Citizen Queer: Mediating Welfare and Work in Canadian Education and Culture

André P. Grace
University of Alberta, Canada

Abstract: In this essay I reflect on the historical sociocultural exclusion of LGBTQ Canadian persons. I discuss how post-1982 legal and legislative moves that have fostered LGBTQ inclusivity help counter this exclusion, and I consider how these moves impact welfare and work for Queer Canadian educators. I address the cultural changes needed so these moves can fully impact everyday life.

The social history evidence before me clearly discloses that gay men and lesbian women have been treated as less worthy and less valued than other members of society. Canadian law has accepted that homosexuality is not a mental illness or a crime but rather an innate characteristic not easily susceptible to change. Stigmatization of gay men rests largely on acceptance of inaccurate stereotypes – that gay men are mentally ill, emotionally unstable, incapable of enduring or committed relationships, incapable of working effectively and prone to abuse children. Scientific studies in the last fifty years have discredited these stereotypes. … The record before me is rife with the effects of historic and continuing discrimination against gays. The evidence in this record clearly demonstrates the impact of stigmatization on gay men in terms of denial of self, personal rejection, discrimination and exposure to violence. … It is one of the distinguishing strengths of Canada as a nation that we value tolerance and respect for others. All of us have fundamental rights including expression, association, and religion. … We, as individuals and as institutions, must acknowledge the duties that accompany our rights. Mr. Hall has a duty to accord to others who do not share his orientation the respect that they, with their religious values and beliefs, are due. Conversely, for the reasons I have given, the Principal and the Board have a duty to accord to Mr. Hall the respect that he is due as he attends the prom with his date, his classmates and their dates.

Excerpts from the Judgment of Justice Robert MacKinnon in the Marc Hall case, pp. 5-14. The judgment approved the application for an interlocutory injunction that provided an immediate order allowing Marc to attend his Catholic high-school prom with the partner of his choice. The decision came on May 10, 2002, just a few hours before his prom, enabling Marc to attend with his boyfriend Jean-Paul Dummond.

Introduction

In this paper I reflect on the historical sociocultural exclusion of LGBTQ (lesbian, gay, bisexual, transgender, and queer) persons in Canadian culture and society. Drawing on findings from my ongoing three-year research project funded by the Social Sciences and Humanities Research Council of Canada (SSHRC), I highlight some of the post-1982 progressive moves in Canadian law and legislation that have helped LGBTQ citizens to transgress this exclusion. I discuss how this progress impacts welfare-and-work issues affecting the livelihood of LGBTQ educators. I consider the reality that legal and legislative changes do not necessarily domino into sociocultural changes in everyday life and work contexts. I outline work to be done to help enable this domino effect.
The Legal and Legislative Fostering of Inclusivity in Canadian Culture and Society

With the enactment of the *Canadian Charter of Rights and Freedoms* in 1982, LGBTQ Canadians have constitutional protection against discrimination on the ground of sexual orientation. With equality rights enshrined in Section 15 of the *Charter*, LGBTQ educators and students have increasingly turned to the courts to use the force of law to fight for their rights in schools, colleges, and other educational settings. Thus the force of law has been countering the force of history. That history is a record of denial of the rights and privileges of full citizenship to LGBTQ Canadians who have never been as visible, vocal, safe, and secure in sociocultural contexts as those whose sex-and-gender differences go unquestioned (Grace, 2001). The preceding excerpts from the Judgement of Justice Robert MacKinnon provide a conspectus of this history of disenfranchisement.

Just like sexual minority students such as Marc Hall, LGBTQ educators have been marginalized in education as the expected replicator of a heteronormalizing culture and society (Grace & Benson, 2000). For example, in its 1998 *Report on Education in Canada*, the Council of Ministers of Education, Canada, which describes itself as “the national voice for education” (p.5), fails to provide any focus on LGBTQ educators in discussions of (a) educator training and development and (b) targeted programs for specific at-risk groups. Such failure to focus on LGBTQ educators and their welfare-and-work issues is not unusual. Research indicates that discourses in educational theory, research, and practice often omit the concerns of LGBTQ educators and their rights, needs, and interests in relation to the institutional and cultural contexts in which they work (Pinar, 1998).

However the sociocultural state of affairs for LGBTQ Canadians, including educators, has been improving, even though changes in social disposition and cultural behavior can be slow and reluctant. Since the patriation of our *Canadian Constitution* with its entrenched *Charter of Rights and Freedoms* in 1982, legal and legislative changes have helped to build an inclusive, just society. Ideally, this society is meant to recognize, respect, and honor human diversity across relationships of power including sex-and-gender differences. The design of such a Just Society, which was the vision of Prime Minister Pierre Elliott Trudeau, has found incremental but consistent expression in significant decisions by the Supreme Court of Canada that have acknowledged and accommodated human diversity. One of the three most crucial Supreme Court decisions in relation to the rights and privileges of full citizenship, as ranked by Dean Peter W. Hogg of Osgoode Hall Law School at York University, Toronto, is the *Vriend* decision that confirmed equality rights for lesbian and gay people in Canada (Saunders, 2002). Delwin Vriend, an *out* gay educator at King’s University College, a Christian college in Edmonton, had been dismissed in 1991 on the pretext that his sexual orientation violated that institution’s religious policy. The Supreme Court of Canada handed down its long-awaited decision in *Vriend* on April 2, 1998. The decision was in the educator’s favor in his legal challenge to have sexual orientation read into the then existing *Alberta Individual Rights Protection Act*1. The Court’s ruling was in keeping with equality provisions in Section 15(1) of the federal *Charter* in which sexual orientation, as a

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1 The current legislation providing Albertans with protection of their human rights is entitled the *Human Rights, Citizenship and Multiculturalism Act*. While sexual orientation is not explicitly stated in the Act, the Government of Alberta has agreed to read in sexual orientation as a protected ground in light of the *Vriend* decision. (AHRCC, 2001).
protected category of person, is considered analogous to other personal characteristics listed there. *Vriend* had repercussions for Alberta and other provinces and territories that had not yet moved on their own to extend provincial/territorial human rights legislation to prohibit discrimination against LGBTQ persons (EGALE, 1998). Overall, *Vriend* has done more than just require provinces and territories to include sexual orientation as a prohibited ground of discrimination in their human rights legislation. It has challenged Canadian people to rethink a social, cultural, and historical mindset that has excluded or erased fellow citizens because their ways of being and loving do not fit the accepted and acceptable within a heteronormative culture and society. As well, it has given them pause to reexamine their attitudes, beliefs, mores, and actions in relation to LGBTQ people whom the Supreme Court of Canada has accorded the right to live and work free from discrimination in safe and secure surroundings.

*Vriend* and other legal and legislative moves indicate that we have come a long way in acknowledging and accommodating sex-and-gender differences since December 22, 1967 when then Justice Minister Pierre Elliott Trudeau proposed amendments to the *Criminal Code* that resulted in the decriminalization of homosexuality (Wood, 2002). The amendments passed in 1969. Prior to this liberating historical event, a Canadian citizen could be jailed simply for being a homosexual. Progress continued at an incremental, trickling pace in the 1970s and 1980s. For example, in its 1979 *Annual Report*, the Canadian Human Rights Commission recommended that sexual orientation be added to the *Canadian Human Rights Act* (Wood, 2002). The trickle became a groundswell in the 1990s, with much legal and legislative activity at the federal and provincial/territorial levels. Some of the significant changes include amending the *Criminal Code* to provide increased penalties for hate crimes on grounds that include sexual orientation (1995)\(^2\), and amending the *Canadian Human Rights Act* to prohibit discrimination against LGBTQ citizens (1996) (EGALE, 1998). More recently, on April 11, 2000, the House of Commons passed Bill C-23. This omnibus same-sex legislation updates sixty-eight Statutes of Canada to address benefits and obligations in relation to LGBTQ citizens (Hansard, 2000). These changes represent legal and legislative recognition of the need to accord LGBTQ citizens the rights and privileges of full citizenship as guaranteed by Canada’s *Constitution* and its entrenched *Charter*. This need is further and explicitly emphasized in the statement of purpose of the *Canadian Human Rights Act*:

The purpose of this Act is to extend the laws in Canada to give effect … to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status,

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\(^2\) Section 718.2 of the *Criminal Code of Canada* includes the following statement. The imposition of a sentence for an offense shall take into account “evidence that the offense was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.” (Department of Justice, Canada, 2001a, p.5)
disability or conviction for an offense for which a pardon has been granted
(Department of Justice, Canada, 2001b. p.1)

The Rights of LGBTQ Educators and Perspectives on Inclusive Policy and Practice

What do these post-1982 federal and provincial/territorial legal and legislative changes mean for LGBTQ educators as frontline workers who daily mediate issues regarding welfare and work in the generally conservative climate and culture of educational institutions? The 1998 Report on Education in Canada states, “Education reflects and influences the social, economic, political, and cultural changes happening around it” (CMEC, 1998, p. 3). With a prevalent and pervasive focus on change in relation to sex-and-gender differences in our laws and legislation, LGBTQ educators and students are increasingly expressing their needs and demanding their human and civil rights. All educators across sex-and-gender differences have an ethical responsibility to act in light of these changes and demands that are focused on recognizing, respecting, and honoring the dignity and worth of LGBTQ persons. However, this can be most stressful work, particularly because work around sex-and-gender differences often takes place in the intersection of the moral and the political. Thus any educator could be fearful. For example, LGBTQ educators could fear the repercussions of being out and visible in their workplaces. They could also fear becoming role models for LGBTQ students because there are those in society who would conflate this role with being a recruiter to some misconstrued LGBTQ cause. Straight educator allies could fear being labeled homosexual if they visibly support LGBTQ colleagues and students.

However, beyond these practical fears that some educators may have, and beyond the moral apprehensions of those citizens who fear LGBTQ differences, two things are clear: Gay is NOT going to go away, and LGBTQ differences are increasingly acknowledged and accommodated in Canadian law and legislation. These facts affect educational institutions and the cultural practices that shape them just as they affect other societal institutions. Thus educators have to act. Changes to laws and legislation in relation to sex-and-gender differences are requiring changes to educational policies so that they align with constitutional guarantees. In turn, policy changes are requiring all educators to reexamine how they act within the sociocultural climate of their institutions. This means that all educators across sex-and-gender differences have to address LGBTQ issues in relation to the social (being and interacting) and cultural (acting and doing) fabrics of their workplaces, their everyday work and professional development, and their relationships with colleagues and students. In the process, they have to consider support mechanisms for colleagues, students, and themselves, as well as safety and security issues for everyone involved. In relation to the welfare and work of LGBTQ educators, policy development and implementation have to address a range of issues: ethical, fair, and just treatment in the workplace; workplace discrimination and harassment; employment equity and access of opportunity; welfare issues for single LGBTQ persons and those with partners; and professional development around issues of sex-and-gender differences in relation to codes of professional conduct.

These issues affecting the lives and work of LGBTQ educators are central to my ongoing SSHRC research project. In this study I am attempting to ascertain the impact of legal, legislative, and educational policy changes on the everyday lives and work of LGBTQ educators in sociocultural contexts. I am using a multi-method strategy to
investigate the lives and work of educators that involves the use of open-ended interviews and focus groups, as well as the writing and sharing of poetry and narrative vignettes. Using two or more interpretive research practices in this research design has advantages (Denzin & Lincoln, 2000). First, a multi-method approach helps me make the research more rigorous because the use of different methods provides a way to check data for plausibility, authenticity, credibility, and relevance. Second, it helps make the research more holistic because different methods produce different kinds of data. Changes in disposition, contexts, and relationships occur with changes in method in research situations. Third, a multi-method approach that includes poetry and narrative vignettes provides an authentic way to access educators’ voices, and to study how the motives and practices of educators are shaped in the intersection of institutional and individual contexts (Grace & Benson, 2000). Fourth, a multi-method approach that includes my poetry and narrative vignettes can be used to fulfill a key requirement of queer theory, which is to question and analyze the role of the situated researcher. This is crucial because the situated researcher “approaches the world with a set of ideas, a framework (theory, ontology) that specifies a set of questions (epistemology) that he or she then examines in specific ways (methodology, analysis)” (Denzin & Lincoln, 2000, p. 18).

As I engage in multi-method research with educator participants, my intention is to examine each educator’s socially and culturally constructed identity-differences, their lived and variously represented experiences in educational institutions, and their self/institutional relationships. Thus far I have interviewed six educators located across the LGBTQ spectrum who have all worked in K-12 settings in the Edmonton area. What my research is telling me so far is that legal and legislative changes do not necessarily translate into sociocultural progress in educational institutions or surrounding communities. Keeping the personal invisible is a survival strategy for many educators in the face of the pervasiveness of homophobia, Christian conservatism, and other barriers to living open, full lives as LGBTQ persons. Teachers interviewed to date have much to tell. Some have shared stories of homophobic administrators who made disparaging remarks that assaulted LGBTQ identities and integrity. Others have related that they feel stymied in their efforts to intersect the personal and the professional because of their fear of backlash from conservative parents, church groups, and community groups. Some deny themselves access to benefits guaranteed in collective agreements since to apply for them is tantamount to “ outing” themselves. Particular concerns with personal safety and professional security issues have permeated sharing throughout the research process.

**Concluding Perspective**

Progressive moves in Canadian legislative, legal, and educational policy contexts provide a framework to develop institutional supports and cultural practices enabling the acceptance and accommodation of LGBTQ educators in their workplaces. However, in dispositional and practical terms, Canadian culture and society lag behind the law and legislation in building the kind of inclusive sociocultural domain that judgements and acts have guaranteed. Despite some progress in education, there is still a pressing need to focus on diversity, equity, welfare, and inclusion in relation to LGBTQ educators’ work. My ongoing research indicates a need to provide personal and professional supports for LGBTQ educators. It shows a need for professional development for all educators on sex-and-gender differences and educators’ rights and responsibilities with respect to these
differences. It also shows a need for community education for parents, church groups, and other interest groups on these matters.

Those responsibly engaged in public (K-12), adult, and higher education need to investigate the sociocultural parameters of educational work, and the extent to which particular educational practices may be oppressive. This is important work because education in its many forms should not be distant from the struggles of minorities, including sex-and-gender minorities. It is part of according LGBTQ persons the respect that every citizen is due.

References


