

## Moving Toward Equality

Legal Victories and Equality Struggles of the Lesbian, Gay, Bisexual, and Transgendered (LGBT) Communities

### *That was Then*

---

Historically gays and lesbians in Canada faced a wide range of social and political repression:

- Criminal law was used as means of policing Lesbian, Gays, Bisexuals, and Transgendered (LGBT) people instead of being used as an instrument of equality;
- From 1892 to 1969, homosexuality was considered a crime under the Criminal Code of Canada;
- Between 1952 to 1977, Canada's immigration law barred LGBT people from entering Canada – many foreign-born Canadian LGBT people were often threatened with deportation;
- Until 1973, homosexuality was considered a mental illness by most of the medical profession, with a number of intrusive conversion “therapies” which included electroshock;
- Transgendered people are still subject to psychiatric diagnosis under the Diagnostic and Statistical Manual; and
- LGBT people were banned from the Armed Forces until the 1990's.

### *This is Now...*

---

With the American civil rights and women's movements came an increased emphasis on human rights, and removing legal and social barriers to marginalized groups.

- In 1968, homosexuality was finally decriminalized;
- Quebec became the first province to adopt human rights legislation in 1977;
- Ontario implemented human rights legislation in 1986, to be followed by all remaining provinces and territories;
- The first gay and lesbian protest on Parliament Hill was in 1971;
- The 1981 police raids on bathhouses led to a number of protests and is often considered the Canadian equivalent of 1969's Stonewall Riots in New York City;
- In 1982, the Canadian Charter of Rights and Freedoms was passed as part of the Constitution (with equality guarantees coming into effect in 1985);
- In 1985, a Parliamentary Committee traveled across Canada to hear public submissions on how laws should be changed to comply with the equality guarantees of the Charter of Rights. This resulted in the Committee recommending that the Canadian Human Rights Act be amended to include “sexual orientation” as a prohibited ground of discrimination;
- The Government of Canada, in 1986, pledged to take “whatever measures are necessary” to prohibit sexual orientation discrimination;
- In 1996, “sexual orientation” was finally added as a protected ground in the Canadian Human Rights Act;

- In 1999, the Ontario Court of Appeal rules, in *M versus H*, in favour of same sex couples equality;
- Over the past few years, there has been many legal gains made by gay and lesbian people across the country;
- Provinces now recognize adoption rights, inheritance, and spousal support;
- Astounding cultural gains with the growth of Pride celebrations; LGBT community organizations hitting their stride, union and worker groups flourish, popular portrayals more frequent and brought into mainstream; and
- In 2003, the Supreme Court of Appeal in British Columbia, Québec, and Ontario rule that it is unlawful to ban same-sex marriages.
  - abandoning school, depression, self-abusive behaviour, suicide;
- Censorship of LGBT literature still continues (Little Sisters Bookstore, internet filters in schools); and
- Anti-LGBT hate propaganda is not recognized as hate crimes (although there currently are attempts to have it included in Canada's hate laws)

## *Larger Issues*

---

LGBT movement needs to address ways to move their agenda beyond a narrow rights focus to one that looks at fostering diversity:

- We need to recognize that minority rights are not just a numbers game;
- Diversity in Canadian society needs to be seen as a value added;
- The next frontiers for the LGBT community are: reaching out to youth, addressing poverty, age-ism and trans-equality, remaining vigilant and unsatisfied with the status quo and formal equality, taking a holistic approach to health and wellness, and incorporating a truly intersectional approach.

## *The Myths and Barriers Continue*

---

Despite all these positive gains made by the LGBT movement, full equality has not been achieved.

- Negative stereotypes continue to endure (child predators, inability to maintain relationships, all about sex, outrageous behaviour);
- Same sex relationship recognition is still limited to formal legal recognition in all but three of Canada's jurisdictions – Ontario, Quebec and British Columbia (as of September 2003);
- Discrimination against LGBT people is often 'underground';
- There still remains a social stigma against LGBT people;
- LGBT youth are particularly affected by insults, bad jokes, threats or attacks: all leading to insecurity, anxiety, shame, and worse still

---

***The information in this Fact Sheet is based on a presentation by Gilles Marchildon to the National Union's 2003 Equality Leadership School. Gilles is the Executive Director of the Ottawa-based, EGALE – a national advocacy organization for lesbian, gay, bisexual, and transgendered people in Canada.***

**NUPGE**  
www.nupge.ca