

**MOVING THE DIAL ON YOUTH WELLBEING**

*A YouthREX Research to Practice Report*

# **Trans Youth and the Right to Access Public Washrooms**

*A critical perspective on a social policy*

by Jay Jaxen Jonah



**YOUTHREX**  
Research &  
Evaluation eXchange



**This report is licensed under a Creative Commons Attribution- NonCommercial 2.5 Canada License.**

This report may be reprinted or distributed, including on the Internet, without permission, provided it is not offered for sale, the content is not altered, and the source is properly credited.

**This research was commissioned by the Youth Research and Evaluation eXchange.**

YouthREX is primarily funded by the Ontario Ministry of Children and Youth Services with extensive contributions from York University and the four partner universities: Carleton University; King's College University at Western University; Laurentian University and Lakehead University.

**YouthREX**

School of Social Work  
York University  
4700 Keele Street  
Toronto, Ontario M3J 1P3  
Fax: 416-650-3861  
youthrex@yorku.ca  
www.youthrex.com  
www.exchange.youthrex.com

**Electronic ISBN** 9781550146455

**AUTHOR**

**Jay Jaxen Jonah**

Research Assistant, YouthREX  
Masters Student, School of Social Work, York University

**CONTRIBUTORS**

**Rebecca Houwer**

Knowledge Exchange Manager, YouthREX  
PhD Candidate, Faculty of Education, York University

**Yumi Numata**

Knowledge Mobilization & Communications Manager, YouthREX

**Anita Sekharan**

Lead Designer and Digital Content Manager, YouthREX

**ABSTRACT**

This Research to Practice report defines, explores, and analyses some of the challenges, fears, anxieties and issues trans-identified youth experience, particularly with respect to safe access to public washrooms. The report places current debates about the rights of trans youth, which have become increasingly public, in context by engaging recent research and social policy. Specifically, the report presents a focused look at how the issue of safe access to public washrooms affects trans youth in Canada. It explores the potential benefits and drawbacks of Canada's now failed Bill C-279, the so-called Bathroom Bill, and provides a critical perspective on the issues it raises for trans youth. The report examines the implications of opposition to trans youths' rights to safe public washroom use and argues instead for the importance of upholding the basic human right of trans-identified individuals to enjoy the freedom to safely access the public washroom of their choosing. The report concludes with recommendations for youth programs and services to ensure that they are inclusive and accessible for trans youth.

**KEYWORDS**

trans youth, bill C-279, washroom, gender identity, gender expression, transgender

**APA CITATION**


Jonah, J.J. (2016). Trans Youth and the Right to Access Public Washrooms: A Critical Perspective on a Social Policy. Youth Research and Evaluation eXchange (YouthREX). Toronto, ON.

**RESEARCH TO PRACTICE REPORTS**

*Moving the Dial on Youth Wellbeing* is a series of multi-source plain language Research to Practice reports that selectively review, synthesize and translate practice-relevant research, evaluation and experiential evidence applicable to the work of youth sector stakeholders across Ontario.

## TABLE OF CONTENTS

<b>1.0</b>	<b>Introduction: Setting the Context</b>	<b>5</b>
	Understanding the Terminology	6
<b>2.0</b>	<b>What are the Issues? A Critical Review</b>	<b>8</b>
	The Trans Perspective on Trans Washroom Access	10
	Busting the Myths of Opposition to Trans Washroom	10
	Are Gender Neutral Washrooms the Answer?	12
	The Legal Implications of Bill-279: Beyond Personal Opinion or Preference	13
<b>3.0</b>	<b>Moving the Dial: Good Youth Work Practices with Trans Youth</b>	<b>15</b>
<b>4.0</b>	<b>Conclusion</b>	<b>17</b>
<b>5.0</b>	<b>Learn More: Recommended Resources</b>	<b>18</b>
<b>6.0</b>	<b>References</b>	<b>19</b>



**“Entering a public washroom  
for the purpose of a necessary  
biological function should not be a  
shaming experience or a problem  
of any sort”<sup>1</sup>**

<sup>1</sup> Jones, 2009. Girshick, 2008, p. 135

## 01 // INTRODUCTION: SETTING THE CONTEXT

*In recent years, transgender and gender non-conforming communities in Canada have become more visible.*

The term transgender has been mentioned in the news, on talk shows, and in television dramas. For example, the Collins Dictionary listed transgender among its Top 10 Words of 2015.<sup>2</sup> Celebrities such as Laverne Cox on *Orange is the New Black* and Chaz Bono on *Dancing with the Stars* raise the public visibility of transgender individuals, but what is not widely discussed or understood within academic or mainstream communities is the invisibility of the everyday lives and struggles of transgender and gender non-conforming people, especially youth.<sup>3</sup>

It is already difficult to be a youth with all of the associated physical, emotional, and psychological changes that are happening. For those who identify as being part of the trans<sup>5</sup> community, or in other words, whose biological sex does not match their assigned gender at birth, many daily activities become even more stress inducing and anxiety provoking. For example, many youth struggle with clothing choices because they want to appear ‘cool’ and wear what is in style. Trans-identified youth not only have the stress of choosing clothing that is cool, but they also have to choose clothing that hides certain features they may find undesirable, such as breasts (or the lack thereof).

Along with clothing, trans youth also struggle with simple daily things that most of us do not even consider, such as

what washroom to use. Cisgender people, whose biology and gender align, may not understand what a challenge it is for trans youth to find a safe place to urinate, even in schools.<sup>6</sup>

Trans-identified youth are also at a greater risk of suicide, self-harm, depression, and body shame.<sup>7</sup> This may be the effect of experiencing bullying, homophobia, and transphobia in their schools and beyond. A study that surveyed Canadian high schools between 2007 and 2009 to understand daily student experiences of homophobia and transphobia revealed that “90% of trans youth hear transphobic comments daily or weekly from other students”<sup>8</sup> and 23% reported hearing transphobic comments made by teachers. Moreover, “74% of trans students...reported having been verbally harassed about their gender expression”,<sup>9</sup> while “37% of trans students ...reported being physically harassed or assaulted because of their gender expression”.<sup>10</sup>

This study also found that “the two school spaces most commonly experienced as unsafe by LGBTQ youth...are places that are almost invariably gender-segregated: Physical Education change rooms and washrooms”.<sup>11</sup> Of these two spaces, 43% of LGBTQ identified students felt unsafe in their school washrooms. Finally, this study found that a shocking 78% of trans youth on the whole felt unsafe at school, and 44% reported that they had missed school due to their feelings of being unsafe.

---

<sup>2</sup> <http://www.collinsdictionary.com/word-lovers-blog/new/top-10-collins-words-of-the-year,259,HCB.html>

<sup>3</sup> Jenness and Geis, 2011

<sup>4</sup> Baltes and Schaie, 2013; Arnett, 2014; Hall, 1916

<sup>5</sup> People can identify in an infinite number of ways (Ross, n.d.). The term trans is an umbrella term that often refers to those who do not necessarily fit the dichotomous categories of man/ women and/or male/ female.

<sup>6</sup> Veale, Saewyc, Frohard-Dourlent, Dobson, and Clark, 2015; Singh, 2013; Tishelman, Kaufman, Edwards-Leeper, Mandel, Shumer and Spack, 2015

<sup>7</sup> Sevelius, 2013; Roen, 2016; McGuire, Doty, Catalpa and Ola, 2016

<sup>8</sup> Taylor et al., 2011, p.23

<sup>9</sup> Taylor et al., 2011, p.15

<sup>10</sup> Taylor et al., 2011 p.16

<sup>11</sup> Taylor et al., 2011, p.17

## Understanding the Terminology

**Gender non-conforming** refers to people who are blurring the lines between what society considers it means to be a "man" or a "woman".

A distinction should be made here between gender and sex. **Cisgender people**, people whose biological sex matches their assigned gender at birth, often use the terms sex and gender interchangeably, but there is a difference between the two.<sup>12</sup>

**Sex** refers to a person's biological make-up, our primary and secondary sex characteristics, and can only be changed through surgery and hormone treatments.<sup>13</sup>

**Gender**, on the other hand, is an abstract concept; it is how a person chooses to self-identify and can be either fluid or static.

**Gender expression** is how individuals choose to present their gender, something often done via clothing choices, mannerisms, hormone replacement therapy, decisions about body hair, and surgery.

There are, however, individuals who identify as trans but choose not to express their gender for a multitude of reasons,<sup>14</sup> such as a fear of being assaulted, discriminated against, or because they simply do not feel the need to outwardly express their gender.

Trans-identified youth face daily discrimination in every major developmental context.<sup>15</sup> For example, within the medical industry, transgender youth have been treated as biologically and psychologically abnormal and deviant. There is a circulating biological, medical discourse that frames transgender youth as suffering from "gender identity disorder".<sup>16</sup> Despite recent changes to the American Psychiatric Association's (2013) fifth edition of the Diagnostic and Statistical Manual (DMS-5) that recognizes "gender dysphoria" as the distress some transgender people experience, transgender youth still encounter a persistent biomedical model that holds that transgender individuals, rather than society, need to change. A shift should be made from approaching "gender dysphoria" as an individual problem to seeing it as a problem of social organization. Transgender research to date has mainly focused on the diagnosis, and the physical and the psychological transition of trans people, and less on the social conditions that produce hardship. While some research has examined the experiences of transgender youth in formal education settings, there is a lack of research on transgender youth experiences in out-of-school settings.<sup>17</sup>

This Research to Practice report engages one of the everyday challenges that transgender and gender non-conforming youth face: their right to safely access public washrooms. This important issue has become a major point of contention in recent years with the spotlight on cases where conflict between gender non-conforming students and their schools has been covered by the mainstream media. Likewise, transgender rights legislation, introduced in Canada as well as in other North American and international contexts, has garnered significant public debate.

This report places these current debates in context by engaging recent research and social policy about the rights of trans youth

.....  
<sup>12</sup> Gilbert, 2009

<sup>13</sup> Vlogbrothers, 2012; Gilbert, 2009

<sup>14</sup> Vlogbrothers, 2012

<sup>15</sup> Veale, Saewyc, Frohard-Dourlent, Dobson, and Clark, 2015

<sup>16</sup> The DSM-4 categorizes transgender individuals as suffering from "gender identity disorder". This categorization pathologizes transgender individuals.

<sup>17</sup> Gillard, Buzuvis and Bialeschki, 2014

to safely access public washrooms. The report examines the implications of opposition to trans youths' rights to safe public washroom use, and argues instead for the importance of upholding the basic human right of trans-identified

individuals to enjoy the freedom to safely access the public washroom of their choosing. The report concludes with recommendations for youth programs and services to ensure that they are inclusive and accessible for transgender youth.

---

## Key Stats: Trans Youth Experiences of Transphobia in Canadian Schools



---

Stats taken from the *Every class in every school: The first national climate survey on homophobia, biphobia, and transphobia in Canadian schools* report released by Egale Canada Human Rights Trust in 2011.

## 02 // WHAT ARE THE ISSUES? A CRITICAL REVIEW

*It is unclear when the debate over trans access to public washrooms began. Much of the information surrounding this issue can be found primarily in newspapers and magazine articles as few books or academic studies address this subject.*

It can be argued that politically, the debate in Canada began in 2000 when the Canadian Human Rights Act review panel proposed changes that would protect trans individuals in both the Canadian Human Rights Act and the Criminal Code of Canada.<sup>18</sup> Attempts were made in 2005, 2006, and 2008 to pass a bill that would protect the rights of trans community members. The person behind these efforts was Bill Siksay a member of parliament with the New Democratic Party; he was also the Member of Parliament who introduced Bill C-279 as a private member's bill in 2011.

In this report, 'the opposition' refers to those, political and non-political alike, who claim that the trans community should be using washrooms that corresponds with their biological sex. In terms of political parties in Canada, the opposition most often refers to members of the Conservative Party. The New Democratic Party, the Liberal Party, and the Green Party have shown support for bills that promote trans access to public washrooms. This report engages both sides of the debate and explores current issues, potential problems, concerns and arguments.

### SEX-SEGREGATED WASHROOMS: WHAT DOES IT MEAN TO WALK THROUGH THAT DOOR?

The issue of access to public washrooms is not as simple as

it may seem. Yes, there are two clear sides with opposing perspectives and goals, but there are many social norms associated with the use of public washrooms that complicate the matter. Multi-person public washrooms are most often segregated into two dichotomous categories: men and women. These categories are defined by sex, meaning that those with a penis<sup>19</sup> use the men's room and those with a vagina use the women's room.

This separation of men and women based on biological sex can be problematic for those who identify as trans, especially for individuals who have chosen a non-medical transition.<sup>20</sup> For those who identify as trans, washrooms become a place where gender is questioned. By entering the washroom labeled 'Women', that person is publically identifying as a woman and vice versa for 'Men'. Thus, "bi-gendered signage acts as a barrier to access for those who are trans or gender variant",<sup>21</sup> forcing those in the trans community to choose between going into the washroom of their biological sex or the washrooms most closely connected to their gender.<sup>22</sup>

Sex-segregated washrooms have a homogenizing and normalizing effect as they are based on the presumption that all women and all men fit into the box of what a "normal" man or woman should be. Specific signage and rooms, however, should not determine what constitutes a man or a woman, and it is this homogenization and normalization of gender and sex that allows for gender policing to occur within gendered washrooms. Gender policing is the act of comparing and judging those who appear to be gender non-conforming and is based on the judge's concept of "normal". It is, in fact, the surveillance and regulation of gendered bodies. Gender

---

<sup>18</sup> Bill C-279, n.d.

<sup>19</sup> The terms penis, vagina, and breasts are used in this report as they are the biologically correct terminology for those body parts. Due to the dominant social construction of sex in Canadian society we often replace these terms with male genitalia and female genitalia in order to remain formal and politically correct. The problem is that the terms "male" and "female" are often used interchangeable with "man" and "woman", but not all men have a penis and not all women have a vagina.

<sup>20</sup> Browne, 2004.

<sup>21</sup> Cavanagh, 2011, p. 18

<sup>22</sup> Kennedy, 2015





**Misconceptions, myths, and a lack of understanding either intentionally or unintentionally lead to discrimination.**

**Education can help cisgender people understand the experiences of trans people and change their actions to be more inclusive.**

policing often turns gendered washrooms into sites of terror, anxiety, and violence for trans-identified individuals, and many trans youth are afraid of the reactions of cisgender people in gendered washrooms. Trans-identified people of all ages have been both verbally and physically attacked in washrooms, removed by security guards or police, and chased out by those already in the washroom.<sup>23</sup>

## THE TRANS PERSPECTIVE ON TRANS WASHROOM ACCESS

**“Entering a public washroom for the purpose of a necessary biological function should not be a shaming experience or a problem of any sort”<sup>24</sup>**

Trans-identified people of all ages need access to safe washrooms that are not anxiety or fear provoking. Yet, due to social structures surrounding gender, sex, and public washroom accessibility, this is almost impossible. In the face of this fear and shame, many trans people choose not to use public washrooms. Some keep bottles or cups to urinate in their car, while others choose to “hold it” until they are home. Holding one’s bladder for extended periods of time can be detrimental to one’s health. Trans persons who do not have access to safe public washrooms can suffer from bladder infections, kidney infections, urinary stones, cystitis, and chronic dehydration.<sup>25</sup>

The trans community is divided on what they would like to see happen to ensure safe access to public washrooms. Some would prefer to have free, non-judgemental access to the public washroom of their choosing, while others would

prefer to have gender-neutral washrooms put in place as an alternative to gender-specific ones; others would prefer to have all washrooms turned into gender-neutral washrooms. Even with such uncertainty surrounding the end goal, what remains clear is that the trans community should have a right to fair, equal, and safe access to public washrooms.

## WHY OPPOSITION TO TRANS WASHROOM ACCESS?

The opposing side of this argument contends that trans individuals should be required to use the washrooms that corresponds with their biological sex in order to protect cisgender people, at worst, from attack.<sup>26</sup> Some cisgender people who do not understand trans challenges are concerned that women will be attacked by trans-identified individuals or by imposters pretending to identify as trans in order to enter the women’s washroom and attack, sexually assault, or rape the women inside.<sup>27</sup> Others have claimed that trans-identified people are “sexual predators and rapists desperate to get access to the lady’s room”.<sup>28</sup> Another reason given for denying trans-identified people access to the public washroom of their choosing is to protect children from being exposed to someone being in the “wrong washroom”.<sup>29</sup> Trans people are seen as deviant, for having bodies, mannerisms, and general outward appearances that are not “normal”.<sup>30</sup> Consider the impact that these narratives have on young people who are gender nonconforming or “out” as trans in relation to their feelings of inclusion and safety.

## BUSTING THE MYTHS OF OPPOSITION TO TRANS WASHROOM

With a clear understanding of the debate surrounding trans-identified people and their access to public washrooms it is

---

<sup>23</sup> Girshick, 2008

<sup>24</sup> Girshick, 2008, p. 135

<sup>25</sup> Girshick, 2008

<sup>26</sup> Girshick, 2008

<sup>27</sup> Cottrell, 2015

<sup>28</sup> Cavanagh, 2011, p.18

<sup>29</sup> Cottrell, 2015

<sup>30</sup> Jenness & Geis, 2011

important to take a critical look at both sides of the argument. It is essential to note the neoliberal<sup>31</sup> motivation behind some of the arguments presented by the opposition. The arguments presented in the previous section make the bathroom issue an individual one, where the trans person is at fault. Trans-identified people are seen as different, and deviant, and they therefore disrupt the normal activity of the washroom. Cisgender, heteronormative, able-bodied persons are considered the ideal citizens; all those who do not fit that description are considered a “problem” that needs to be fixed.<sup>32</sup>

White, cisgender, heteronormative, able-bodied persons are considered “normal”, and being classified as such they hold a certain amount of power and privilege. They are able to move through certain spaces with ease compared to trans-identified people who find themselves restricted due to their appearance: “every day spaces can be ‘disabling environments’ for those who do not correspond to presumed gender norms”.<sup>33</sup> One example of such restricted movement occurred to Emma:

**“[I was] getting into the women’s loo, going into the cubical [sic] only to hear from a gang of girls doing their make-up ‘show us your dick’, When I came out and said I couldn’t because I wasn’t wearing it just then, they apologized by saying ‘oh we’re sorry we thought you were a bloke cos you walked with confidence’ ”.**<sup>34</sup>

Emma’s confident stride resulted in her being perceived as different and therefore a target for gender policing and attack. The group of girls was presumably cisgender, heteronormative, able-bodied persons who were able to move through the washroom space easier than Emma, simply because they were considered “normal”.

Another point raised by the opposition is the possibility of men claiming to identify as trans in order to gain access to the women’s washrooms and then sexually assaulting those inside. The opposition argues that women feel unsafe if anyone can open an unlocked door and enter the washroom.<sup>35</sup> This statement speaks to the notion that men are the only ones to commit sexual assault. It also promotes the notion that a sign on the outside of a washroom door is going to stop someone from entering. Currently, anyone can walk into any washroom and assault those inside; people do not have to identify as a man or a woman in order to gain access. If an individual is determined to enter a washroom and assault those inside, the signage on the outside of the washroom is not going to stop them.<sup>36</sup>

The opposition also argues that children will be negatively affected if they are exposed to someone who is in the “wrong washroom.” If this argument holds true, most parents should be chastised for being the instigator in their child’s experience of being in the “wrong washroom.” Many people have seen a mother take her young son into the women’s room or a father take his daughter into the men’s room, as society holds that young children are not to be left on their own, even when entering a public washroom. Thus, fathers out with their daughters and mothers out with their sons are obligated to take their children into the “wrong washroom,” and the majority of society accepts this act as valid and reasonable. There are family washrooms available, of course, but in most cases there is only one available and it is often the only wheelchair accessible washroom as well. If the family room is not available, parents do not always have the option to wait. Viewed from this perspective, the opposition’s argument about “right” and “wrong” washrooms is problematic in the least.

---

<sup>31</sup> Neoliberalism is a discourse that privileges economic and individual rationality and competition. Within a neoliberal framework, individual success or failure is solely attributed to personal decisions. Neoliberalism takes the individual as the primary unit of analysis rather than recognizing the individual as embedded in a complex social context.

<sup>32</sup> Castrodale & Lane, 2015

<sup>33</sup> Browne, 2004, p. 339

<sup>34</sup> Browne, 2004, p. 341

<sup>35</sup> Girshick, 2008

<sup>36</sup> Girshick, 2008

The opposition tries to promote the idea that it is unsafe for the cisgender population to be in a washroom with a trans-identified individual or an individual pretending to be trans, even though research has shown that those who identify as trans are more likely to be attacked than someone in the cisgender population. In 2013, a study conducted by the William's Institute revealed that 70% of the trans-identified participants experienced some form of discrimination when using a public washroom.<sup>37</sup> Some participants stated that they were stared at, ridiculed, refused access to washrooms, or told to leave the washroom; in some instances, they were physically attacked. Members of the trans community, as well as allies, believe that much of this discrimination can be prevented if more people in the cisgender community are educated about trans issues.

Misconceptions, myths, and a lack of understanding either intentionally or unintentionally lead to discrimination. Education can help cisgender people understand the experiences of trans people and change their actions to be more inclusive. A potential way forward is to ensure that trans issues and concerns are publicly discussed in schools and youth programs so that cisgender people are educated.

It is also crucial to make the distinction between acceptance, understanding, tolerance, and hate towards trans-identified people. While acceptance is preferable, some may consider this unrealistic. Understanding simply requires cisgender people to learn about the struggles that trans people experience. Tolerance on the other hand is only one step above hate, and in many cases, results in ignorance without any attempt to understand the reasons why a trans person is the way they are.

Public washrooms can be a point of contention for trans people, but they can also be sites of resistance. Individuals constrained and judged by the gender norms also have the

ability to resist.<sup>38</sup> Resistance can take on a variety of forms depending on the individual and the environment. Individuals can resist simply by identifying as trans and choosing to use the washroom of their choice, as is their right according to Ontario Human Rights Code,<sup>39</sup> however, this could be detrimental to their physical safety if they are attacked or forcibly removed from the washroom.

Another form of resistance that works within the dominant configuration is to change washroom signage, turning them into all-gender washrooms. By breaking the gender binary, those who are not consciously aware of this dichotomy can be pushed to look beyond their current understanding of gender and sex.

#### **ARE GENDER-NEUTRAL WASHROOMS THE ANSWER?**

Gender-neutral washrooms are a potential solution to this bathroom problem. On the surface, gender-neutral washrooms, in most cases single-stall washrooms, appear to be the perfect compromise, but when one looks beyond to the motivation behind the solution, we uncover another side of the story.

One point to consider is whether gender-neutral washrooms are a desirable solution as they segregate the trans and cisgender communities. Segregation may benefit the trans community, allowing individuals to feel safer and experience less anxiety, but without proper education and awareness, the cisgender community may be confused. For example, York University converted a single person washroom in their Student Centre to a gender-neutral washroom, but the change in washroom signage proved confusing and anxiety-provoking for some. Sheila Cavanagh (2011) observed on two separate occasions how individuals struggled with the new gender-neutral signage on the door, and in the end both chose not to enter the washroom. In one instance, an older, male professor asked Cavanagh if he was allowed to use the

---

<sup>37</sup> Cottrell, 2015

<sup>38</sup> Ingre, 2012

<sup>39</sup> <http://www.the519.org/education-training/training-resources/trans-inclusion-matters/creating-authentic-spaces/washrooms-and-change-rooms>

washroom.<sup>40</sup> Gender-neutral washrooms may ease anxiety for those in the trans community, but they can be anxiety-provoking for cisgender people.

Based on one's perspective, gender-neutral washrooms can be either inclusive or exclusive. They are inclusive as they take the needs of trans people into consideration, but as mentioned above, this inclusiveness can also be exclusive and have a segregating effect by forcing trans individuals to use special gender-neutral washrooms. Gender-neutral washrooms can also reinforce the heteronormative stereotype of how a "normal" body should appear and which washroom that body should be in. Those who do not have "normal" bodies are expected to use the gender-neutral washroom.

Currently, the decision to have a gender-neutral washroom available in an organization, at a business, school, or other public establishment is a choice made by the owner of the establishment. Librarian Katherine Weadley states that "by having a gender-neutral bathroom -- or not having one -- it's a kind of judgement, and a personal one".<sup>41</sup> Gender-neutral washrooms are highly contested by both cisgender and trans people, and will most likely continue to be, as trans rights legislation will inevitably be tabled and introduced again.

### THE LEGAL IMPLICATIONS OF BILL C-279: BEYOND PERSONAL OPINION OR PREFERENCE

Bill C-279, the so-called "bathroom bill" in Canada, was first introduced to the House of Commons in September 21, 2011.<sup>42</sup> This bill was to "amend the Canadian Human Rights Act and the Criminal Code"<sup>43</sup> to include gender identity and gender expression. The bill passed the first and second reading in the House of Commons, and was referred to the Standing Committee on Justice and Human Rights.

On March 20, 2013 an amendment to the bill was put forward which defined gender identity, and was passed in the third reading.<sup>44</sup> Bill C-279, with amendments, continued on to the Senate where it passed both the first and second reading, and was referred to the Standing Senate Committee on Human Rights in June of 2013.<sup>45</sup> During the third reading, another amendment was made to include both sex and gender "as criteria for hate propaganda",<sup>46</sup> this was done to ensure the protection of cisgender individuals. With the ending of the Parliamentary session in mid-2013, Bill C-279 was sent back to the Senate for first reading, meaning the bill was not reinstated until October 2013.<sup>47</sup> Again, the bill passed both the first and second reading of the Senate and was referred to the Standing Senate Committee on Legal and Constitutional Affairs on February 26, 2015 who amended the bill to be exempt from applying to public spaces.<sup>48</sup>

While the bill in its original form would have afforded protection against discrimination for those who identified as trans, the final amendment made to Bill C-279 by the Standing Senate Committee on Legal and Constitutional Affairs is what caused much of the controversy for trans people. Liberal Sen. Grant Mitchell stated, "The very act that is designed to prohibit discrimination is being amended to allow discrimination".<sup>49</sup> The final amendment stated that:

**"In the circumstances described in section 5 or 6 in respect of any service, facility, accommodation or premises that is restricted to one sex only - such as a correctional facility, crisis counselling facility, shelter for victims of abuse, washroom facility, shower facility or clothing changing room - the practice is undertaken for the purpose of protecting individuals in a vulnerable situation".<sup>50</sup>**

<sup>40</sup> Cavanagh, 2011

<sup>41</sup> Cottrell, 2012

<sup>42</sup> Private Member's Bill, 2013

<sup>43</sup> Bill C-279, n.d.

<sup>44</sup> Bill C-279, n.d. and Private Member's Bill, 2013

<sup>45</sup> Private Member's Bill, 2013

<sup>46</sup> Page, 2014

<sup>47</sup> Page, 2014 and Private member's Bill, 2015

<sup>48</sup> Egale, 2015 and Private member's Bill, 2015

<sup>49</sup> King, 2015

<sup>50</sup> Runciman, 2015

This amendment clearly prohibits trans-identified people from entering into any public space that is designated for one sex only. This would have had devastating effects, as trans individuals would no longer be allowed to enter or access services where they feel most comfortable. This amendment would force trans individuals into potentially harmful physical and mental situations. For example, someone who has a penis but identifies as a woman and expresses their gender by appearing feminine could easily be attacked or abused in a male prison system.

Bill C-279 brought a great deal of attention to the trans community, both positive and negative, but it is important to remember that Bill C-279 was a private members bill. In many cases, this type of bill does not become law.<sup>51</sup> If Bill C-279 would have passed in its original form it would have been a great accomplishment for the trans community; however, the last amendment effectively transformed it into an anti-discrimination bill that would have discriminated against the group it was designed to protect.

This contradiction demonstrates how divisive the issue of ensuring free and safe access to public washrooms for trans individuals is. Resistance on both sides of the legal debate resulted in the indefinite postponing of Bill C-279. Just to emphasize the lengthy timeline here, Bill C-279 was introduced in 2011. It is now 2016 and there is still no legislation protecting trans rights. Other similar bills have

been put forward in the past to try and protect trans rights, but none have made it as far as Bill C-279. While Bill C-279 was not the “be all and end all” for trans rights, it was a step forward.

More recently, Justice Minister Jody Wilson-Raybould of the Liberal Party of Canada stated on May 17, 2016 “I’m proud to say that moments ago, I introduced legislation, Bill C-16 ... that would ensure that Canadians will be free to identify themselves and to express their gender as they wish while being protected against discrimination and hate”.<sup>50</sup> This bill is the next step forward for trans rights in Canada but as this report has demonstrated, similar bills have been attempted in the past with little result. Bill C-16 has been introduced as a government bill instead of a private member’s bill, which could help to push this bill forward. Bill C-16 has already garnered a great deal of media attention as it moves through the many levels of Canadian government.

---

<sup>51</sup> Private members bills are less likely to be passed into law because they don’t have the backing of the Government.

<sup>52</sup> Mas, 2016

## 03 // MOVING THE DIAL:

### GOOD YOUTH WORK PRACTICES WITH TRANS YOUTH

*This report highlights just one dimension of the unsafe and unhealthy conditions trans youth experience. Beyond this basic issue of bathroom access, trans youth face many more challenges.*

This is why the Ontario government has designated LGBTQ youth as a priority group in *Stepping Up: A Strategic Framework to Help Youth Succeed* (Ministry of Child of Youth Services, 2012).<sup>53</sup> Based on the evidence presented in relation to the case of Bill C-279, this report strongly recommends that youth-centered services and programs provide facilities that are inclusive, safe, and supportive for all youth, cisgender and otherwise.

**Some steps that youth-centred services can take to become more inclusive include the following:**

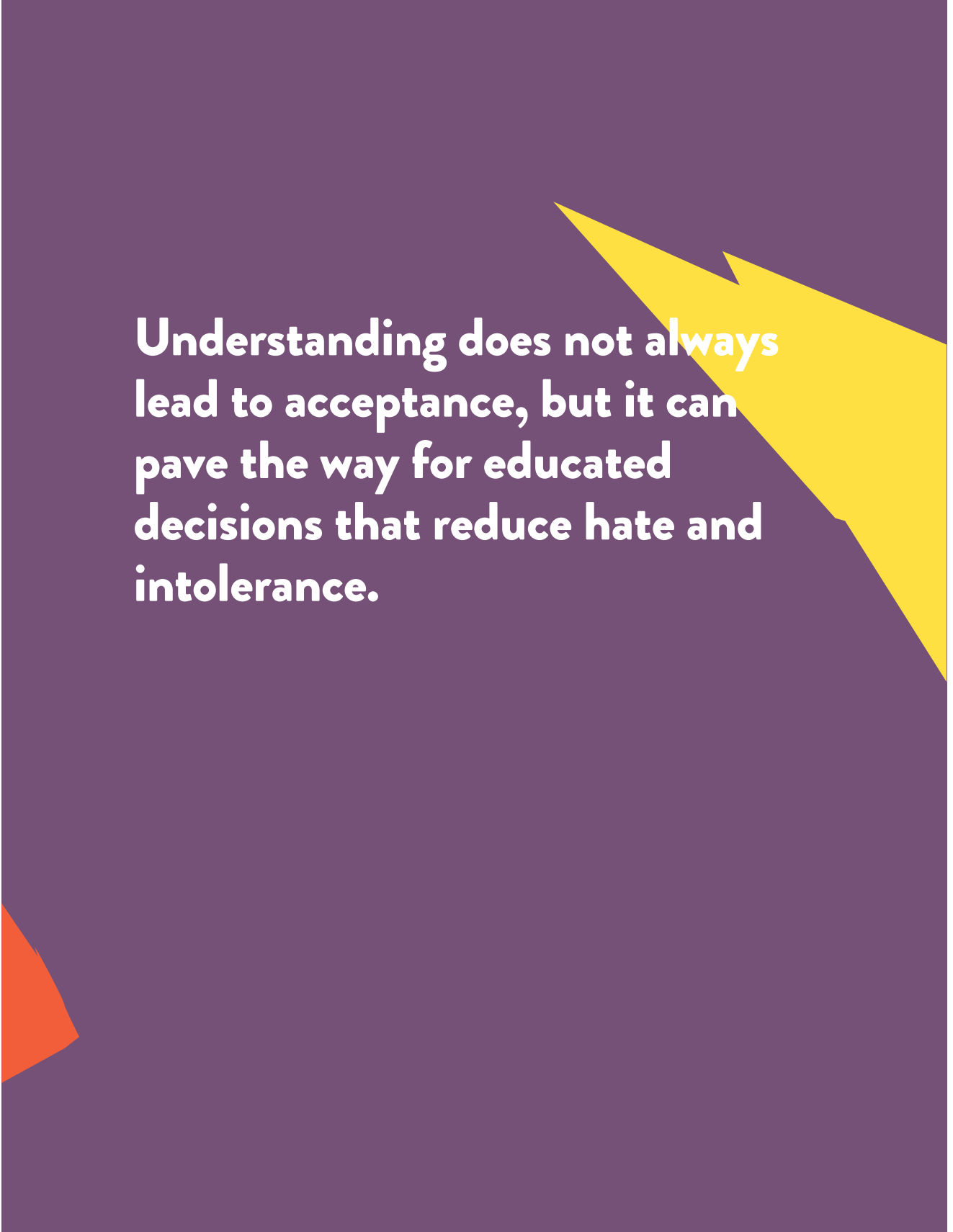
- 1) Youth-centred services should not ask for sex, gender, or sexual orientations unless absolutely necessary. If collecting this information is necessary, youth should not be restricted to check boxes (man, women, other). A good practice is to simply ask for gender and leave space for youth to write whatever response they please.
- 2) Youth-centered services and programs should have inclusive spaces, including access to gender-neutral washrooms. Imagine wanting to attend a support program for marginalized youth, but being unable to

participate because you are not able to safely use the washroom. If, for example, the program is small and has limited financial resources, the program need only change the existing washrooms signs to gender-neutral, if possible. Having a gender-neutral washroom would help organizations move closer to ensure that that trans youth can safely and comfortably attend a program.

- 3) Youth-centered services and programs need to be aware that the youth who use these services are not only coming from a variety of social locations, cultural backgrounds, religious backgrounds, but also have various gender identities and sexual orientations. The intersections between these identities needs to be recognized and it must be made clear that you cannot tell how a person identifies by just looking at them.
- 4) Training, education, and awareness raising efforts that introduce mainstream cisgender people to the complexities of gender identity, gender expressions, and the negative consequences of assumptions should be made available for youth program staff, volunteers, and program participants.

---

<sup>53</sup> “Stepping Up establishes a strategic framework to help guide, focus and maximize our [Ontario government] collaborative actions to support young people. At its core is a set of 20 outcomes that can help us – service providers, foundations, community groups, governments, young leaders and families – better align our work with what research and youth themselves say is important for their success” (Ministry of Child of Youth Services, 2012). To learn more about Stepping Up go to <http://exchange.youthrex.com/youth-wellbeing>



**Understanding does not always lead to acceptance, but it can pave the way for educated decisions that reduce hate and intolerance.**



## 04 // CONCLUSION

*Who has access to safe washrooms and who does not is an issue that has been contested, normalized, regulated, resisted, and could potentially, even be legalized.*

Everyone, whether they identify as trans, cisgender, or something else, is implicated in this debate surrounding freedom of access to public washrooms.

Everyone goes to the washroom, and as this report argues, no one should be restricted or have limited access to public washrooms simply due to their outward appearance. Canadian society has been culturally constructed to encourage people to police and regulate the bodies of others, thereby ensuring that a certain standard is maintained. Those who fall outside the boundaries of what is considered “normal” are often scrutinized in order to determine if they are in the socially and culturally appropriate space.

It is important to apply a critical lens to issues such as this as it provides a different perspective that is useful for understanding both sides of the debate and in some cases, offer solutions that could potentially be acceptable to all parties involved. This Research to Practice report presents gender-neutral washrooms as a possible solution. As discussed, gender-neutral washrooms have their pros and cons. For example, they provide a safe space for trans-identified people to use the washroom, but they can also create the idea of a “special washroom” that trans people have to use when in reality, trans-identified people may wish to use the same washroom as cisgender people. At present,

gender-neutral washrooms offer a tentative solution that can meet some of the competing needs and concerns.

With such a far-reaching issue, it is impossible to meet the needs of all, but at least gender-neutral washrooms provide a space where trans-identified individuals can feel a semblance of safety when using a public washroom.

Dichotomous public washrooms create invisible borders that most cisgender people are not aware of or acknowledge. A positive outcome of the debate surrounding freedom of access to public washrooms for trans individuals is that it provides an educational opportunity. The amount of publicity the debate has received has in essence, created public awareness, which may lead some to investigate further the daily struggles faced by trans people, particularly youth.

The first step to acceptance is understanding, and with understanding comes critically reviewing your own personal perceptions of the issue(s), as well as related perspectives. Understanding does not always lead to acceptance, but it can pave the way for educated decisions that reduce hate and intolerance.

## 05 // LEARN MORE:

### RECOMMENDED RESOURCES

Below is a series of recommended resources that can support youth work stakeholders to understand how to provide more inclusive services to trans and gender non-conforming youth.

#### ACADEMIC LITERATURE



##### Transgender Clients: Identifying and Minimizing Barriers to Mental Health Treatment

<http://exchange.youthrex.com/academic-literature/transgender-clients-identifying-and-minimizing-barriers-mental-health-treatment>

#### REPORT



##### Making Schools Safe and Inclusive: Gay-Straight Alliances and School Climate in Ontario

<http://exchange.youthrex.com/report/making-schools-safe-and-inclusive-gay-straight-alliances-and-school-climate-ontario>

#### ACADEMIC LITERATURE



##### Which Way to the Restroom? Respecting the Rights of Transgender Youth in the School System

<http://exchange.youthrex.com/academic-literature/which-way-restroom-respecting-rights-transgender-youth-school-system-north>

#### FACTSHEET



##### Trans Youth at School Y-Gap Community Bulletin

<http://exchange.youthrex.com/factsheet/trans-youth-school-y-gap-bulletin>

#### VIDEO



##### Human Sexuality is Complicated

<http://exchange.youthrex.com/video-webinar/human-sexuality-complicated>

#### REPORT



##### Safe at School: Addressing the School Environment and LGBT Safety through Policy and Legislation

<http://exchange.youthrex.com/report/safe-school-addressing-school-environment-and-lgbt-safety-through-policy-and-legislation>

#### VIDEO



##### Voices of Transgender Adolescents in Healthcare

<http://exchange.youthrex.com/video-webinar/voices-transgender-adolescents-healthcare>

#### TOOLKIT



##### Around The Rainbow: Toolkit For Educators And Service Providers Working With LGBTTTQ Parents And Their Children

<http://exchange.youthrex.com/toolkit/around-rainbow-toolkit-educators-and-service-providers-working-lgbttq-parents-and-their>

#### WEBLINKS



##### Health Care System Stigmatizes and Discriminates Against Transgender People

<http://healthydebate.ca/2015/07/topic/transgender-health-access>

##### Supportive Families Make a Difference for Lesbian, Gay, Bisexual and Transgender Youth

<http://ncfy.acf.hhs.gov/features/serving-lesbian-gay-bisexual-transgender-and-questioning-youth-open-arms/supportive>

## 06 // REFERENCES

- American Psychiatric Association. (2013). *Diagnostic and statistical manual of mental disorders (5th ed.)*. Arlington, VA: American Psychiatric Publishing.
- Arnett, J. J. (2014). *Emerging adulthood: The winding road from the late teens through the twenties*. OUP Us.
- Baltes, P. B., & Schaie, K. W. (Eds.). (2013). *Life-span developmental psychology: Personality and socialization*. Elsevier.
- Bill C-279 (Historical). (n.d.). Retrieved November 9, 2015, from <https://openparliament.ca/bills/41-1/C-279/?page=1>
- Browne, K. (2004). Genderism and the Bathroom Problem: (Re)materialising Sexed Sites, (Re) creating Sexed Bodies. *Gender, Place & Culture: A Journal of Feminist Geography* 11 (3): 321-346.
- Castrodale, M., & Lane, L. (2015). Finding One's Place to be and Pee Examining intersections of gender and dis/ability in washroom signage. *Atlantis: Critical Studies in Gender, Culture and Social Justice*, 37(1), 70-83. Retrieved November 13, 2015, from <http://journals.msvu.ca/index.php/atlantis/article/view/2888>
- Cavanagh, S. L. (2011). You are where you urinate. *The Gay and Lesbian Review*, 18-20. retrieved from <http://www.glreview.org/article/you-are-where-you-urate/>
- Cottrell, M. (2015, October 30). Libraries create gender-neutral bathroom. *American Libraries*. Retrieved from <http://americanlibrariesmagazine.org/2015/10/30/libraries-gender-neutral-bathrooms/>
- Egale. (2015, February 26). Disappointing Senate decision exposes transgender people to threats and violence. Retrieved November 9, 2015, from <http://egale.ca/c-279-senate-committee/>
- Gilbert, M. A. (2009). Defeating Bigenderism: Changing Gender Assumptions in the Twenty-First Century. *Hypatia*, 24(3), 93-112. Retrieved from <http://www.jstor.org/stable/20618166>
- Gillard, A., Buzuvis, E. E., & Bialeschki, M. D. (2014). Supporting transgender and gender nonconforming youth at summer camp. *Journal of Park and Recreation Administration*, 32(3).
- Girshick, L. (2008). *Transgender Voices: Beyond women and men* (pp. 133-137). Hanover, London: University Press of New England.
- Gordon, M. (2016, March 26). Understanding HB2: North Carolina's newest law solidifies state's role in defining discrimination. Retrieved May 23, 2016, from <http://www.charlotteobserver.com/news/politics-government/article68401147.html>
- Hall, G. S. (1916). *Adolescence: Its psychology and its relations to physiology, anthropology, sociology, sex, crime, religion and education* (Vol. 2). D. Appleton.
- Ingrey, J. (2012). The public school washroom as analytic space for troubling. *Journal of Gender and Education*, 24(7), 799-817. Retrieved November 1, 2015, from <http://www.tandfonline.com/doi/abs/10.1080/09540253.2012.721537>
- Jenness, V. and Geis, G. (2011). *Transgender Lives and Lifestyles*. In C. Bryant (Ed.), *The Routledge Handbook of Deviant Behaviour* (pp. 223-229). New York, New York:Routledge
- Kennedy, M. (2015). Washrooms and Locker rooms: Transgender students and bathrooms. *American School and University magazine*.
- King, R. (2015, February 5). Trans rights bill amendment would bar trans people from public washrooms | Toronto Star. Retrieved November 21, 2015, from <http://www.thestar.com/news/canada/2015/02/25/trans-rights-bill-amendment-would-bar-trans-people-from-public-washrooms.html>
- Mas, S. (2016). Transgender Canadians should 'feel free and safe' to be themselves under new Liberal bill. Retrieved May 22, 2016, from <http://www.cbc.ca/news/politics/transgender-bill-trudeau-government-1.3585522>
- McGuire, J. K., Doty, J. L., Catalpa, J. M., & Ola, C. (2016). Body image in transgender young people: Findings from a qualitative, community based study. *Body Image*, 18, 96-107.
- Ministry of Child of Youth Services. (2012) *Stepping Up: A strategic Framework to Help Youth Succeed* report. Retrieved from <http://www.children.gov.on.ca/htdocs/English/topics/youthopportunities/steppingup/steppingup2015/contents.aspx>
- Page, J. (2014, March 1). Transgender rights: A refresher on Canada's Bill C-279. Retrieved November 9, 2015, from <http://montrealgazette.com/life/transgender-rights-a-refresher-on-canadas-bill-c-279>
- Private Member's Bill. (2015, February 26). Retrieved November 9, 2015, from <http://www.parl.gc.ca/LegisInfo/BillDetails.ffff.aspx?Language=E&Mode=1&billId=6251806&View=0>
- Private Member's Bill. (2013, June 11). Retrieved November 9, 2015, from <http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5122660>
- Roen, K. (2016). The body as a site of gender-related distress: Ethical considerations for gender variant youth in clinical settings. *Journal of homosexuality*, 63(3), 306-322.
- Ross, C. (n.d.). *The Problem of Inclusion Under The Transgender Umbrella: The conflicts between transsexual vs. transgender men*. Retrieved from [https://www.academia.edu/7175695/The\\_Problem\\_of\\_Inclusion\\_Under\\_The\\_Transgender\\_Umbrella\\_The\\_Conflicts\\_between\\_Transsexual\\_vs.\\_Transgender\\_Men](https://www.academia.edu/7175695/The_Problem_of_Inclusion_Under_The_Transgender_Umbrella_The_Conflicts_between_Transsexual_vs._Transgender_Men)
- Runciman, B. (2015, February 26). Twenty-Fourth Report. Retrieved November 9, 2015, from <http://www.parl.gc.ca/Content/SEN/Committee/412/lcjc/rep/rep24feb15-e.htm>
- Sevelius, J. M. (2013). Gender affirmation: A framework for conceptualizing risk behavior among transgender women of color. *Sex roles*, 68(11-12), 675-689.
- Singh, A. A. (2013). Transgender youth of color and resilience: Negotiating oppression and finding support. *Sex Roles*, 68(11-12), 690-702.
- Taylor, C. & Peter, T., with McMinn, T.L., Elliott, T., Beldom, S., Ferry, A., Gross, Z., Paquin, S., & Schachter, K. (2011). *Every class in every school: The first national climate survey on homophobia, biphobia, and transphobia in Canadian schools*. Final report. Toronto, ON: Egale Canada Human Rights Trust.
- Tishelman, A. C., Kaufman, R., Edwards-Leeper, L., Mandel, F. H., Shumer, D. E., & Spack, N. P. (2015). Serving transgender youth: Challenges, dilemmas, and clinical examples. *Professional Psychology: Research and Practice*, 46(1), 37.
- Veale, J., Saewyc, E., Frohard-Dourlent, H., Dobson, S., & Clark, B. (2015). *Being Safe, Being Me: Results of the Canadian Trans Youth Health Research Survey*. Vancouver, BC: Stigma and Resilience Among Vulnerable Youth Centre, School of Nursing, University of British Columbia.
- vlogbrothers. (2012, Oct 12). Human sexuality is complicated. Retrieved from <https://www.youtube.com/watch?v=xXAoG8vAyZl>



**YOUTHREX**  
Research &  
Evaluation eXchange

**This research was conducted by the  
Youth Research and Evaluation eXchange.**

YouthREX is primarily funded by the Ontario Ministry of Children and Youth Services with extensive contributions from York University and the four partner universities: Carleton University; King's College University at Western University; Laurentian University and Lakehead University.

**YouthREX**

School of Social Work  
York University  
4700 Keele Street  
Toronto, Ontario M3J 1P3  
[youthrex@yorku.ca](mailto:youthrex@yorku.ca)  
[www.youthrex.com](http://www.youthrex.com)  
[www.exchange.youthrex.com](http://www.exchange.youthrex.com)