Theoretical, Legal, Legislative, and Educational Policy Perspectives on Queer Citizenship and Welfare-and-Work Issues in Canadian Education and Culture

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Abstract: In this essay I locate the concept queer in the context of multiculturalism in Canada. Reflecting on post-1982 legal and legislative moves that have enhanced the human and civil rights of LGBTQ (lesbian, gay, bisexual, transgender, and queer) Canadians, I discuss how this progress impacts aspects of citizenship, welfare, and work. I consider efforts needed to continue to build an inclusive, just society from queer perspectives.

This paper is dedicated to the memory of Pierre Elliott Trudeau, an extraordinary politician and cultural worker whose efforts during his tenure as Justice Minister led to the decriminalization of homosexuality in Canada in 1969. It was the late Prime Minister’s vision of an inclusive, just Canadian society that spurred the enactment of the Charter of Rights and Freedoms in 1982. The Charter has been instrumental in helping LGBTQ Canadians make incremental progress toward recognition as full persons and citizens in Canadian culture and society. Prime Minister Trudeau’s words formed his sword of justice as the following quotes affirm:

The state has no place in the bedrooms of the nation.
As Justice Minister, responding to criticism that he was making divorce easier, and relaxing laws against abortion and homosexuality – December 22, 1967

I will use all my strength to bring about a just society to a nation living in a tough world.
News conference, the day after winning the Liberal leadership – April 7, 1968

We peer so suspiciously at each other that we cannot see that we Canadians are standing on a mountaintop of human wealth, freedom and privilege.
New Year’s message – Dec. 31, 1980

Let’s go first class... the whole bag.
On deliberations over patriation of the Canadian Constitution, recounted in his farewell speech to the Liberal party – 1984

Introduction
I begin this essay by linking an expanded notion of queer to possibilities for enhancing the notion of multiculturalism in a Canadian context. Then I reflect on the incremental progress that LGBTQ (lesbian, gay, bisexual, transgender, and queer)
Canadians have made as persons and citizens using the forces of law and legislation since the enactment of the *Charter of Rights and Freedoms* in 1982. Next I draw on my ongoing research to discuss this progress in relation to welfare-and-work issues affecting LGBTQ Canadian educators. I conclude by speaking about work that remains to be done to build an inclusive, just Canadian society from LGBTQ perspectives.

**Queer in the Context of Multiculturalism in Canada**

These days, *queer* is about a whole lot more than just being lesbian or gay. For example, Eve Kosofsky Sedgwick, whose 1990 book *Epistemology of the Closet* is often cited as the founding text in queer theory, expands the meaning of queer in ways that collapse a queer identity politics bounded by limited understandings of sex-and-gender differences. Sedgwick (1990; 1993) formulates two hypotheses to theorize her work on the transitivity of sex-and-gender identities. First, she submits that modern figurative, commonsensical constructions of sexual identities that situate lesbians or gay men between genders (inversion models) or as discrete genders (gender-separatist models) are meaningless tropes. They fail “to think about lesbian, gay, and other sexually dissident loves and identities in a complex social ecology where the presence of different genders, different identities and identifications … [is] taken as a given” (Sedgwick, 1993, p. xiii). Second, she proposes that that the failure to use the homo/heterosexual definition as a cultural site that includes the array of subjectivities and agencies associated with sex-and-gender differences reduces to inutility, incoherence, and prejudice a conventional definition that has been used to think about distinctly straight male and straight female as well as distinctly lesbian or gay individuals. From these perspectives, Sedgwick (1993) engages the word *queer* as a more encompassing term to name and describe sex-and-gender differences in the multifarious intersections of identities, identifications, differences, and representations that lie inside and outside a pervasive, neat, conservative heterosexualizing discourse:

Queer is a continuing moment, movement, motive – recurrent, eddying, *troublant*. … [It is] transitive – multiply transitive. The immemorial current that *queer* represents is anti-separatist as it is anti-assimilationist. Keenly, it is relational, and strange [her italics]. (p. xii)

For Sedgwick an expansive and inclusive understanding of *queer* can organize (or at least it has the potential to organize) the array of sex-and-gender differences that lie within or beyond the heterosexist assumption:

That’s one of the things that “queer” can refer to: the open mesh of possibilities, gaps, overlaps, dissonances and resonances, lapses and excesses of meaning when the constituent elements of anyone’s gender, of anyone’s sexuality aren’t made (or *can’t be* [her italics] made) to signify monolithically. (p. 8)

Sedgwick doesn’t stop there. She describes how queer can be expanded even further to include, for example, “identity-constituting, identity-fracturing discourses” (p. 9) on race, ethnicity, and postcolonial nationality that, on the one hand, lie beyond discourses on gender and sexuality and, on the other hand, intersect with such discourses. From this perspective, “the leverage of ‘queer’ … [does] a new kind of justice to fractal intricacies of language, skin, migration, state” (p. 9).

When queer is used not only to name an array of sex-and-gender differences, but also to name positionalities in the contexts of race, ethnicity, and postcolonial nationality
that intersect with and lie beyond sex-and-gender differences, the term is laden with possibilities for expanding our understanding of multiculturalism. In Canada we have grappled with the notion of multiculturalism for more than three decades. In 1971 the Government of Canada issued a policy on multiculturalism, giving the concept official legislative footing for the first time in the world, and affirming multiculturalism as a defining characteristic of Canadian identity and society (Canadian Heritage, 2000). In 1988 the Canadian Multiculturalism Act was passed. With this legislation Canada’s approach to multiculturalism is situated within a broad framework of civil, political, social, language, and minority rights. Such an approach does not (and should not) have to focus exclusively on race and ethnicity, although this appears to be its primary design. Instead it could focus on an array of relationships of power, considering each relation in terms of its own character and in terms of its changing character when it intersects with other power relations. For example, if an expanded understanding of queer was used to augment our conception of multiculturalism, then we would have a more encompassing, inclusive, and critical basis to engage differences and to mediate their complex cultural politics. This would help us understand the complexities of individual and intermeshing differences, an important dynamic for Canadian educators as we develop policies and practices in keeping with the Charter’s foci on justice, inclusion, and accommodation.

**LGBTQ Progress in Legal and Legislative Arenas in Canada**

In 2002 we celebrated the twentieth anniversary of the patriation of our constitution. Still we deliberate whether our Canadian Constitution with its entrenched Charter of Rights and Freedoms defines us as citizens and as a nation. These ongoing deliberations point to the fact that the Constitution and the Charter provide focal points for serious reflection regarding whom has space and place in our country. Indeed it has been in the very process of persistently questioning the unifying nature of our Constitution and the inclusive nature of our Charter that we have begun to create a Just Society. Prime Minister Pierre Elliott Trudeau, who coined this phrase and who was instrumental in bringing the Constitution from Britain to Canada in 1982, envisioned this inclusive society as one that would recognize, respect, and honor the human diversity metaphorically described as the Canadian mosaic. In his twentieth anniversary remarks, former Ontario Premier Bob Rae reflected, “Mr. Trudeau … believed very strongly that constitutions with an entrenched charter of rights that would be protected by the courts are an important element of what it means to live in a free society” (Saunders, 2002, p.1). Since 1982, Prime Minister Trudeau’s design for a Just Society has found incremental expression in key decisions by the Supreme Court of Canada that have acknowledged and accommodated human diversity, and prompted legislative changes.

From queer perspectives, we have come a long way 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). In the decades since that milestone event, LGBTQ Canadians have made incremental progress in our ongoing struggle for rights as persons and citizens. Much of this progress has occurred since the enactment of the Charter in 1982, which, with its power to protect and expand human rights, ranks as possibly the most significant human rights milestone in 20th century Canada. Since the enactment of the Charter, numerous advances through the courts and changes to federal and provincial human rights legislation, especially during
the 1990s, have respected the dignity and worth of LGBTQ Canadians. Significant changes include those that allow lesbians and gays to serve in the military (1992), amend the *Criminal Code* to provide increased penalties for hate crimes on grounds that include sexual orientation (1995), and amend the *Canadian Human Rights Act* to prohibit discriminatory practices based on sexual orientation (1996). 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). All these changes are consequences of the Supreme Court of Canada decision to read *sexual orientation* in as a category of person analogous to other personal characteristics listed in Section 15(1) of the *Charter*. Equality provisions listed in the section apply to sexual orientation.

These changes do not constitute special rights for us. Instead, they represent long overdue recognition of the need to undo the damage of heterosexualizing societal and systemic structures that relegate LGBTQ persons to status as non-persons and uncitizens. After all, “government benefits should not be a ‘moral reward’ for being in a relationship of which the State approves, but should be tailored to meet the needs of all members of society” (EGALE, 1998, p. 1).

**LGBTQ Status in Canadian Education and My Research Initiative**

The 1998 *Report on Education in Canada* reminds us, “Education reflects and influences the social, economic, political, and cultural changes happening around it” (p. 3). One change force that is increasingly impacting concerns with diversity and equity in education is a prevalent and pervasive focus on sexual orientation as a category of person to be recognized and protected in Canadian culture and society. However, education, clinging to its historical role as replicator of a heteronormalizing culture and society, has not quickly or easily responded to the demand to be sex- and gender inclusive. Thus LGBTQ educators (and, of course, LGBTQ students) remain largely marginalized in education’s institutional settings (Grace & Benson, 2000; Grace & Wells, 2001). For example, in the 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 (Gamson, 2000; Pinar, 1998). Moreover, insufficient attention has been paid in educational research to the recurrent tension-filled relationship between the personal and professional experiences of LGBTQ teachers (Grace & Benson, 2000).

These various absences provide impetus for my ongoing three-year research project funded by the Social Sciences and Humanities Research Council of Canada. In this research I am studying welfare-and-work issues impacting LGBTQ teachers in K-12 settings in Canada’s provinces and territories. My intention is to ascertain ways to (a) protect LGBTQ educators personally and professionally in their workplaces, (b) provide professional support mechanisms for LGBTQ educators in crisis, and (c) support professional development for all educators on sex-and-gender differences and educators’
rights and responsibilities. I am also developing an inventory delineating welfare-and-work issues for LGBTQ educators that remain to be addressed in a Canadian context.

In the first phase of this research project, I have been analyzing how themes, constructs, language, conventions, markers, and symbols in contemporary queer theory can be used to provide a framework for contextual analysis of welfare-and-work issues impacting the personal and professional lives of LGBTQ educators. In the second phase, I have been conducting an analysis of Canada’s federal and provincial/territorial legal decisions and legislation and provincial/territorial educational policies that have a bearing on welfare and work for LGBTQ educators. In the third phase of this national research project, for which a pilot study has been completed in Alberta, I will conduct a study of the lives and work of a cross-section of teachers from across the country. I want to ascertain how legal, legislative, and educational policy contexts influence their everyday lives and work. In the pilot study I used a multi-method qualitative approach that involved use of open-ended interviews and focus groups, as well as the writing and sharing of poetry and narrative vignettes. This research included studies of teachers’ socially and culturally constructed identity-differences, their lived and variously represented experiences in schools, and their self/institutional relationships. Throughout there has been a pervasive focus on challenges, possibilities, risks, and liabilities that LGBTQ teachers consider when they explore the prospect of visibility in their schools.

The research has included studies of teachers’ efforts at local and other levels to help develop policies that counter discrimination in education on the basis of sexual orientation in particular and that are part of visions to counter discrimination in education in general. It has also involved analysis of codes of professional conduct in regard to how teachers treat LGBTQ students and teacher colleagues. 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 share stories of homophobic administrators who made disparaging remarks assaulting 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. Concerns with personal safety and professional security issues have permeated much of the sharing throughout this research process.

**Concluding Perspective**

Changes focused on visibility and accommodation issues for LGBTQ educators in institutional settings and the larger culture and society involve a long and arduous change process. The focus on the right of LGBTQ teachers to be protected from discrimination on the basis of prejudice as to sexual orientation places particular demands on education, demands that are both complex and perplexing because of their political, moral, ethical, and legal implications. Being LGBTQ and acting in loco parentis are still not considered complementary, especially for conservatives who cannot see beyond the exclusivity of their heteronormalizing morals and politics. However, we can no longer ignore or deny
anti-gay prejudice and hatred in addressing discrimination in Canadian education. If building an inclusive society is a key role for education in Canadian democracy, then the political and pedagogical task is clear: We have to create work environments for teachers and learning environments for students that nurture all persons. These environments have to be safe and secure sociocultural spaces where LGBTQ being and belonging are recognized, respected, and fostered. Accomplishing this is no easy task. However, in light of Canadian law and legislation, anti-LGBTQ prejudice and hatred have to be tackled in addressing forms of discrimination in Canadian education. Sex-and-gender differences are among differences that go to the heart of being safe and belonging in education and society. While gay bashing, discrimination, and exclusion based on sex-and-gender differences persist in Canadian society, a Just Society does not exist. Much work remains to create Pierre Elliott Trudeau’s vision of an inclusive society where the dignity, worth, and integrity of all Canadians is recognized, respected, and honored. Maybe one day LGBTQ Canadians will go first class and have the whole bag, which was the Prime Minister’s dream for all Canadians.

References


