

LABOUR PRIDE

UNIONS AND THE MOVEMENT FOR LGBT RIGHTS

WORDS BENJAMIN ISITT

“An injury to one is an injury to all.” This traditional rallying cry of the labour movement has assumed a new urgency in response to attacks on hard-won human rights by the Trump administration in the United States and reactionary movements closer to home in Canada.

In this context, it is important to remember that rights that have been won can be taken away, and that history never stands still. Examining the movement for the rights of lesbian, gay, bisexual, transgender, queer and two-spirited people (LGBT) in the labour movement and in broader society provides a timely reminder of how individuals and groups can combat discrimination and pursue equality.

ORIGINS OF THE GAY LIBERATION MOVEMENT

In the 1970s, gays, lesbians and others whose sexuality or gender identity was found to be outside of mainstream norms faced overt and often violent discrimination. Until 1969, homosexual acts between consenting adults were prohibited under the *Criminal Code of Canada*, and persecution of queer culture by police, prosecutors, border guards and other state officials was widespread.

Sparked by the 1969 Stonewall riots, which followed violent police raids on a gay and lesbian bar in Greenwich Village in New York City, members of the LGBT community turned to collective action and social protest to combat discrimination and advance their rights.

This nascent gay liberation movement embraced strategies from other equity-seeking groups such as the women’s liberation, Black Power and American Indian movements. In Canada, LGBT activism found expression as the Gay Liberation Front (GLF)—a radical organization opposed to conventional conceptions of marriage, monogamy and family. The aim of the GLF was to “transform all sexual and gender relations.”

In 1981, Canada had its own Stonewall when Toronto police raided four of the city’s five bathhouses and arrested 268 gay men. The incident marked the largest mass arrest in Canada since the invocation of the *War Measures Act* during the Front de libération du Québec (FLQ) crisis a decade earlier. The Toronto bathhouse raids intensified LGBT advocacy and gave rise in 1986 to Canada’s second



PEA members marching at the Victoria Pride Parade. Credit: Aaron Lutsch

LGBT rights organization, Egale Canada (formerly Equality for Gays and Lesbians Everywhere). Egale would become a major force for advancing legal equality and human rights in Canada.

THE LABOUR MOVEMENT AND LGBT RIGHTS

Unions have often been at the forefront of actions to expand LGBT rights, building on the efforts of women's rights activists who challenged the movement's patriarchal attitudes and pursued "social unionism."

In 1986, the Canadian Labour Congress (CLC) responded to pressure from LGBT members and affiliated unions by amending its constitution to prohibit discrimination on the basis of sexual orientation.

A year earlier, the Canadian Auto Workers had revised its constitution to include in its oath of office a pledge by all union leaders to fight discrimination, including discrimination on the grounds of sexual orientation.

In 1989, the Hospital Employees' Union (HEU) in British Columbia went a step further by securing recognition for same-sex benefits in its collective agreement with health employers. This precedent provided the basis for a 1991 lawsuit filed by the HEU on behalf of a member, Tim Knodel, whose terminally ill partner was denied coverage by the BC Medical Services Commission. In a landmark decision, the BC Supreme Court ruled in favour of the HEU and Knodel, ordering the commission to recognize same-sex partners as "spouses" and provide medical coverage.

FEATURES

Gay rights in the unions

by Ken Popert



Other unions soon followed in negotiating same-sex benefits for their members, buoyed by a CLC resolution calling on affiliated unions to make this a bargaining priority.

Around this time, LGBT caucuses began to emerge in a number of unions, beginning with the Public Service Alliance of Canada in 1990, followed by the Canadian Auto Workers and the Canadian Union of Public Employees, whose “Pink Triangle Committee” created an information kit to educate union members about sexual orientation and LGBT rights.

In the PEA, LGBT rights advanced along a similar path, with gender-specific language in collective agreements giving way to the gender-neutral “spouse,” providing same-sex partners with access to benefits that included

LGBT ACTIVISM IN THE LABOUR MOVEMENT GREW FROM THE 1960S TO THE 1990S, TIED TO WIDER SOCIAL-MOVEMENT ADVOCACY DEMANDING LIBERATION FOR EQUITY-SEEKING GROUPS

extended health and survivor benefits. Same-sex couples also benefited from the expansion of parental leave provisions in the 1990s and 2000s, including paid leave for parents who adopt a child.

CONSTITUTIONAL RECOGNITION OF LGBT RIGHTS

Gains made at the bargaining table during this time occurred alongside a flurry of litigation from the LGBT community to challenge discriminatory laws and secure formal equality.

Sexuality had been omitted as a prohibited ground of discrimination when the *Canadian Charter of Rights and Freedoms* was enacted in 1982 (defeated on a parliamentary committee vote of 23 to 2), so it was to the courts that the LGBT community turned to secure formal rights.

The struggle for Constitutional recognition of LGBT rights centred on cases involving benefits for same-sex couples, including access to spousal allowance under the *Old Age Security Act* in the Egan case (1995), extended health and life insurance benefits in Moore (1998), and pension eligibility in Rosenberg (1998), a case that successfully challenged the definition of “spouse” in the federal *Income Tax Act*. Other cases extended LGBT rights in the areas of immigration, housing, employment, adoption, finances and hate crimes.

These rulings led to sexual orientation being added to Section 15 of the Charter as a prohibited ground for discrimination, enshrining protection for LGBT rights in provincial and federal law. This advocacy culminated in Parliament's enactment in 2005 of the *Civil Marriage Act*, extending the statutory right to marry to gay and lesbian couples.

ADVANCES FOR LGBT RIGHTS IN BRITISH COLUMBIA

Members of the LGBT community in British Columbia also experienced important advances toward statutory

rights through legislative action in the 1990s. Following the 1991 provincial election, the New Democratic government of Mike Harcourt made good on its campaign promises to the LGBT community with the introduction of groundbreaking bills, beginning with amendments to the *Medicare Protection Act* in 1992 that extended the definition of "spouse" to couples living in "marriage-like" relationships.

Other legislative reforms followed in family law and related fields, including protections for same-sex partners following the dissolution of a common-law relationship. In 2000, the government adopted the *Definition of Spouse Amendment Act*. This statute extended the



The 2014 film *Pride* examined connections between the labour movement and the LGBTQ movement, highlighting the story of advocacy efforts by the group "Lesbians and Gays Support the Miners" during the 1984-85 British Miners' Strike. Credit: LGSM

spousal definition to same-sex couples in a range of provincial laws, building on the precedent set in the HEU and Knodel case.

DEBATES AND DIRECTIONS FOR LGBT ADVOCACY

Certain radical elements in the LGBT community have questioned the wisdom of the litigation strategy, arguing that it has tended to shift the emphasis of the movement from collective goals focused on community organizing and social movement mobilization toward a more narrow focus on courtrooms, law and an apolitical view of equality oriented around individual rights.

This parallels a wider critique of the *Canadian Charter of Rights and Freedoms* that challenges the Charter's focus on a negative conception of liberty—one that protects individuals from discrimination—rather than on expanding access to positive social rights through the elimination of systemic forms of discrimination.

THE LGBT COMMUNITY
HAS MADE GREAT
STRIDES OVER THE PAST
50 YEARS—COMBATting
DISCRIMINATION AND
SECURING RECOGNITION
OF FORMAL EQUALITY IN
COLLECTIVE AGREEMENTS,
IN PROVINCIAL AND
FEDERAL LAW, AND IN THE
ATTITUDES OF THE PUBLIC
AND SOCIAL INSTITUTIONS.

Radicals also criticize the litigation strategy for its reinforcement of traditional conceptions of family and property, arguing that the approach expands the definition of who constitutes a family and who has access to its privileges without uprooting basic social relationships. From the radical standpoint, this represents a retreat from the original promise of the gay liberation movement to “transform all sexual and gender relations.”

Recent moves to recognize the rights of transgender people have taken the LGBT and labour movements in new directions. At the Canadian Labour Congress's Solidarity and Pride Conference in Vancouver in 2001, the rights of trans people—in the labour and LGBT movements and in society more broadly—was a central theme. There is growing recognition that trans people are among the most marginalized, and that unions must be proactive about defending their rights in the workplace.

The LGBT community has made great strides over the past 50 years—combatting discrimination and securing recognition of formal equality in collective agreements, in provincial and federal law, and in the attitudes of the public and social institutions. However, work remains to be done—both to defend existing gains and to propel equality in fresh directions.

Benjamin Isitt is a labour historian and legal scholar specializing in the connection between social movements and the state. Outside of his academic work, Dr. Isitt serves the public as a city councillor and regional director in Victoria.