools: An Ethnographic Case Study

**NMREB Initial Approval Date:** September 26, 2017  
**NMREB Expiry Date:** September 26, 2018

### Documents Approved and/or Received for Information:

Document Name	Comments	Version Date
Western University Protocol		2017/09/26
Instruments	Appendix A - Semi-Structured Interview Guide	2017/09/18
Instruments	Appendix B - Focus Group Interview Guide	2017/09/18
Letter of Information & Consent	Appendix C1 - Student	2017/09/26
Letter of Information & Consent	Appendix C2 - Teacher/Principal	2017/09/26
Letter of Information & Consent	Appendix C3 - Union Representative	2017/09/26
Letter of Information & Consent	Appendix C4 - Former Lobbyist	2017/09/26
Recruitment Items	Appendix D - Recruitment Script	2017/09/18
Instruments	Appendix E - Policy-Documents - Received for Information August 14, 2017	
Recruitment Items	Appendix F - Recruitment E-mail (for Principal)	2017/09/18
Recruitment Items	Appendix G - Email - Union Representative	2017/09/26
Recruitment Items	Appendix H - Advertisement	2017/09/26

The Western University Non-Medical Research Ethics Board (NMREB) has reviewed and approved the above named study, as of the NMREB Initial Approval Date noted above.

NMREB approval for this study remains valid until the NMREB Expiry Date noted above, conditional to timely submission and acceptance of NMREB Continuing Ethics Review.

The Western University NMREB operates in compliance with the Tri-Council Policy Statement Ethical Conduct for Research Involving Humans (TCPS2), the Ontario Personal Health Information Protection Act (PHIPA, 2004), and the applicable laws and regulations of Ontario.

Members of the NMREB who are named as Investigators in research studies do not participate in discussions related to, nor vote on such studies when they are presented to the REB.

The NMREB is registered with the U.S. Department of Health & Human Services under the IRB registration number IRB 0000091.

April 17, 2018

Dear Kenan Omercajic & Dr. Wayne Martino,

### *All-Gender Bathrooms in Public Schools: A Multi-Sited Case Study*

On behalf of the External Research Review Committee (ERRC), I received your follow-up responses to the committee's earlier feedback. Thank you for amending the Student Recruitment Flyer and contact instructions as requested, and for fulfilling the police check requirements.

As per our further comments about interviews with central officials, we appreciate your decision to subsequently omit this component in consideration of their time and also their level of specific knowledge about this issue in those sites, and to focus on school-based staff and students instead.

As always, ERRC approval does not obligate anyone to participate and invited staff may make the final decision about their own involvement. We will look forward to receiving a copy of your full report of findings and a short abstract upon completion and it is expected that these would be made available to us by September 2019.

Sincerely,

# Curriculum Vitae

**Name:** Kenan Omercajic

## **Education**

2015 – 2021 **PhD**, Western University, London, Ontario, Canada

2013 – 2015 **MA**, Western University, London, Ontario, Canada

2009 – 2013 **BA**, Western University, London, Ontario, Canada

## **Relevant Teaching Experience**

2017 – 2018 **Teaching Assistant**, “Investigating Urban Schools”  
Western University, London, Ontario, Canada

2018 – 2019 **Instructor**, “Investigating Urban Schools”  
Western University, London, Ontario, Canada

2020 – 2021 **Instructor**, “Investigating Urban Schools”  
Western University, London, Ontario, Canada

## **Publications**

Martino, W., Kassen, J., & Omercajic, K. (2020). Supporting transgender students in schools: beyond an individualist approach to trans inclusion in the education system. *Educational Review*, 1-20.

Martino, W., Kuhl, D., & Omercajic, K. (2020). The epistemological significance of transgender studies in the academy. In M.B. Weaver-Hightower & N.S. Niemi (Eds.), *The Wiley handbook of gender equity in higher education* (pp. 493-513). John Wiley & Sons, Inc. <https://doi.org/10.1002/9781119257639.ch25>

Martino, W., & Omercajic, K. (forthcoming) A trans pedagogy of refusal: Interrogating the limits of antinormativity and trans necropolitics, *Pedagogy, Culture and Society*.

Martino, W., Omercajic, K., & Cumming-Potvin, W. (forthcoming). YouTube as a site of desubjugation for trans and nonbinary youth: Pedagogical potentialities and the limits of whiteness. *Pedagogy, Culture and Society*.

Omercajic, K., & Martino, W. (2020). Supporting transgender inclusion and gender diversity in schools: A critical policy analysis. *Frontiers in Sociology*, 5. <https://doi.org/10.3389/fsoc.2020.00027>.