



## The politics of the toilet: A feminist response to the campaign to 'degender' a women's space



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### SYNOPSIS

This article is a feminist response to the campaigning activism and queer and transgender theory which promotes the 'degendering' of public toilets. This campaign originates in the demands of men who transgender to access women's toilets. Activists argue that sex segregation of toilets is the result of nineteenth century moralism and is a discriminatory practice. They say that degendered toilets would be safer for women because the good men would protect women from aggressors, and they show a remarkable degree of insensitivity to women's needs and interests. The campaign is increasingly effective, with schools in the US and local councils in the UK moving to degender toilets in response. This article will argue that the safety of women as a group requires that toilet provision should remain sex segregated or take the form of individual cubicles that offer privacy and safety to all users.

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There is an increasing body of literature and campaigning activism presently which seeks to degender public toilets (Case, 2010; Cavanagh, 2010; Kogan, 2010; Transgender Law Centre, 2005). The activism of male-bodied transgenders who seek to access women's toilets was the spur to this campaign, but it is now supported by queer and purportedly progressive theorists, who argue that the idea of segregating women's toilets is reactionary and was the result of nineteenth century moralism. In this view there is a good reason to create mixed facilities, which can, some argue, encompass urinals, cubicles, a baby-changing bench, breastfeeding, all in one large room (Serlin, 2010). In this article I will challenge this approach. I will argue that the 'right to gender' and the 'right to gender expression' promoted by transgender activists are problematic in themselves, and do not create a good reason to degender the bathroom. I shall suggest reasons why women have needed, both in the past and in the present, good, copious and segregated facilities suited to their needs. There is scant feminist research or theory on this issue presently, only queer and transgender theory which tends to sideline women's concerns and the impact that degendering may have on women's rights. There has been no research on the opinions

of women, the constituency for whom women's toilets were established, or on their possible motivations for preferring the maintenance of segregated toilet provision. Queer theorists who pooh-poo the idea that women might need or want separate facilities are the only voices being heard, and their arguments are leading to significant changes in policy.

The issue is important now because the campaign by transgender activists and their queer allies to degender toilets has been gaining considerable success. In 2013, for instance, the Education Department of the US state of Massachusetts made a ruling that trans students may access the locker room and changing facility that corresponds with their 'gender identity', regardless of physical anatomy (Brydon, 2013). As the US gay newspaper, *The Advocate*, put it, 'the directive clarified that the trans student's safety and access to basic facilities trumps a non-transgender student's possible discomfort at sharing those facilities'. The desires that girls may have for a women-only space separate from those born biologically male and raised male, are brushed dismissively aside in the document which states, 'Discomfort is not a reason to deny access to the transgender student' (Brydon, 2013). In 2013 the city council of Brighton and Hove in the UK announced its

intention to degender its public toilets (Ward, 2013). The council states that it wishes to promote 'gender neutrality' and 'build facilities which are open to all, regardless of sex' (Ward, 2013). The terms 'gender' and 'sex' are used interchangeably and confusingly in the politics of the toilet.

### Definition of transgender

In this article I use the term 'transgender' in the wider sense in which it is most commonly used by activists and theorists in the present. It is a wider term than 'transsexual', which has, anyway, fallen out of usage in favour of transgenderism in recent decades, and it refers to persons who have a 'gender identity', or belief in a sex stereotype, which is not usually associated with their biological sex. International Panel of Experts (2007) provide an authoritative definition of the term as they were drawn up by prominent experts on human rights and form the basis of international campaigning on gay rights and 'gender identity'. The definition in the Principles is broad and vague and reflects queer and transgender theory and essentialist notions of gender, 'Gender identity is understood to refer to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms' (International Panel of Experts, 2007: 6). This definition includes cross-dressers, male persons who gain sexual excitement from wearing clothing that they associate with the subordinate sex caste of women (Jeffreys, 2014), and male persons who may take hormones but undertake no surgeries so that they retain male genitalia. In a survey it conducted, the Transgender Law Centre in California found that only 15% of transgenders intended to have surgery to mutilate their genitals (Transgender Law Centre, 2005). The issue of enabling the entry of men who transgender to the women's toilets should, therefore, be seen as relating to the admission of persons who are likely to possess intact male anatomy but may choose to identify with the sex stereotype more usually associated with women on an occasional or more permanent basis. I shall not use the commonly used acronyms MTF and FTM, meaning male-to-female and female-to-male to refer to persons who transgender here, because they imply that change of sex takes place when this is not the case. I shall use the terms 'men who transgender' and 'women who transgender' or male-bodied persons and female-bodied persons to indicate that no change in biology takes place.

### 'Gender' disappears sex

The way in which queer and transgender activists use the term 'gender' is problematic because it obscures the existence of persons, women, who are biologically female, and their particular interests. It disappears male domination (Thompson, 2001) too, which is airbrushed out of the way in literature on degendering the toilet. Use of the term 'gender' to describe the subordination of women in feminist theory and research has, unfortunately, provided a foundation for the queer and

transgender use of the term (Jeffreys, 2014). The transgender usage of the term 'gender' refers to what feminists have traditionally called sex or 'gender' stereotypes, that is the idea that men and women have naturally or essentially different qualities. The way in which 'gender' is used in *Peeing in Peace*, a campaign guide from the San Francisco Transgender Law Centre, shows the difficulty from a feminist point of view (Transgender Law Centre, 2005). The guide states in its definition section that a 'Gender-Specific or Gender-Segregated Bathroom' is 'a bathroom intended for people who identify with a particular gender (for instance, a women's room or a men's room)' (Transgender Law Centre, 2005: 2). Biological sex plays no role in this gendered approach, though it is on the basis of biological sex that women are subordinated. Female foetuses, for instance, are aborted in some countries and communities, not because they have a gender but because of their sex, whereas gender is a social construction which can only be created after birth. In transgender theory, gender is essentialised as an 'identity', is possessed by everyone, takes the place of sex, and is seen as a preference rather than a product of the oppression of women. The emphasis on identity rather than biology or lived experience, could be described as gender libertarianism. Women do not adopt the identity of being women, but rather possess female biology and on this basis are reared in a subordinate relation to men. The identity libertarian approach to 'gender' is crucial to the campaign to 'degender' toilets. If the oppression of women on the basis of their sex was acknowledged, then the opening up of women's toilets to male persons who 'identify' as women might not look so progressive. The campaign to degender disappears biology and relegates it to history, as one promoter of degendering, Harvey Molotch, demonstrates, 'The biological differences once a basis for assigning women to specific roles and physical places have become obsolete and, in retrospect, ridiculous' (Molotch, 2010: 255).

Gender is, in radical feminist theory, the ordering system of male domination and consists of stereotypical appearance and behaviour required of persons inhabiting either the male or female sex caste, such as the requirement that women engage in harmful beauty practices as I explain my book *Beauty and Misogyny* (Jeffreys, 2005, see Chapter 1). In this article 'gender' is understood to encompass the sex stereotypes which are the result of, and serve to justify, women's oppression rather than an essential quality, or identity. In order to make the distinction between the way in which 'gender' is used in transgender and queer politics and women's subordination, I shall use the term sex caste to describe women's situation. I argue that it is on the basis of women's oppression based on sex that they have needed sex-segregated toilets. It is on the basis of their sex that women are marked out for violence by members of the male sex caste, and on the basis of their sex that they need facilities in which to attend to biological facets of women's lives such as menstruation. Their need for women's toilets is not based upon their gender, that is the acting out of socially constructed sex roles. The term sex caste offers the most useful way of illustrating the problematic nature of the transgender politics that demand an end to spaces set aside for those of the female sex. The term sex caste, on the other hand, is used here to indicate that women are subordinated on account of their sex, and not their gender. Persons who transgender cannot change their biological sex, so transgender theorists and activists

commonly regard the concept of 'sex' as unfriendly to their interests. Without the concept of oppression on the grounds of sex, however, the constituency of feminism, which consists of women, becomes vague and indefinable. In transgender theory everyone, women and men, simply has 'gender identities', and is equally oppressed by discrimination towards them on the basis not of their 'sex', but of their 'gender'.

### **The 'right' to gender and the assault on women-only spaces**

The impetus behind the campaign for unisex toilets is the demand by male bodied transgenders to be able to use the women's facilities as an aspect of their 'right to gender expression'. The ideas of the 'right to gender identity' and the 'right to gender expression' were developed as political ideas in the US in the 1990s by men such as Joanne Roberts or Phyllis Frye, who were cross-dressers or had transgendered (Jeffreys, 2014). They were instantiated in a document grandly called the International Bill of Gender Rights in 1995, in which the first right is 'The Right to Define Gender Identity' which is explained thus, 'All human beings carry within themselves an ever-unfolding idea of who they are... The individual's sense of self is not determined by chromosomal sex, genitalia, assigned birth sex, or initial gender role' (Frye, 2000: 212). Another 'right' in the Bill is 'The Right to Free Expression of Gender Identity', and another is that of entering spaces set aside by or for women, 'The Right of Access to Gendered Space and Participation in Gendered Activity', and it is this 'right' that is referenced by male bodied persons who seek to enter women's toilets (Frye, 2000: 213).

Though seeking to enter women's spaces, the men making this demand can be rather unlike women in all but the fixed idea in their minds. The man who, according to his website, 'authored' the original Bill of Gender Rights in 1990 which became the International Bill of Gender Rights, is Joanne Roberts (Roberts, 2012). Joanne does not say he is a woman but a cross-dresser, 'I'm a cross-dresser, divorced and remarried with two adult children'. He organises an event for cross-dressers called, *Beauty and the Beach*, 'Crossdresser's Getaway Weekend' (sic) (Roberts, 2013). Another significant figure in creating the Bill was Phyllis Frye, who, in a journal article about it seeks to establish the credentials of having been a most successful and truly manly man before deciding to transgender. He lists his manly accomplishments in his youth and says, 'As evident from the above accomplishments, I did not become a woman because I could not cut it as a man. I was very successful as a man, but it did not fit my unshakable in-the-gut self-image of who I really was'. This pedigree serves to distinguish Frye from women, who would be quite unlikely to have ever been manly men in this way.

The 'right' that is asserted in the Bill of Gender Rights, of entering spaces set aside by or for women, is in direct contradiction to the maintenance of women-only spaces. Women-only spaces are either set aside on the grounds that women need the safety and security of places where men are not present, or on the grounds that women as a subordinate group need to be able to meet and organise without members of the ruling group in attendance and until recently, equal opportunity laws have sought to accommodate this understanding by saying that in some situations women may

indeed exclude men from services and events (Women's Resource Centre, 2011). In charters of rights and legislation on equality, women are regularly afforded exemptions from the need to not discriminate on the grounds that as a vulnerable group, albeit a majority one, they may need to meet in women only groups and require spaces such as women only toilets (Victorian Equal Opportunity and Human Rights Commission, 2013: 107). This shows recognition of women as a group that needs special treatment. Unfortunately, the demands initiated by male-bodied transgenders and men who cross-dress, because they claim to be 'women' and not men, aim to overturn this recognised exemption for the protection of women's spaces.

Transgender activists argue that people who transgender are unsafe in men's toilets and likely to be attacked, and that this undermines their rights to take part in public life, 'Without safe access to public bathrooms, transgender people are denied full participation in public life. For example, transgender youth may be unable to complete school due to a lack of safe bathroom access' (Transgender Law Centre, 2005: 3). Queer student societies are in the forefront of the campaign and usually start with the demand that gender neutral toilets be created on campus. The main reason they put forward for such facilities is that 'trans' staff and students can find, according to the queer society at Portland Community College in the US, that they are met with 'intimidation, harassment, run-ins with security, and/or violence' in sex-segregated toilets (QRC, n.d.). The goal of transgender toilet activism is not always clear and may include the desegregation of facilities and/or the admission of transgenders to facilities associated with the 'gender' they identify with, or the creation of 'gender-neutral' toilets as well as sex-segregated ones, but always includes the demand that no 'women's' toilets that exclude men who transgender should exist. In the Transgender Law Centre's guide to toilet activism they say one example of a 'long-term goal' might be desegregation, 'to make sure that each of the 10 city shelters has gender-neutral bathrooms' (Transgender Law Centre, 2005). I argue that the entry of male-bodied transgenders into women's facilities or the elimination of women's facilities in favour of 'gender-neutral' bathrooms, is likely to endanger women's safety. In the next section I will seek to counter the arguments given by queer theorists for degendering the toilet and then address the effect of such degendering on women's safety.

### **The queer theory case for degendering the toilet**

The rhetoric of those who campaign to eliminate women only toilets can be quite extreme. Olga Gershenson tries to anathematise the provision of sex-segregated toilets by comparing this practice with 'slavery', 'Controversy over unisex bathrooms, reveals deep cultural anxieties about the consequences of a slowly eroding gender binary. As with past exclusionary practices, the mere fact that the cultural practice is widespread or typical (such as war or slavery) does not make it just or desirable' (Gershenson, 2010: 206). She argues that segregating bathrooms is a patriarchal practice, 'The same patriarchal system that envisions sex as a crucial binary category insists on the sexual segregation of bathrooms' (Gershenson, 2010: 207). Unfortunately, this

'gender binary' is not just an imaginary division, or a linguistic device which can be wished away, but the basis of a political system of male domination which has a real existence.

The queer theory case for degendering public toilets denies the reality of male domination, and this is particularly clear in the work of Sheila Cavanagh (2010, 2011). Cavanagh argues that anyone who has objections to degendering has 'anxiety' about 'difference' (Cavanagh, 2010). Objectors are hidebound and prejudiced people who believe in traditional gender and 'normative heterosexuality' (Cavanagh, 2010: 4). She pooh-poohs the notion that there could be evidence to substantiate 'any actual infringement on the civil liberties of people who are conventionally gendered and cissexual (non-trans)', but 'such persons are, nevertheless, territorial and defensive about the gendered composition of the toilet' (Cavanagh, 2010: 4). The term 'cis' is a neologism created by those involved in transgender activism to delineate those persons who feel that their 'gender' fits their biological sex (Serano, 2007). It is rejected by feminists critical of transgenderism on several grounds. Transcritical radical feminists do not like to be named and categorised by male-bodied persons as if they are only one variety of women and one which is privileged over the other variety, male-bodied transgenders or 'transwomen'. They reject, too, the implication that those who are not 'trans' believe, as transgenders do, that they and all other persons possess an essential something called gender (Jeffreys, 2014). She excoriates the objectors thus, 'there is nothing rational or legitimate about gender panic in modern facilities' (Cavanagh, 2010: 4). The creation of 'gender-neutral' toilets, she proclaims, 'is an urgent and important political project to ensure access for all who depart from conventional sex/gender body politics' (Cavanagh, 2010: 5). 'Gender-segregated' facilities, she says, are very harmful to persons who have transgendered, 'To have one's gender identity questioned and interrogated is to have one's desire for recognition provisionally foreclosed' (Cavanagh, 2010: 53). Moreover, in her view, failure to welcome men who transgender into women's toilets is an act of violence against them, 'By invalidating the gender identity of another, people commit a psychic act of violence, foreclosing upon the subject whose gender identity is misread' (Cavanagh, 2010: 54). One of Cavanagh's interviewees shows great indignation, as a man who has transgendered, at exclusion from women's facilities, 'I've spent thousands of dollars on transforming my body, through different procedures... I'm going to damn well use the women's washroom. I went to a lot of trouble to use that. There's no other option for me really' (Cavanagh, 2010: 59). Women, of course, do not use the women's toilets because of procedures they have undergone but because they are female and have been reared in the female sex caste. If men who have transgendered are not recognised as women in the women's toilets, Cavanagh explains, they may 'lose face' (Cavanagh, 2010: 59). The problem for women, however, can be much more serious, not one of losing face so much as one of experiencing harassment or violence from men.

According to Cavanagh, drawing attention to the fact that men are violent towards women is 'sexist'. She argues, 'There is an antiquated and heterosexist construction of masculinity underpinning cissexual safety narratives. For instance, one transgender interviewee observes that "there's a whole idea

in this society that... if a man sees a woman, just a glimpse, he cannot be controlled". Men are constructed as impulsive and predatory, whereas women are constructed as potential victims' (Cavanagh, 2010: 74). Unfortunately it is not 'sexist' to say that men are violent towards women but factually correct, as Patrizia Romito's detailed account of the varieties and extent of men's violence towards women makes clear (Romito, 2008).

One reason that men who transgender advance for access to women's toilets is the fact that men will be violent towards them if they use the toilets provided for members of their sex caste. As one of Cavanagh's interviewees explains, 'If I go into a women's washroom, the worst thing that happens to me is, I freak someone out and... this awkward moment (follows)... But if I go into a men's washroom and I don't pass, like, I can get beat up or raped or something' (Cavanagh, 2010: 77). Women's concerns are not seen as relevant here, rather how the male-bodied transgender feels is the most important thing, and feeling embarrassed because women have been made to feel uncomfortable is less worrying than facing possible male violence in the 'men's'. It is puzzling as to why, when it is 'sexist' to say that men are violent towards women, it is not sexist for this male-bodied transgender to say that men are violent towards transgenders. Transgender toilet activists, it seems, can see the fears of men who transgender as well-grounded, whereas women's concerns about the egregious violence visited upon them are spurious. Harvey Molotch makes a similar argument as to the insignificance of the threat of men's violence towards women (Molotch, 2010). He says that women should not have a 'fear of men' because they are not 'as a rule violent' (Molotch, 2010: 270). Doubtless his advice is meant to be kindly, but women's awareness that not all men are violent is no great reassurance against the fact that many are, and individual women are in no position to work out which ones they need to be particularly vigilant about whilst seeking a safe space in which to urinate.

Cavanagh does not acknowledge that men are violent towards women, but she does acknowledge that they may have some unpleasant and specifically gendered habits in toilets which could disadvantage women when women-only spaces are abolished. She says that men like to spread faeces about in the toilets to mark their territory in a way that women do not, 'There is a none too subtle correlation between heteronormative masculinities and the territorialisation of public facilities through the spread of dung' (Cavanagh, 2010: 163). Men, it seems, like to spread their 'dung' on the walls and doors of public lavatories. Another difference between the way in which men and women use toilets that she comments upon is the propensity of some men to use men's toilets for sex.

### Public sex

In some areas of gay and queer male culture, toilet sex is seen as a traditional and signature practice of gay 'public sex'. Some gay theorists have argued that public sex is a revolutionary contribution by gay men to improve sexual culture in general (Hocquenghem, 1978; Hodges & Hutter, 1999; Rechy, 1981). Sex in public toilets is romanticised and represented as particularly thrilling precisely because it takes place somewhere that is often subterranean and dirty. Sheila Cavanagh is

enthusiastic about this gay male practice and explains, 'It is perhaps not surprising that people have sex in public facilities' (Cavanagh, 2011: 19). It is a specifically gay male practice that she supports, and she quotes one of the men she interviewed in her research on toilets saying, 'It's dirty, it's lusty, it's exciting... like 1970s porn. It's got a gritty kind of feel to it, a rawness... that is exciting' (Cavanagh, 2011: 19). She comments, 'Many of those who have sex in toilets stress how much they enjoy the homoeroticism of the bathroom: men, for example, standing side-by-backside in plain open view before the urinal' (Cavanagh, 2011: 20). One of Cavanagh's interviewees states that 'Sex in public in general... is important, whether it's a bathroom or park or video arcade... I think it's political activism' (Cavanagh, 2010: 198). The dirtiness is sexually exciting, as another interviewee explains, 'If there are two men who identify as men having sex in a bathroom, then I guess it has a sense of subversive power because it is seen as a dirty space and that they are reclaiming this dirt as their own. Which I think is great' (Cavanagh, 2010: 204).

In this context the smearing of 'dung' by male toilet users could be seen as advantageous. Women, however, are quite unlikely to find men's practice of using toilets as sex venues quite so exciting. The gay men who enjoy the practice may also find degendered toilets detumescent, as the presence of women could dampen their enthusiasm. Indeed, as Cavanagh explains, 'Perhaps the most frequently cited reason for maintaining gendered bathrooms has to do with the opportunities it provides for gay male public sex' (Cavanagh, 2010: 212). One of her interviewees says, 'What some gay men would lose... the male space for play in a male-specific bathroom... It (might) not disappear but it would change' (Cavanagh, 2010: 212). Harvey Molotch expresses the important connection between gay men's sexual prerogatives and public toilets thus, 'Men do not simply have sex "in" restrooms; the facility and the erotic acts are intrinsic to each other' (Molotch, 2010: 11).

The fact that men and women use toilets in very different ways is acknowledged by the toilet activists and theorists. The Transgender Law Centre, for instance, advises those who transgender to act according to what the guide calls 'stereotypes', so that they will not be so easily identified in the toilets. Women, the Centre explains, are friendly to each other in the toilets and are 'not afraid to look at each other and smile or chat' whereas men behave quite differently, 'This is not a social space. Nobody talks or makes eye contact with anyone else' (Transgender Law Centre, 2005: 6). Having a 'gender identity', it seems, does not make a person privy to the differently gendered behaviours that men and women adopt, this has to be learnt. The most significant aspect of this gendered behaviour for women, however, is the fact that, despite the denials of queer theorists, some men do set out to gain sexual satisfaction from observing, listening to, and assaulting women and girls in the toilets, as will be shown later in this article. There is no evidence in the scholarly literature or in newspaper reports for equivalent behaviour from women towards men and boys.

### **The history and politics of women's toilets**

The queer campaigners for degendered toilets do not show any awareness of the fact that women's toilets were created out of a recognition that they were essential to women's equality. Women's subordination on the grounds of

their sex has, historically, been organised through the relegation of women to the private sphere and their exclusion from public space. This has been justified by the idea that women have an innate 'gender' which renders them suited to domestic imprisonment rather than the role of Prime Minister, for instance. The absence of adequate toilets for women has impeded their entry into the public world. The idea that women have a right to toilets of their own was won fairly recently in the West, and is still being campaigned for in many parts of the world, such as the Indian subcontinent, as we shall see below (Yardley, 2012). In the nineteenth century in the UK, for instance, there were no toilets for women in the workplace or in public spaces. This meant that women were at a severe disadvantage, and their ability to be in the workforce or to use the city and its shopping facilities, which were developing apace in the late nineteenth century, was compromised (Penner, 2001). There is disagreement in scholarship on toilets as to whether the creation of separate toilets for women at this time was the result of a feminist campaign for women's rights, or the result of a moralistic determination to segregate women's bodies from men's view. Theorists who promote the idea that sex segregated toilets are unnecessary, attribute the creation of women's toilets to moralism, and anxieties about women's entry into public space. Terry Kogan, for instance, argues that, 'policymakers were motivated to enact toilet separation laws aimed at factories as a result of deep social anxieties over women leaving their homes – their appropriate "separate sphere" – to enter the work force' (Kogan, 2010: 145). They were motivated by, 'Victorian concerns of privacy and modesty', and the 'discredited nineteenth-century ideology of pure womanhood and separate spheres' (Kogan, 2010: 164).

A rather different account of the history of women's toilet provision is available from feminist scholars. Barbara Penner, for example, writes fascinatingly about the campaign to create women's toilets in Camden Town in London in the first decade of the twentieth century (Penner, 2001). She explains that, rather than such toilets being established out of the anxieties of men, they were campaigned for from the 1850s onwards by the Ladies Sanitary Association, which organised lectures and published tracts on the subject, throughout the following decades. Women's toilets were established in a number of British cities before the campaign moved to Camden, in London, where another group, the Union of Women's Liberal and Radical Associations, campaigned on behalf of working women's access to toilets. They wrote to the vestry in Camden Town in 1898, asking for the provision of one water closet in each of the conveniences already existing for men. In fact, the plan to establish a women's toilet was set back for several years because of the determined opposition of men. When a model of the planned toilet was set up on the pavement in Camden High Street, hansom cab drivers deliberately drove into it to prove that it was in an inconvenient position and should not be built. The establishment of women's toilets a few years later, in Penner's view, legitimated the existence of women in Camden's streets (Penner, 2001). The campaign for toilets was about what would now be understood as the human right of women to existence and movement in public space. A similar campaign was mounted in Melbourne, Australia, for

women's toilets. The first urinal for men was opened in 1859, and the first convenience for women, in 1902 (Brown-May & Fraser, 2009).

The present day campaign in India for women's toilets shows similarities with the nineteenth century campaign in the West, and it is about equality rather than prudery. The campaigns by organisations such as the Right to Pee, which represents a network of not for profit organisation (Brady, 2013), agitate for sex-segregated toilets on the grounds that women and girls are unsafe using mixed facilities and cannot access work, education or public space on terms of equality whilst there are no women's toilets. In one area of Delhi, for instance, local women visit the communal latrines in groups to create greater safety and there is an incident at least once a month in which young girls visiting the toilets are kidnapped and raped (Sugden, 2013). The lack of female-only toilets in schools is a particular focus of campaigns in India by organisations such as Child Rights and You (CRY), which argue that this is an important reason that girls drop out of school (Tankhar, 2013). A survey by CRY found that only 13% of schools had toilets specifically for girls. In Delhi girls skip school when menstruating (The Telegraph, 2014). The attitude amongst civil society groups and social reformers in India to the issue of sex-segregated toilets, which is that they are vital for women's rights, is very different from that being adopted by queer theorists in the west who argue for degendering. Jairam Ramesh, the Minister for Rural Development, is quoted on the One India News website as saying, in relation to the importance of toilets for women, 'Toilets are women's fundamental right, for her privacy and her dignity' (Aswathy, 2013). The news article comments, that, 'A society in which men and women have separate toilets, all well-maintained and well-accessible, is by far, more progressed, than a society in which everyone owns a mobile phone' (Aswathy, 2013).

The importance of sex segregated toilets is supported by the fact that provision of toilets for women has always been inadequate compared with such provision for men. Clara Greed, a British Professor of Urban Planning, who has been a most significant figure in promoting more and better toilet provision for women, argues that this is the result of sexism (Greed, 2010). Despite women's particular needs in relation to good toilet provision, far more toilets have been and are available for men, 'it is common to find a public toilet block or street urinal for men but nothing for women. Within office buildings, factories, and other workplaces there are "normally" more toilets for male employees than for women, especially in erstwhile male-dominated occupations' (Greed, 2010: 118). Within toilets, even if floor space is equal men have 'twice the places to pee', because they have stalls and a row of urinals. This means that women have frequently to queue to use the toilet whilst men do not. This is despite the fact that women take twice as long to 'pee' as men do for 'biological reasons and because of modes of dress', have extra 'biological reasons' for needing public toilets, such as 'pregnancy, menstruation, and a higher level of incontinence in old age', and they are also more likely to be accompanied by 'babies, small children, or elderly relatives...' (Greed, 2010: 118). Nonetheless, despite women's greater need for adequate toilet provision, there was, historically, no recognition of women's 'right to urinate', and this was 'no oversight but part of systematic restriction of women's

access to the city of man' (Greed, 2010: 120). As Greed points out, even the British Standard BS64465 for 'Sanitary Installations' provides for men to have a third to a half more provision than women.

Greed's work on the lack of seriousness with which women's concerns have been treated in relation to toilets may serve as a useful admonition to those interested in degendering toilets today. She explains that, 'Women's issues have been marginalised within the male-dominated professional subcultures of sanitary engineering, medicine, architecture, city planning, and product design. But what is "good for men" is not necessarily "good for women"' (Greed, 2009: 43). Women's issues have also been marginalised within queer and transgender theory and activism, which, this article avers, have concentrated on what is 'good' for a particular constituency of men, those who transgender, and not what is good for women.

### Women's safety

The main reason for caution in relation to degendering toilets, I argue, is the risk this poses to women's safety. Men who transgender do not change sex, and have a lifetime's experience of being members of the male sex caste. As a result, the behaviour of men who transgender is more likely to resemble that of other male persons rather than that of women, and men's behaviour in women's toilets can be very abusive. Campaigners for gender-neutral toilets show a determination to disregard the risks women and children face from males in their arguments, as they must if they are to sustain their logic against this rather obvious flaw. This lacuna is clear in the arguments in *Peeing in Peace*, published by the San Francisco Transgender Law Centre, which provides a step by step guide to setting up a group and campaigning against 'gender' segregated toilets (Transgender Law Centre, 2005). The focus of the guide is the 'safety' of persons who transgender, particularly men who transgender who suffer harassment in the men's toilets from other men, so the safety of women and children is addressed only to neutralise it as an argument against their main objective of degendering the women's toilet. The guide argues that a main objection to 'gender-neutral' toilets is embarrassment, as people are not used to engage in natural functions in the intimate presence of the opposite sex (or 'gender' as they put it). This embarrassment, however, cannot be permitted to interfere with the objective of 'gender-neutrality', 'Change is often uncomfortable, even when it is for the better, but if bathrooms are going to be made safe for all people, minor discomfort is a small price to pay' (Transgender Law Centre, 2005: 5).

The guide states that changing restrooms to admit males with gender identity issues to women's toilets or creating 'gender-neutral' toilets does not 'compromise women and children's safety', because 'we live in a society in which both women and youth regularly face discrimination and oppression, however, it is important to take this question seriously'. This is a puzzling response to the issue, because the reality of sexual assault on women and children by men outside toilets is not an obvious reason to make all areas just as dangerous for them. The guide states that it is incorrect to assume that 'bathrooms cannot be safe for women, children and transgender people' (Transgender Law Centre, 2005: 5). But the

'transgender' people likely to want to enter the women's toilets are those with male bodies, usually with their penises intact, in other words members of the male sex caste, the group of persons from which aggressors against women and children originate. It calls the argument that women's safety could be compromised by the entry of these male persons as 'pitting' minority groups against each other and states that putting signs on bathroom doors indicating which sex they are for does not 'adequately ensure women's safety', but makes women unsafe because, 'if someone did intend to assault a woman in a bathroom, they would certainly know where to look', i.e. women are sitting ducks for assault (Transgender Law Centre, 2005: 5). A gender-neutral bathroom, according to this logic, would make women safer from assault by men because of the presence of men.

Mary Anne Case (2010), in her argument for unisex toilets, acknowledges the fact that men are violent to women in public toilets, but this does not cause her to demur. She says that her 'perusal of sources ranging from newspapers to law report indicates that robbery, assault, molestation, rape, and even murder are not infrequently perpetrated by men who have followed or lain wait for women and girls in the toilet' (Case, 2010: 220). Rather, she sees the admission of men to women's toilets as providing an answer, because the non-violent men will act to defend the women from the violent men, 'the potential expected presence of both sexes in an integrated restroom could also on occasion act as a deterrent, by decreasing the likelihood a perpetrator will be alone with his intended victim and increasing the chances a bystander able and willing to offer aid will be present' (Case, 2010: 220). Unfortunately, research suggests that bystanders very rarely intervene in instances of sexual harassment and assault (Burn, 2009). Even supposing that men might be deterred by others of their kind from assaulting women publicly, the presence of numbers of men might not be efficacious in preventing everyday voyeurism, or the auditory excitement some men will receive from being able to hear a woman urinate in the stall next door. These are forms of behaviour that both men without and men with 'women's' clothing, commonly engage in, as examples later in this article will suggest.

### Sexual assault against girls in toilets

Campaigners for 'gender-neutral' toilets argue that the presence of men, including those possessed of conflicts about their 'gender identity', in women's toilets will either not compromise the safety of women and children, or even help to ensure it. This is despite the fact that there is plentiful evidence that women and girls do face considerable danger from male-bodied persons who enter sex-segregated toilets. The problem is particularly acute for schoolgirls and can lead to school refusal, to health problems and to a determined avoidance of the toilets by children. A 2013 report by the Australian newspaper the *Queensland Courier Mail*, which does not identify the sex of the victims or perpetrators, described the problem, pointing out that 'kids as young as four are falling victim to or being accused of almost 400 sexual offences at Queensland schools in the past two years', and about 100 alleged perpetrators were 'facing court' each year (Andersen, 2013). To combat the problem, schoolchildren

were being sent to the toilet in pairs or in threes. More than half of the incidents were in primary schools and 42 related to rape or attempted rape.

Reports of sexual assault on schoolchildren in the toilets by a variety of male perpetrators are also numerous in relation to the US (Lowrey & Shin, 2013; Owens, 2012), but, despite this, as a result of campaigning by transgender activists, states in the USA are increasingly introducing policy or legislation which requires schools to admit boys to the girls' toilets. These include the State of Massachusetts (Andersen, 2013), and the State of California, which, in 2013, mandated that 'A pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records' (California Legislature, 2013).

The prevalence of sexual violence committed by male students in school bathrooms has led to a call by feminist geographer, Claudia Mitchell, to make bathrooms safe places for girls. In a report on the situation in Sub-Saharan Africa, she argues that schools and school toilets need to be entirely rethought through the eyes of girls. Pointing out that girls suffer frequent violence from males in schools, she says that there is a 'need for a 'feminist geography of school', one that places at the centre "a girl's eye," or for that matter a girl's body' (Mitchell, 2009: 72). Toilets in the schools, she argues, 'must be reconfigured as safe spaces for girls' (Mitchell, 2009: 72). Unlike queer toilet activists who prioritise the need of male-bodied persons to express their 'gender identities' in women's toilets, she puts girls' bodies first, not just in terms of being protected from violence, but because of other issues specific to girls which require privacy and good, segregated, safe facilities. One issue is menstruation which girls may not wish to have to deal with in front of males, in a male dominated society which stigmatises that bodily function (Laws, 1990).

### Women only toilets and the right to dignity and security

Men's sexual violence against adult women, too, is a pressing reason to reject the entry of males to sex segregated women's facilities. The problem of creating a 'right' for men to enter women's toilets is that some men have a clear interest in the sexual excitements that they can access by violating women's right to human dignity in such places. There is a considerable amount of pornography freely available on the web in which men display and exchange photographs they have taken by stealth, through hidden cameras, of women in toilets and locker rooms, defecating and urinating, or naked in showers. This material is a subset of the genre of pornography more usually called 'upskirts', and a Google search for 'upskirts bathrooms', for instance, produces 6,630,000 results. 'Upskirts' is the name male porn creators and consumers give to the practice of photographing up women's skirts without their knowledge. Men do this by using cameras on the tips of their shoes (Japan Today, 2010; Komo News, 2012), by having cameras in bags they place on the floor next to women, and, particularly, by putting hidden cameras in women's toilets and shower rooms.

The upskirting phenomenon has been recognised as an offshoot of mobile phone technology which enables a new

form of sexual harassment and violence against women, and concern about this has led to the introduction of new legislation in several countries to address the issue (Powell, 2009). The men who engage in upskirting are a varied group, including male tennis fans at the Australian Open (Powell, 2009), male school students who uploaded film of a teacher onto the Internet (Epstein, 2012), and even a male urologist. In a case in New York in August 2012, a respected urologist was arrested for filming up a woman's skirt on a station platform (Newcomb, 2012). This form of voyeurism includes the direct targeting of women's excretory functions for observation, filming and sound recording. In an example in which this sexual interest in men was taken to extremes, Luke Chrisco was arrested in 2011 after hiding in the waste tank of a portable toilet at a yoga festival in the United States in order to peek at women's bottoms (Sky News, 2013). Chrisco admitted to police that he had spied on many other women in toilets across the US and Europe.

The offenders who target women in order to gain excitement from the violation of their dignity in this way include men who dress in women's clothes, a number of whom have been arrested in the last few years for engaging in sexually harassing behaviour in women's toilets. The transcritical blog *GenderTrender* has a useful listing of arrests of male-bodied persons who have harassed or assaulted women in women's toilets in the last few years whilst wearing clothing they associate with women (GenderTrender, 2011). The range of acts they engage in includes secret photographing of women using the toilets and of women in showers, peeping at women from adjacent stalls or under stall dividers, demanding that women recognise them as women and becoming aggressive if women do not, luring children into women's toilets in order to assault them, and sexual assault. In an 2014 case in the US a man dressed as a woman used his mobile phone to photograph a woman in a toilet cubicle, 'the phone was wedged near a bracket on the door separating the two stalls, about a foot and a half off the floor' (Cohen, 2014). It is not possible to know whether these are men who consider that they are transsexual or transgender, or just men adopting women's clothing in order to facilitate their access to women and children, but the problem of allowing male-bodied persons to enter women's toilets persists in both cases.

The problems created by legally assuring male-bodied persons having the right to enter women's toilets are well illustrated by the behaviour of Colleen Francis in the US in October 2012. In this case, Francis, a 45 year old person, born male, thrice married, the father of five children, possessed of intact male genitalia, and who lived as a man until 2009, has established the right to use the sauna in the women's locker room at Evergreen State College (Golgowski, 2012). The locker room is used by the girls from two neighbouring high schools and some parents complained that this male bodied person was naked in the locker room in the presence of their girl children. The college said that it had legally to protect Colleen's right to be naked in the women's locker room, directed the girls to a smaller, less adequate facility and then put up a curtain in the main locker room saying the girls could change behind it. Francis' right to 'gender identity' trumped the rights of those born and raised female, and in so doing had the effect that what would previously have been understood as indecent exposure became protected behaviour.

The problem of admitting men who transgender to women's bathrooms and changing facilities was made clear in the message sent to an advice column in the Toronto's Star newspaper in 2014. A woman described her encounter thus, 'I am a senior woman. Recently, a "man" claiming to be transgender, who had not yet begun physical treatments, was permitted by our local Y to use the women's locker room. There are no secure change rooms. The person they allowed in was not courteous and stared at me whilst I struggled out of a wet bathing suit. He was naked, had an erection and playfully asked "do you come here often?"' (Gallinger, 2014). She was advised by Ken Gallinger, the Star's 'ethically speaking columnist' that 'Transgender women, regardless of their status regarding surgical intervention, have the absolute right to use the women's change room', although he did agree that this behaviour was unacceptable because no one, transgenders included, should be a 'jerk'. In this case as in that of Colleen Francis above, behaviour by a man that would likely have been seen as indecent exposure and liable to criminal sanction in the past, has been transformed into the right of a man to display his penis to women so long as he claims to be expressing a gender identity.

### Transgender recommendations for change

The most satisfactory way to provide for the needs of girls and women for safety, as well as the interests of those male-bodied transgenders who fear harassment, may be the creation of individual toilets which contain washbasins, and are entered through individual, full-length doors from a corridor, or public space. They offer dignity, safety and respect to all users and may not require labelling as male or female. But individual toilets would not offer the form of satisfaction that, according to sexological research, some male-bodied transgenders seek confirmation of their gender performance from the reactions of women. The sexologists Bailey and Triea argue that this is a common desire of men with a history of cross-dressing, who form an increasing percentage of those who go on to transgender (Jeffreys, 2014), and they describe it as 'the erotic fantasy of being admired, in the female persona, by another person' (Bailey & Triea, 2007: 523). The sexologist Ray Blanchard explains that a signal difference between such men, whom he calls 'autogynephiles' and homosexuals, to whom they are often compared, is that homosexuals do not seek a reaction from passers-by for their sexual satisfaction, whereas the heterosexual men who progress from cross-dressing to transgenderism act as if they are in a perpetual 'movie' into which other persons, such as wives, are inducted, however unwillingly, to play the part of audience (Cameron, 2013).

In the light of this observation it is interesting to note that the toilet campaigners demand either 'degendered' bathrooms that persons of either sex may enter, and/or that persons should be able to enter the bathroom of their choice, so that male-bodied persons may enter women's bathrooms, for instance. They do not support the provision of toilets that are specifically dedicated to transgenders, as this suggests that transgenders are second class citizens whose 'identities' are not being taken seriously. The preferred option is entry to the sort of women's toilets in which there are a number of stalls, rather than to individual toilets. Ruth Barcan expresses this point of

view, saying that 'Whilst the provision of single-user cubicles would solve practical problems for many transgendered people, it would not address this primary separation of people into two sexes – unlike, say, unisex (i.e., no-sex) toilets, which provide a more radical, more political provocation to laws of urinary segregation' (Barcan, 2010: 34).

## Conclusion

Men who transgender base their campaign for access to women's toilets on the problem of violence from other males in the men's facilities. Their apprehension, however well-founded it may be, is not a reason for enabling their entry into women's facilities because women have well-founded fears of being sexually assaulted by male persons. The specific needs and interests of women which led to the creation of women's toilets, and remain valid concerns, are ignored or ridiculed by theorists and activists who seek to 'degender' the toilet. 'Women' are disappeared by the ideology of 'gender' adopted by these campaigners, who, inspired by queer theory and post-structuralist ideas about gender, essentialise it such that it is substituted for the biological difference of 'sex'. Toilets for women were set up to enable women and girls to enter public space safely in systems of male domination, in which the female sex caste is subjugated and made vulnerable to sexual assault and harassment on the basis of sex. The uncomfortable reality of violence against women cannot be entirely eliminated through a change in language. *Peeing in Peace* defines a 'Gender-Specific or Gender-Segregated Bathroom' as one 'intended for people who identify with a particular gender' (Transgender Law Centre, 2005: 2). In fact those who continue around the world to campaign for women's toilets, like those who did so in the West in the nineteenth century, do not see women as persons who 'identify with a particular gender' but as persons of the female sex, those subject under male dominance to violence and sexual assault from persons of the male sex. The loss of safe toilets for women at this juncture in the West as a result of campaigns to protect the right to 'gender identity' would be a serious step back from women's equality.

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