



Canada

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In 2005 Canada became the fourth country to recognize same-sex marriages. The milestone victory for glbtq rights was long in coming and hard-won, but it established Canada as a leader in the struggle for equality. Canada's commitment to equal justice for its citizens sharply distinguishes it from its giant neighbor to the south and has served as an inspiration to the equal rights movement in the United States.

First Nations and Colonial Period

The First Nations in what is now Canada held a variety of views regarding sexuality and the roles of men and women in their societies. People who adopted the clothing or traditional jobs of the opposite sex were in some cases considered to belong to that gender and in others were seen as "two-spirited" and believed to belong to a third gender. The concept of gender was less linked to biology than to the role that a person chose to play in the life of his or her community.

French explorer Jacques Cartier arrived at the Gulf of St. Lawrence in 1534, and the French established permanent settlements at Quebec in 1608 and at Montreal in 1642. The British secured territories in eastern Canada beginning in 1717. The two countries warred for control of the region, with Britain the victor in 1763. New France--the area now known as Quebec--was ceded to England. Some of the French residents of the area returned to France or relocated to French possessions in the Caribbean. Many went to Louisiana, where the displaced *Acadiens* eventually became known as Cajuns and contributed to the rich and diverse culture of the state.

Most of the francophone residents remained, however, and under the Quebec Act (1774) received rights to retain their own language, religion, and civil law. The differentiated status of Quebec has led to numerous political tensions in the course of Canadian history and eventually had repercussions in the glbtq rights movement when francophone organizations in Quebec were acting largely separately from the wider efforts of organizations in English-speaking Canada.

European settlers--the clergy in particular--made it their mission to impose their own heterosexist views on the native groups whom they encountered. In the interest of "civilizing" the First Peoples and converting them to Christianity, Europeans made every effort to replace traditional belief systems with their own.

Criminal Prosecutions

With the establishment of European settlement came its judicial system. Among the first gay men to suffer under it was a young army drummer sentenced to death for a "crime against nature" in 1648. Jesuits in Montreal succeeded in getting the case transferred to Quebec, where the condemned man's sentence was commuted upon his agreement to take the job of executioner.

Another case occurred in 1691, when three soldiers were brought before the colony's Supreme Council on



Top: Canada and neighboring countries.
Above: The buildings of the Canadian Parliament in Ottawa, Ontario.

charges of sodomy. A lieutenant was convicted and banished from the colony, and his co-defendants were reprimanded.

In the homosocial society of the *coureurs de bois*, adventurous souls who journeyed west to trap and trade, homosexual activity was far from unknown but went largely ignored by authorities since the individuals involved were a rough-and-ready population generally removed from the life of European settlements.

In the mid-nineteenth century there were a number of prosecutions of men for same-sex sexual activity. Two soldiers were convicted of sodomy in 1842 and initially sentenced to death. The penalty was reduced, however, first to life imprisonment and then to a ten-year prison term. There is no record of a death sentence having been carried out in a sodomy case in Canada.

As Canada moved into the late nineteenth and early twentieth centuries, prosecutions for buggery or sodomy continued, but practices were inconsistent across the country. In the homosocial communities of western loggers, miners, and railroad workers, romantic relationships between men were common. Relatively few criminal cases were pursued, but in those that were, penalties were sometimes severe and included prison terms of up to fifteen years and, as late as 1894, floggings.

Social Purity Movement

In the last decade of the nineteenth century Canada saw the rise of a "social purity" movement led by organizations such as the Society for the Protection of Women and Children and the Social and Moral Reform Council of Canada. Their goal was the strengthening of the traditional Canadian family, and their primary focus was on prostitution, promiscuity, divorce, and women working outside the home.

These groups also took a stand against homosexuality and campaigned successfully to have "gross indecency" between men added to the Criminal Code in 1892 to criminalize conduct not specifically covered under sodomy statutes. No similar laws were proposed to regulate the behavior of lesbians, perhaps because of the prevalent attitude that women had a far weaker sexual appetite than men.

Social Circles

It is ironic, then, that an early exponent of freedom of sexual expression was a woman, feminist Flora MacDonald Denison. An admirer of the poetry of Walt Whitman, Denison bought a house in Bon Echo, Ontario in 1910 and established a spiritual community devoted to the poet. Six years later she founded the Walt Whitman Club, whose magazine, *The Sunset at Bon Echo* (1916-1920), celebrated male friendship.

When Denison died in 1921 the Whitmanite Fellowship of Toronto arranged her funeral and the Canadian Theosophical Society declared in its journal that "no one in the present generation of Canadians has done more for the 'institution of the dear love of Comrades' than Flora MacDonald Denison."

Also in the 1910s Elsa Gidlow and her friend Roswell George Miller--lesbian and gay, respectively--created a social and artistic circle devoted to the study of the works of writers such as Sappho and Oscar Wilde and those of social scientists including Havelock Ellis and Edward Carpenter. Other circles emerged in the French-speaking community in the 1930s among admirers of Marcel Proust and André Gide.

World War II and Afterwards

During the years of World War II the number of men and women in the Canadian armed forces grew dramatically. Gay men and lesbians were considered "unfit for service." It is not known how many Canadians were rejected on the basis of their sexual orientation. Homosexuality was still classified as a "psychiatric disorder," and recruits turned down on that ground were grouped together with people who actually had mental illnesses.

Soldiers discovered to be gay or lesbian were subject to "blue discharges," which deprived them of pensions and other benefits enjoyed by veterans. In addition, since such a discharge was specifically due to the individual's sexual orientation, those who received them might experience discrimination upon returning to civilian life. Nevertheless, in the largely homosocial atmosphere of military units, gay men were able to form romantic relationships and networks of friends. Little is known about the experiences of their lesbian counterparts.

After the war, gay and, to a lesser extent, lesbian networks existed in large Canadian cities such as Toronto and Montreal. In a 1954 thesis, *The Homosexual in Urban Society*, Maurice Leznoff explored the culture of gay men in Montreal. The study emphasized the importance of the social circles that the men had created.

Leznoff divided his interview subjects into categories of "overt"--men who were relatively open about their sexuality and tended to spend much of their time within the gay community--and "covert"--men who concealed their sexual orientation in their daily lives, often for fear of losing their jobs.

In the post-war years the Royal Canadian Mounted Police (RCMP) formed a special unit, the A-3, charged with identifying gay men and lesbians on their force and in government jobs on the grounds that they were vulnerable to blackmail, presumably by communists.

The RCMP persisted in characterizing gay men and lesbians as "security risks" and denying them employment until 1986, when the federal government declared that equal rights recognized under the national charter included freedom from discrimination based on sexual orientation.

The political climate of the post-war era also led to calls for changes in immigration laws. A 1948 proposal would have barred both gay men and lesbians from moving to Canada, but in 1951 the word "lesbians" was removed. The bill passed in 1952. The discriminatory provisions were repealed only in 1977.

Emergence of Gay Communities and Political Organizing

In Toronto established cruising spots for gay men had existed since at least the 1920s and there had been gay bathhouses since the 1940s, but in the 1960s gay bars began to appear--and attract the attention of the police. Employees and patrons of the Melody Room, which featured drag shows, and other popular gay venues were the targets of frequent harassment. A similar situation obtained in Montreal, where police made a number of mass arrests at gay businesses in the early 1960s.

Although Montreal and Toronto had social gathering places in the 1960s, there was virtually no concomitant political organizing in those cities. The first significant Canadian glbtq rights groups was the Association for Social Knowledge (ASK), founded in Vancouver, British Columbia in 1964.

Originally composed only of gay men, ASK quickly reached out to include lesbians and also encouraged heterosexual allies to become members. The organization established a community center and fitfully published a newsletter that discussed the Wolfenden Report, the studies of Alfred Kinsey, and initiatives for legal reform, as well as the writings of Jane Rule, Donald Webster Cory (i.e., Edward Sagarin), and John Rechy.

ASK sought recognition as a non-profit educational organization but was denied in the courts. The association disbanded in early 1969, shortly before an amendment to the Canadian Criminal Code decriminalized homosexuality.

Trudeau and Decriminalization of Homosexuality

The impetus for revising the "buggery" and "gross indecency" clauses of the Criminal Code came from then-

Justice Minister Pierre Trudeau, who urged the changes in December 1967, several months after Britain had decriminalized homosexuality with an amendment to the Sexual Offences Act.

As Justice Minister, Trudeau was not successful in effecting a change in the Code, but upon becoming Prime Minister in 1968 he renewed his efforts as part of his program for a "Just Society" and as part of his agenda for transforming Canada into a modern, less stodgy nation. The omnibus bill that his government presented in 1969 included proposals that decriminalized consensual same-sex sexual activity.

The youthful and charismatic Prime Minister was deeply committed to making Canada a society that was truly just. In 1968 he described his vision: "I've always dreamt of a society in which each person would be able to fulfill himself to the extent of his capabilities as a human being, a society where inhibitions to equality would be eradicated." With respect to consensual homosexual activity, he famously said, "The state has no business in the bedrooms of the nation."

While some extremely conservative members of parliament from Quebec attempted to block Bill C-150 with a filibuster and arguments that decriminalizing homosexuality was offensive to their Roman Catholic constituents, most members of parliament, including some in the Conservative party, favored the legislation. Although debate on the measure was heated at times, Bill C-150 was easily approved on May 14, 1969 by a margin of 149 to 55.

Twenty-five years later, Armand Monroe, who was employed at a Montreal gay bar at the time of the historic vote, remembered, "Trudeau was the hero of the day."

The 1970s

In the 1970s both the gay rights and women's movements emerged as forces in the national political discourse. Numerous gay rights groups were founded, including GATE (Gay Alliance Toward Equality) Vancouver, GATE Toronto, the Coalition for Gay Rights in Ontario, the Association pour les droits de gais du Québec, Gays of Ontario, and an umbrella organization, the National Gay Rights Coalition (NGRC, later known as CLGRC, the Canadian Lesbian and Gay Rights Coalition).

In Toronto's feisty, politically radical, and extremely literate journal, *The Body Politic*, established in November 1971 and published until 1987, Canada found a national voice of gay liberation. In the 1970s, student groups were formed at universities across the country. Gay liberation bookstores, theaters, and other queer cultural venues were added to the increasing number of gay bars, restaurants, baths, and other businesses catering to glbtq consumers. In Toronto, Montreal, and Vancouver, vibrant gay communities emerged as significant--though sometimes beleaguered--elements of social and civic life.

In the 1970s and 1980s, gay activism was countered by numerous attempts at repression, including police raids of bars, baths, and bookstores, harassment of gay activists, crackdowns on gay cruising areas, and censorship of books and magazines imported from the United States and Europe.

Nevertheless, the movement toward equality gained a great deal of traction during the period, garnering the support of politicians and opinion makers, as Canada gradually became a more diverse and tolerant society. Openly gay or gay-friendly politicians began to win elections during the 1970s, including Svend Robinson who was elected to the House of Commons from British Columbia in 1979 and served continuously until 2004.

Many lesbians played an active role in feminist organizations but were frustrated by the tendency of heterosexual women to distance themselves from lesbian concerns for fear of adverse public reaction. Some who joined the gay liberation movement felt that the organizations focused disproportionately on issues important to gay men.

The tensions that attended the formation of combined gay and lesbian organizations reflected the fact that the social circles in which the participants had previously moved were typically exclusively male or female. Some women responded by calling for an autonomous lesbian movement and founded groups such as the Lesbian Organization of Toronto and the Lesbian Mothers' Defence Fund.

Apart from NGRC/CLGRM (1975-1980), there was no nationwide gay and lesbian rights organization during the 1970s. One result of the differences in strategies and strength of various glbtq associations was that legal change occurred in a patchwork fashion across the country. In 1977 Quebec became the first province to extend its Human Rights Code to ban discrimination based on sexual orientation.

AIDS Activism

The political successes of the 1970s, especially in Montreal, Toronto, and Vancouver, helped pave the way for AIDS activism in the 1980s. With prodding from the glbtq communities, Canada's public health system responded to the AIDS crisis more humanely and more effectively than in most areas. AIDS organizations across the country mobilized to provide accurate information and much needed care and support to those affected by the disease.

The tragedy of AIDS prompted the coming out of numerous individuals who might otherwise have remained closeted. The pandemic also kept the subject of homosexuality in the news. Both of these developments helped humanize the struggle for equality and contributed to greater tolerance for glbtq people, thus setting the stage for further political and social gains in the 1990s.

Charter of Rights

In 1980 official discussions of a new national Charter of Rights and Freedoms began. The intent was to move Canada from its traditional reliance on "common law," as in Great Britain, to a constitutional structure that incorporated something similar to the United States Bill of Rights. The document was adopted in 1982, but its Section 15, which dealt broadly with equal rights but did not specifically address the issue of sexual orientation, was not implemented until 1985 in order to allow provincial and other governments time to revise existing laws to conform with the new section.

Many glbtq rights groups across Canada submitted briefs to the parliamentary subcommittee dealing with the equality provisions, outlining how they believed the new section should be interpreted. They found cause for encouragement in the subcommittee's final report, which called for the specific inclusion of sexual orientation as a banned basis for discrimination and established a uniform age of consent.

When Prime Minister Brian Mulroney announced that his government would issue a position on the report in early 1986, glbtq activists formed the Equality Writes Ad Hoc Committee to conduct a letter-writing campaign to press for an interpretation of Section 15 that guaranteed their rights. The effort was successful, and the government made a statement endorsing the view that sexual orientation should be included among the prohibited grounds for discrimination.

EGALE

Thirty-five members of Equality Writes then founded EGALE (Equality for Gays and Lesbians Everywhere/Égalité pour les gais et les lesbiennes). EGALE, which now describes itself as "a national organization committed to advancing equality and justice for lesbian, gay, bisexual and trans-identified people, and their families, across Canada," has grown to over 3,300 members. Its activities include public education projects, appearances before government committees, and interventions in numerous glbtq rights cases across the country and in the Supreme Court.

The adoption of the Charter was an important requisite step in the quest for equal rights, but it did not

itself establish those rights. Legal interventions and pressure on the provincial and national governments were necessary to make the promise of the Charter a reality.

For example, only in 1992, some six years after the government declared that sexual orientation discrimination was illegal under the Charter, did the Canadian armed forces lift restrictions against openly gay and lesbian servicemembers. Similarly, only in 1998 did the Supreme Court of Canada rule that the exclusion of homosexuals from Alberta's Individual Rights Protection Act was a violation of the Charter, in effect establishing a national gay rights law. Other judicial rulings, by both provincial and federal courts, subsequently established adoption rights and inheritance rights for same-sex couples.

Legal recognition of gay and lesbian couples was among the most significant of the goals of EGALE. To that end they participated in *Egan v. Canada*, a case brought by longtime activist James Egan after John Nesbit, his partner since 1948, applied for and was denied a spousal allowance under the Old Age Security Act. After losing in the lower courts, Egan and Nesbit appealed to the Supreme Court, which, although ruling that Section 15 prohibited discrimination based on sexual orientation, nevertheless dismissed the appeal in 1995 on the ground that the definition of "spouse" in the Old Age Security Act was constitutional. Subsequently, however, other courts have ruled that members of gay and lesbian couples are entitled to survivors' benefits.

Struggle for Same-Sex Marriage

Egan and Nesbit's suit presaged the quest for the next great goal of glbtq Canadians, the passage of laws permitting same-sex marriages. A hopeful sign came in May 1999, when the Supreme Court ruled that same-sex couples were entitled to the same rights and obligations as heterosexual couples, but a month later parliament voted overwhelmingly to retain the definition of marriage as strictly heterosexual.

In 2002, however, Superior Courts in Ontario and Quebec ruled that prohibiting same-sex marriage was a violation of the Charter, and the next year the British Columbia Court of Appeal followed suit. A decision by the Ontario Court of Appeal on June 10, 2003 upheld a lower-court ruling in favor of the rights of same-sex couples and established a new definition of marriage as "the voluntary union for life of two persons to the exclusion of all others." The change went into effect immediately, and the day after the historic ruling, Michael Leshner, a crown prosecutor, and his partner, Michael Stark, became the first gay couple to wed in Canada.

In 2003 Prime Minister Jean Chrétien proposed legalizing same-sex marriage throughout the country. After many delays and much discussion, Bill C-38, the authorizing legislation, eventually passed on July 19, 2005 and became law the next day. The law, which was bitterly opposed by the Conservative Alliance Party, was supported primarily by members of the Liberal Party, the Bloc Québécois, and the New Democratic Party. By the time of the victory all of the provinces and territories except Alberta, Prince Edward Island, the Northwest Territories, and Nunavut had already adopted laws enabling gay men and lesbians to marry.

Public Debate on Same-Sex Marriage

Public debate on the issue of same-sex marriage has taken a different course in Canada than in the United States. In the United States, well-funded right-wing religious organizations have managed to put numerous anti-glbtq proposals on state ballots and have mobilized voters to pass discriminatory legislation and to enshrine discrimination in state constitutions. While some Canadian groups of the religious right, including Focus on the Family (Canada), founded by the ultra-conservative American Reverend James Dobson, have been vocal in their opposition to equal marriage rights, they are relatively small compared to their United States counterparts and have considerably less political influence, except perhaps in Alberta, the most conservative of the Canadian provinces.

Canadian evangelical Christians are far from a monolithic group: they belong to a variety of political

parties, including the Liberal and the National Democratic parties, and are on the whole more moderate than evangelicals in the United States. Whereas conservative Christian groups in the U.S. often adopt confrontational tactics, those in Canada tend to be more willing to participate in dialogue. Bruce Clemenger, the president of the Evangelical Fellowship of Canada, stated, "We're not trying to impose. We're trying to engage, to participate, to take Canada seriously."

Indeed, the fiercest religious opposition to same-sex marriage came not from evangelical Christians but from the Roman Catholic hierarchy, who threatened to penalize Roman Catholic members of parliament who voted in favor of same-sex marriage. Testifying before a Senate committee, the Archbishop of Montreal also declared that children of same-sex marriages could not be baptized into the Roman Catholic Church.

In contrast, the United Church of Canada in 2003 voted overwhelmingly at its annual conference to endorse same-sex marriage.

Public opinion on same-sex marriage is significantly different in Canada and the United States. In a 2004 poll 71 per cent of Canadians favored same-sex unions, although 32 per cent wanted them to be recognized by some term other than "marriage." By contrast, 47 per cent of United States respondents felt that same-sex marriage was "wrong and should never be lawful."

Moreover, Canadians seem generally content with the way that their courts have handled questions of glbtq rights. Pollster John Wright commented in 2004, "All of our polling has shown in the last decade, especially after 1982 and the introduction of the Charter of Rights, a continued and much higher level of support for the Supreme Court justices to make fair, reasonable and balanced decisions around issues like [same-sex marriage]."

Another factor influencing the debate about same-sex marriage is that Canada has become a very diverse nation, with numerous ethnic, cultural, and other groups. "We're a nation of minorities, and in a nation of minorities, it is important that you don't cherry-pick rights. A right is a right," declared Prime Minister Paul Martin in a 2005 interview.

Because of the diversity of their society, most Canadians value attitudes of tolerance and respect for the equality guaranteed by the Charter. Political scientist David Raeside noted, "It's very easy for Conservative politicians to burn themselves on this issue [i.e., same-sex marriage], because there is real resistance to appearing extreme" in matters such as Bill C-38.

Indeed, the Conservative Alliance party seems to have miscalculated public sentiment in its opposition to same-sex marriage. When one Conservative MP declared that homosexuality should be outlawed, many Canadians saw the party's opposition to same-sex marriage simply a reflection of intolerance. Similarly, the Alberta government's threat to invoke the "notwithstanding clause" in an attempt to evade its responsibilities under the Charter made Canadians in other parts of the country suspect that Conservatives might create a constitutional crisis simply because of homophobia.

Final Passage

The vote for passage of Bill C-38 was relatively close in the House of Commons--158 to 133--but overwhelming in the Senate, which affirmed the legislation 47 to 21 with 3 abstentions. Last-minute attempts by conservatives to insert amendments that would have sent the bill back to the House of Commons, then in recess, were parried. The often raucous debate ended on a dignified note with a Yukon Territory Liberal senator reading an e-mail from a constituent who said, "You have no idea what a difference it makes to the human spirit to know that you are treated equally under the law."

A three-minute vote was then called, and when the successful result was announced there was cheering in the chamber.

Less happily, however, Prime Minister Stephen Harper, who formed a minority Conservative Alliance government in 2006, announced that his party would revisit the question of same-sex marriage despite predictions by Constitutional law experts that repeal of the same-sex marriage law would result in legal chaos.

In December 2006, Harper kept his promise by introducing a bill that would have directed the government to prepare a bill to repeal the same-sex marriage law while at the same time allowing those marriages already conducted to stand and to permit civil unions. Widely perceived as a sop to the Conservative Alliance's religious base, the proposal was soundly defeated on a vote of 175 to 123. Shortly after the vote, the Prime Minister announced that the matter was settled and would not be reopened.

Pride Festivals

The cheers for the passage of Bill C-38 on July 19, 2005 were echoed at Montreal's gay pride festival, Divers/Cité, held a few days later. Like many pride celebrations across the nation, Montreal's, which dates back to 1992, began as a small parade and has grown into a week-long event. Some 200,000 people participated in Divers/Cité in 2005.

The Toronto pride festival began in 1981 as a protest by gay men against police harassment but is now a week of celebration of glbtq culture. Public officials, including the mayor, members of parliament, and the chief of police, took part in Pride Week 2005, which organizers said attracted around a million people, thus making it one of the largest celebrations in the world.

The success of the glbtq pride festivals mirrors progress in Canadian society at large. Although prejudice remains, there have been positive developments such as the sponsorship of the National Film Board of Canada for the work of lesbian and gay directors, including Lynne Fernie, Aerlyn Weissman, and David Adkin, whose films not only document Canada's glbtq heritage but also focus on educating young people about the problems faced by glbtq youth and necessity for acceptance--a full acceptance that is now not only ethically but also legally required in the wake of the passage of Bill C-38 and other pieces of legislation affirming the rights of glbtq Canadians.

In the new millennium, Canada has emerged as one of the world's most tolerant nations, a society committed to actually making real the ideals of justice and equality that other countries espouse but too often fail to practice. As a consequence, Canada has also become home to thriving glbtq communities and a welcoming destination to glbtq visitors.

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