

Telling our Stories

1. Are you out in the workplace?
2. If you are, what was your experience?
3. If you are not, what are your concerns?

Historical discrimination against GLBT workers in Canada **Prepared by PSAC Human Rights Officer, Andrée Côté**

- Homosexuality was a crime until 1969
- In the 1960's the RCMP developed a list of 9,000 presumed homosexuals in the National Capital Region alone. The government had a "fruit machine" to discover and weed out homosexuals
- Up until 1978, homosexual immigrants were not entitled to receive Canadian citizenship
- In 1981, 300 men are arrested at four gay bath houses in Toronto.
- In 1981, the World Values Survey showed that 51 percent of Canadians considered that homosexuality was "never justified" (that number declined to 21 percent in 2005)
- Homosexuals were actively persecuted by the federal public service up until the 1990's.
- Homosexuals were fired from the army if it was discovered that they were gay or lesbian up until 1992
- Same-sex spouses were not allowed to get married, nor were they recognized as common law spouses
- Same-sex partners were excluded from workplace benefits that heterosexual partners received: benefits, pensions, etc
- Same-sex couples were not allowed to adopt children: Ontario was the first province to allow adoption in 1995
- Discrimination against gays, lesbians and bisexuals was not prohibited by the Canadian Human Rights Act until 1996, and this was only won after a long legal battle.
- Same sex couples were not recognized under Canadian immigration law until 2002
- A study published in 2008 shows a 12 percent pay gap for gay men ... while lesbians earn 15 percent more than heterosexual women

- In 2009, the research organization Catalyst conducted two surveys of LGBT workers in Canada about their workplace experiences. This study was the first of its kind in Canada. The study found generally that:
 - “a lack of awareness, which may cause other employees to rely on stereotypes, can lead to a hostile work environment for LGBT employees including discriminatory behaviours such as inappropriate humour or derogatory language; exclusion from important relationships and advancement opportunities; and a lack of role models.”
- A 2011 Angus Reid survey found that
 - 34% of gay men and 40% of lesbians have experienced discrimination at work
 - 72% feel that attitudes in the workplace have improved over the past five years
 - But 11% describe their co-workers as intolerant towards LGBT people
- The most recent Public Service Employee Survey (2014) shows that eight per cent of federal public service workers have experienced discrimination. Of this group, three per cent say that they experienced discrimination based on their sexual orientation. This means that more than 600 GLBT employees may have experienced discrimination based on their sexual orientation or gender identity
- A recent survey done by the Canadian Centre for Diversity and Inclusion found that
 - 29% of LGBT respondents have experienced discrimination in the workplace
 - in 40% of the cases where respondents say they have experienced discrimination, they report experiencing discrimination at least once a month or more.

- Studies indicate that trans people have to deal with particularly high levels of discrimination, harassment and violence in society and at work: in Ontario 18 per cent are turned down for a job, and 13 per cent were fired because of their trans identity.
- Discrimination against transgender people is still not prohibited by the Canadian Human Rights Act.

HISTORY IN THE MAKING



PSAC
works for
GLBT rights!



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PSAC works for GLBT rights

Outline



Introduction

PSAC is a proud ally in the struggle for the advancement of the human rights of gay and lesbian, bisexual and transgender * people in Canada.

Eradicating homophobia and transphobia in the workplace and bargaining and lobbying for the full protection of our GLBT members' human rights are ongoing priorities for the PSAC.

The current, concerted attacks on unions undermine the struggle for human rights. Together, we can work to fend off such attacks by championing the many victories we've gained for our members.

PSAC defends the human rights of all our members, because *We are ALL Affected* by discrimination and inequality.

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GLBT rights!

*GLBT stands for Gay, Lesbian, Bisexual and Trans communities. It is by no means comprehensive. Nevertheless, we use it because it corresponds to the terminology reflected in the PSAC Constitution. That being said, we recognize an ever broader array of sexual and gender identities, including but not limited to, Intersexed, Queer, Questioning, and 2-Spirited identities.

Introduction

PSAC works for GLBT rights!

1 - PSAC leads the way in bargaining

- **No discrimination – sexual orientation**

As early as 1980, PSAC sought to have sexual orientation added to the no discrimination clause in collective agreements. Treasury Board refused.

In 1983 PSAC proposed a non-heterosexual definition of common-law spouse that would have included same-sex spouses, and a no discrimination clause that included sexual orientation. Treasury Board rejected these demands.

When PSAC negotiated its first Master Agreement with Treasury Board in 1986, sexual orientation was at last included as a prohibited ground of discrimination (clause M-16). This was a fundamental step forward because it provided an avenue to demand basic human rights within the workplace.

- **Same-sex spousal benefits**

During negotiations for the second Master Agreement, PSAC proposed to amend the definition of spouse and to expand the preamble to the bereavement clause. However, these benefits continued to be denied to same-sex spouses, despite the fact that clause M-16 prohibited discrimination based on sexual orientation.

In 1989, PSAC asked Treasury Board once again to modify the definition of spouse, given the discriminatory nature of the existing definition. When Treasury Board

refused, the union brought its proposal to a conciliation board, but the board recommended against changing the definition. When a settlement could not be reached in 1991, PSAC members held a national strike, but were legislated back to work

In 1994, Treasury Board responded to PSAC's ongoing proposal for same-sex spousal benefits by suggesting that the Justice Minister prepare amendments to the Canadian Human Rights Act on this issue.

Finally, in 1998, the Program Administration (PA) collective agreement was amended to provide for an inclusive definition of spouse that read: "common-law spouse": a common-law spouse relationship exists when, for a continuous period of at least one year, an employee has lived with a person publicly represented that person to be his/her spouse and continues to live with the person as if that person were his/her spouse (*conjoint de fait*).

All of PSAC's agreements with Treasury Board now define common-law partner and spouse as follows:

"common-law partner" (*conjoint de fait*) means a person living in a conjugal relationship with an employee for a continuous period of at least one (1) year."

"spouse" (*époux*) will, when required, be interpreted to include "common-law partner," except, for the purposes of the *Foreign Service Directives*, the definition of "spouse" will remain as specified in Directive 2 of the *Foreign Service Directives*.

The PSAC has also been successful in winning non-heterosexual language in other collective agreements. For example, in 1987 the union bargained with the Northwest Territories government to expand the definition of common-law relationships to include same-sex spouses. The same language was negotiated with the Yukon government in 1990.

In the early 1990s, the PSAC 'walked the talk' by negotiating collective agreements with its staff that specifically recognized same-sex relationships.

- **Spousal union leave**

PSAC reiterated its commitment to equality for lesbian and gay members by making the negotiation of spousal union leave a priority.

In 1998 the union negotiated spousal union leave for gay and lesbian couples at the Museum of Sciences and Technology, the National Gallery, the Canadian Museum of Nature and at Canada Post.

Before the *Marriage Act* was amended in 2005, PSAC negotiated spousal union leave in several collective agreements, instead of or in addition to marriage leave. In one example, the Regina Airport Authority agreement provided for five days of leave for anyone with one year of continuous service "for the purpose of declaring spousal union with another person in a public ceremony". Similar provisions were



also negotiated successfully at several other airports.

In 2006, marriage leave was extended to same-sex couples for all Canada Revenue Agency bargaining units.

- **Gender identity**

The PSAC is on the cutting-edge in achieving rights for our transgender members, and has bargained for language on two relevant grounds of discrimination: gender identity and gender expression. The union has also made gains by bargaining for access to safe washrooms and change rooms, and for the right to be referred to by one's chosen gender.

The addition of "gender identity" to anti-discrimination clauses has been bargained in three museums and related arts groups, in nine airport related bargaining units, in eight of 16 units in the Yukon, and 21 of 29 units in the Northwest Territories. Notably, the Northwest Territories was the first jurisdiction in Canada to amend its human rights legislation to prohibit discrimination based on gender identity and gender expression.

PSAC works for GLBT rights!

2 - PSAC makes gains through courts

As of the late 1980s, the PSAC had filed a series of grievances against Treasury Board related to discriminatory collective agreement provisions in areas such as marriage leave and bereavement leave for common law in-laws, and provisions in the Public Service Health Care Plan and the Dental Plan.

• Leaves of absence

In 1993, the PSAC successfully argued in the David Lorenzen case that a member with a same-sex spouse should be provided spousal-related leave under the collective agreement. Lorenzen's spouse had broken his leg, and need to be cared for at home. Three weeks later, Lorenzen's partner's father passed away. Lorenzen requested both: family related care leave and bereavement leave for his father in law. Treasury Board turned down both requests on the basis that Lorenzen's partner was of the same sex. The Public Service Labour Relations Board agreed with PSAC and ruled in favour of both requests, setting a precedent for several other cases.

• Spousal benefits

In 1993, Luc Guèvremont, a PSAC member at Canada Post, was denied reimbursement for his partner's eye glasses under the vision care plan. His grievance set in motion another landmark decision for PSAC GLBT

members, as it was ruled that Canada Post was obligated to provide spousal benefits for same-sex partners without discrimination.

Despite the union's success in the Lorenzen and Guèvremont cases, Treasury Board refused to budge, and contested all grievances pertaining to spousal benefits. In reaction, the PSAC National Board of Directors passed a resolution in 1994 calling for a grievance campaign against the denial of spousal leave requests and the denial of claims under the Public Service Health Care Plan.

PSAC member Dale Akerstrom, whose spouse was being denied Public Service Health Care and Dental Plan benefits, filed a complaint with the Canadian Human Rights Tribunal in February 1993, alleging that the Canada Employment and Immigration Commission (CEIC) and Treasury Board discriminated against him on the grounds of sexual orientation, family status and marital status..

Amidst all this, the Supreme Court of Canada ruled in 1995 that Section 15 of the Canadian Charter of Rights and Freedoms provided equality rights to gays and lesbians (the Egan and Nesbit case), and Treasury Board was forced to concede that its policy was discriminatory. The Human Rights Tribunal



hearing the Akerstrom complaint made a comprehensive order for the employer to immediately cease and desist applying any discriminatory definition of spouse or any other discriminatory provision of the collective agreement, and to interpret all such definitions "so as to include same-sex common law spouses".

The Akerstrom ruling was of historic importance and had a huge impact by directly benefiting not only Treasury Board workers but also the military, the RCMP, some Crown corporations and agencies, as

well as pensioners covered by the federal medical insurance plan. It also applied to federally-regulated employers in the private sector, such as banks, railways, airlines, and telecommunications companies.

Treasury Board continued to resist and proposed that a separate regime of benefits for same-sex partners be included alongside the heterosexual specific definition of "spouse" in the collective agreement and in the National Joint Council Agreements. PSAC had the matter referred back to the Human Rights

Tribunal which found Treasury Board's position to be discriminatory since it reinforced existing prejudice against gays and lesbians in society. Treasury Board appealed this ruling. Finally, in August 1998, the Federal Court confirmed the Human Rights Tribunal interpretation which led to an inclusive definition of spouse in the PSAC's agreements with Treasury Board in 1998.

- **Pension plan survivor benefits**

PSAC National President Daryl Bean wrote to Treasury Board President Gilles Loiselle in 1992 requesting that the Public Service Superannuation Act be amended to allow same-sex spouses to claim survivor benefits. Loiselle refused saying the federal government pension plans didn't permit the payment of survivor benefits to individuals of the same gender as the contributor. PSAC challenged the policy in court but was not successful because the *Canadian Human Rights Act* did not apply to pensions.

The Canadian Labour Congress, with the support of affiliates like the PSAC, intervened in support of Jim Egan and Jack Nesbit who sued Ottawa for the right to claim a spousal pension under the Old Age Security Act. In 1995, the Supreme Court ruled against the two men, but the decision was nonetheless game-changing, as it established sexual orientation as a prohibited ground of discrimination under Section 15 of the Charter.

The Supreme Court decision in *M. v. H.* in 1999 eventually led to amendments of all federal and provincial pension benefits standards legislation to provide for survivor pension benefits to same-sex couples.

- **Fighting homophobia**

The PSAC has also represented members in complaints related to human right violations outside of the workplace. In 2005, the Alliance Executive Committee agreed to cover some of the costs of a legal battle by two PSAC members, Kim Forster and Carol Pegura, who filed a human rights complaint against the Surrey School District Board. Forster and Pegura argued that they suffered discrimination when the Board permitted a poisonous and homophobic environment at two public meetings to discuss three children's books depicting same-sex parents where speakers denounced the homosexual "lifestyle".

In the Susan Comstock case, the PSAC reasserted itself firmly in defence of GLBT rights. In her court challenge, Comstock took issue with the PSAC's positions on GLBT rights, which she argued violated her Charter rights to freedom of religion, and freedom of conscience. Comstock further attempted to see her dues withheld, or sent to her church to protest the union's support for gay marriage and its zero tolerance against homophobia and heterosexism.

The Federal Court of Appeal rejected the legal challenge. "The evidence does not show how her freedom of religion and conscience was compromised by this policy," Justice Frederick Gibson wrote. "The fact that she opposes the union's political or social causes does not force her to act in a way contrary to her beliefs or her conscience." The Catholic Civil Rights League, which took up Comstock's cause and supplied her with legal support, denounced Canadian courts and tribunals for being "generally favourable to homosexual activists."



3 - PSAC mobilizes to change the law

- **The Canadian Human Rights Act**

In the 1990s, PSAC joined like-minded groups to lobby for amendments to the *Canadian Human Rights Act*.

In 1991, National President Daryl Bean wrote to the Prime Minister and the Minister of Justice clearly stating the union's position in favour of amending the *Canadian Human Rights Act* to prohibit discrimination based on sexual orientation. For several years, the PSAC lobbied government and worked with opposition parties until the *Canadian Human Rights Act* was amended in 1996 to prohibit discrimination based on sexual orientation.

- **Equal benefits**

In 1999, the Supreme Court of Canada decided in the *M v H* case, that it was discriminatory to deny same-sex couples the benefits afforded to heterosexual couples. In response to the Supreme Court's ruling, the federal Liberal government introduced Bill C-23, the Modernization of Benefits and Obligations Act, giving same-sex couples who have lived together for more than a year the same benefits and obligations as common-law couples.

The Canadian Labour Congress (CLC) and many affiliates, including the PSAC, made submissions in support of the Bill during Parliamentary hearings. The Act affected 68 federal statutes on a wide range of issues

such as medical and dental benefits, Old Age Security, income tax deductions, bankruptcy protection and the Criminal Code. The definitions of "marriage" and "spouse" were left untouched, but the definition of "common-law relationship" was expanded to include same-sex couples.

- **Employment equity**

In 2002, during a review of the federal *Employment Equity Act*, the PSAC made a submission outlining its concern that GLBT persons were excluded from the Act.

- **Equal marriage**

When the Supreme Court of Canada declared that prohibiting same-sex spouses from marrying would be unconstitutional, PSAC joined the Canadians for Equal Marriage campaign, donating office space and other services. The Coalition, created by EGALE and the United Church of Canada, had an extensive list of supporting organizations including the CLC and affiliated unions. Unions and individual supporters presented briefs before Parliamentary committees and lobbied MPs in support of the legislation.

On July 20, 2005, Bill C-38, the *Civil Marriage Act* was proclaimed into law making Canada the fourth country in the world after the Netherlands, Belgium and Spain to legalize same-sex marriage. The



Bill had been supported by most members of the Liberal party, the Bloc Québécois and the NDP.

In 2006, with the election of a minority Conservative government, Prime Minister Harper tried to introduce legislation aimed at restoring the "traditional definition of marriage". PSAC adopted a statement on equal marriage, developed a campaign lobby kit and publicly called on the government to leave the *Civil Marriage Act* alone. Thanks to the important work carried out by all coalition partners this initiative was never adopted.

• **Gender identity and gender expression**

Since 2009, the PSAC has actively supported various NDP private Members bills proposing amendments to the *Canadian Human Rights Act* to include gender identity and gender expression

in the list of prohibited grounds of discrimination. The work included collaborating with the Canadian Labour Congress and Egale to develop lobby strategies and invite Trans activists to participate in lobbying. PSAC's website became the focal point for speaking points and letters to MPs.

The 2011 election prevented NDP MP Bill Siksay's Bill C-389 from being adopted after it had been passed by the House of Commons. It was followed by NDP MP Randall Garrison's Bill C-279 introduced in September, 2011. Later that fall PSAC participated in discussing a strategy for lobbying at the CLC's Stand Up for Your Rights Conference. In March, 2012 PSAC wrote to Prime Minister Harper and the Minister of Justice to support the bill. As of June, 2013, the Bill had been adopted by the House of Commons and was being debated at third reading in the Senate.

PSAC mobilizes to change the law



4 - PSAC works in solidarity inside and outside Canada

• **With Pride in our different regions**

Every year, PSAC activists help organize Pride events in their regions. For instance in BC, Pride is celebrated in large and small communities including such places as Masset (Haida Gwaii), Nelson, Kelowna and of course Vancouver, Victoria and Prince George with many other communities far and wide.

The PSAC BC Pride Committee works towards inclusion and they make a visual presence in most if not all Pride celebrations. As to inclusion, they aim to get all Unions together for the parades in a Multi Union Pride entry. Showing solidarity and pride in its many facets of life. By

being together in one multi entry event, they show strength in numbers and the strength of solidarity.

Some of our BC members also do outreach to schools and through community groups and organizations. Bringing together the many allies and members of the Pride community. Leading by example is the only way forward for us.

Work done in Quebec

In Quebec, in addition to coordinating the GLBT activities of PSAC, the Area Council representative sits on the GLBT Committee of the Fédération des travailleurs du Québec.





The FTQ represents more than 600,000 members in Quebec.

The priorities of the FTQ GLBT Committee are to fight homophobia, transphobia, violence and all other forms of discrimination that manifest themselves in the workplace and at school. Its goal is to end isolation, create openness to problems experienced by the GLBT and develop a climate of trust and openness to diversity. To achieve this, the Committee advocates the development of a preventive approach and training programs aimed at promoting the rights of the GLBT.

The Committee is also focusing on developing alliances in the community, particularly with social delegates of the FTQ area councils. It is also attempting to shore up its ties with local communities and organizations that get involved with the rights of GLBT persons. On May 17, it will also be involved in the *International*

Day Against Homophobia and Transphobia, which is held each year on May 17.

To find out more, go to Facebook "GLBT-FTQ" and YouTube: "ça s'améliore" (It's getting better).

- **Working with the our allies**

The PSAC has been a staunch supporter of EGALÉ (Equality for Gays and Lesbians Everywhere) and has contributed funds and human resources to support their struggle for GLBT equality rights.

In 1992, the PSAC endorsed and was an official sponsor of a national conference entitled "Outrights\ les droits visibles".

In 1994, the Canadian Labour Congress (CLC) adopted a policy on sexual orientation and established a Solidarity and Pride Working Group. PSAC was one of the first unions to appoint representatives to

the Working Group and has continued to participate. As an active member of the Group, PSAC helped organize and had the largest caucus at the first union-sponsored CLC Solidarity and Pride conference held in 1997.

In 1998 the PSAC helped sponsor and sent a large delegation to the CLC prairie regional Pride conference "Working Out West" in Alberta.

PSAC sent the largest delegation to the second national CLC Solidarity and Pride Conference in 2001 and actively participated in the third conference in 2005.

In December 2010, the PSAC delegation to the CLC *Rise Up for Your Rights* Conference was the largest of any affiliate and included GLBT activists.

- **Participating in international conferences**

In 1998, the PSAC sent two delegates to the "Trade Unions and Homosexuality at Work" international Conference in Amsterdam. This conference, sponsored by European unions, was the first international GLBT conference attended by Canadian unionists.

PSAC has been sending a delegation to the World Outgames Human Rights Conferences starting with the first one in Montreal in 2006 and again in 2009 in Copenhagen.

In the summer of 2011 a delegation of regional GLBT and Component representatives participated in the North American Outgames Human Rights Conference in Vancouver. This Conference, with its wide range of issues, also allowed PSAC members and staff an opportunity to network with union and other activists.

- **Working in solidarity through the PSAC Social Justice Fund**

The PSAC's Social Justice Fund, proposed by the PSAC National Board of Directors and adopted at the union's 2003 national convention, provides an avenue to support GLBT persons around the world who are persecuted because of their sexual orientation.

IN SOUTH AND CENTRAL AMERICA

In 2006, the PSAC Social Justice Fund paved the way for Mario Alves de Oliveira, LGBT activist and General Secretary of the three million member Confederation of Municipal Workers (CONFETAM) in Brazil, and Ivannia Monge Naranjo, representative of the Committee on Gender and Diversity of the National Association of Public and Private Employees (ANEP) of Costa Rica, to participate in the International Conference on GLBT Human Rights in Montreal.

Following the 2009 coup in Honduras, security forces unleashed a wave of repression against GLBT and women's rights activists that included the gunning down of Walter Trochez, a well-known activist and HIV/AIDS educator and member of the National Resistance Front against the coup. PSAC supported the campaign denouncing the killing and invited a representative from the Honduran GLBT community to attend the union's 2010 Pride Conference. Due to the severe repression occurring at the time, the representative was forced into hiding and was unable to attend the conference.

In February 2009, the Social Justice Fund contributed to Peace Brigades International to facilitate a tour of human rights defenders from the Americas that included two representatives from OASIS, a center that



promotes LGBT rights and carries out education on HIV/AIDS and works to defend the human rights of sex workers in Guatemala. The delegation included a Trans woman who had survived an attack by Guatemalan police. PSAC is part of the watch group that monitors the situation and that may be called into action if new threats emerge.

IN AFRICA

The Social Justice Fund joined the groundswell of individuals and progressive organizations rejecting Uganda's plan to completely criminalize the lives of GLBT persons, and enact capital punishment for acts of homosexuality. While international pressure and solidarity has been successful in modifying the proposed law, GLBT Ugandans still face many types of discrimination and need our ongoing support. In 2009, PSAC endorsed the letter from the Pride Uganda International Alliance calling on Prime Minister Harper to denounce the homophobic legislation.

IN CANADA

The Social Justice Fund also currently supports a number of initiatives in defense of gay rights in Canada including support for the Halifax-based Youth Project. The Project is a non-profit charitable organization working with youth around issues of sexual orientation and gender identity. It provides support groups, referrals, supportive counselling, a resource library, educational workshops, social activities and a food bank. A number of PSAC members volunteer at the Project which has been supported by the Social Justice Fund since 2009.

The PSAC Calgary Human Rights Committee participates in the yearly Human Rights Forum at the Calgary Global Fest with the support of the Social Justice Fund. This event aims to build community capacity to address racism and discrimination through a series of community events, speakers and information booths. PSAC members' participation in the Forum includes an information booth to publicize the role of unions in support of GLBT rights.



5 - PSAC promotes respect for GLBT members in our union

- **Recognizing the rights of GLBT members**

In 1981, the PSAC Equal Opportunities Committee (EOC) was given a mandate to address a wide range of issues, including those related to sexual orientation.

The PSAC Policy on Human Rights, adopted in 1988, included sexual orientation as a prohibited ground of discrimination.

Lesbian and gay issues were included at the first human rights forum held at the 1991 PSAC national convention. Resolutions directed the union to develop a policy on sexual orientation and to add same-sex couples to the union's superannuation policy.

In 1992 PSAC adopted Policy 28A on AIDS and HIV and the National Board of Directors (NBoD) adopted Policy Paper 12 - Superannuation - recommending same-sex spouses be entitled to pension plan survivor benefits.

At the 1994 national convention delegates adopted Policy 31 on sexual orientation that committed the union to educate and promote gay and lesbian rights through steward training, grievance handling; to negotiate same-sex benefits and rights and stronger "no discrimination" clauses; and to engage in political action with other organizations and coalitions.

In September 1994, the NBoD adopted a resolution objecting to Treasury Board's

discriminatory treatment of gay and lesbian members that demanded the employer change its policy and immediately grant leave and benefits arising from same-sex relationships.

In 1998, National President Daryl Bean called for an inquiry into the purge of homosexuals from the government during the "cold war" in the 1950s and 1960s. The PSAC position was based on a study by Gary Kinsman that established that the RCMP had, as late as 1967-68, a list of 9,000 "suspected and confirmed homosexuals in the Ottawa region". Bean noted that bias was still widespread in the federal public service, and Treasury Board had still not provided gay and lesbian workers with a workplace accepting of them and their families. He called for an apology and compensation for the victims of the purge.

The NBoD adopted a resolution from the 2000 national convention that urged PSAC to take action to convince the federal government to amend pension plan death benefit plans and to redefine "spouse" to include same-sex couples.

In October 2003, the Alliance Executive Committee (AEC) adopted a position to fully support the right of same-sex couples to marry by actively engaging with the equal marriage campaign, both by raising same-sex marriage as an issue for the next federal election campaign and by distributing educational tools, resources and a lobby kit.

In 2006, NBoD approved two important resolutions referred to it by the PSAC national convention. The first pledged PSAC's support for the *Civil Marriage Act* which recognized the right of same-sex partners to marry; the second committed the PSAC to support the pursuit of GLBT victories in the courts.



After the 2007 national convention, the NBoD adopted a resolution calling for the PSAC to lobby and participate in court challenges to remove the words "of the opposite sex" from all definitions affecting benefit plans in Acts, Regulations, and Directives, including National Joint Council (NJC) agreements and collective agreements, to recognize lesbian and gay relationships and to ensure equal access to health, dental, and pension benefits for them and their families.

- **Creating opportunities to participate in our union**

By early 1989 lesbian and gay members had begun to organize. An article written by National Component members about the discriminatory nature of the definition of "spouse" and its impact on couples in same-sex relationships was rejected for publication in *Alliance* magazine on the grounds that it was not of broad membership interest. That galvanized members to organize and push for change

within the union. In 1992 an article written by Diane Kilby, about the failure of the Treasury Board collective agreements to recognize the families of lesbians and gay members appeared for the first time in the *Alliance*.

The first open lesbian and gay caucus at the National Component Equal Opportunities Conference in May 1989 led to the formation of the PSAC Lesbian and Gay Support Group (LGSG) in 1990, which lobbied strongly for the rights of lesbian and gay members.

The first workshop on lesbian and gay rights was held at the PSAC National Women's Conference in 1990.



In 1992, PSAC included two seats on its Equal Opportunities Committee for a lesbian and a gay representative, chosen in consultation with the Lesbian and Gay Support Group.

At the 2003 national convention PSAC members elected their first openly GLBT executive officers in 2003 and agreed to fully fund equity conferences, including a Pride conference.

In 2004, the new PSAC Human Rights Kit included an entire chapter on GLBT rights. In 2010, the PSAC produced a pamphlet on the issues and challenges facing our trans members in the workplace and in society with a call to contact MPs and to lobby for an amendment of the *Canadian Human Rights Act*, to include a prohibition of discrimination based on gender identity and gender expression.

The PSAC publicly pledged its support for the International Day against Homophobia (www.homophobiaday.org) for the first time in 2007. Since then, the union has worked with allies, such as the Fondation Émergence, a Québec-based organization dedicated to LGBT rights, to raise awareness of, and take action against, homophobia and transphobia.

PSAC activists have been participating regularly in local and regional Pride events across the country. In 2010, PSAC created its own Pride flag for these events.

The union held its first National Pride Conference in November 2003 where National President Nycole Turmel affirmed that "Gays and lesbians should have access to civil marriage - it's an issue of fundamental equality." The conference was the first time GLBT representatives were elected to the National Equal Opportunities Committee and elected as delegates to the PSAC national convention.

The second National Pride Conference took place in 2007 on the theme "Include and be included". "Equality: are we there yet?" was the theme of the next Conference in 2010. Panels addressed achievements and international perspectives on GLBT rights and the challenges ahead.

PSAC is organized in 7 regions, where each Regional Council elects a Representative for GLBT rights. In 2012, the Regional Council Reps for GLBT issues were appointed to the new National Human Rights Committee (replacing the EOC).

The National Human Rights Committee GLBT Working Group met in December 2012 to set out priorities for PSAC work on GLBT issues for 2013-2015. They also decided on the theme and workshops of the 2013 National Pride Conference. The theme of the 2013 National Pride Conference was "History in the Making".

Throughout 2013, the Working Group acted as the Steering Committee for the National Pride Conference. By all accounts, this conference was a great success.

In 2014, the PSAC will be sending a 20 person delegation to the World Pride Human Rights Conference and parades. PSAC will even have its own float! We hope that many members will take to the street, loudly asserting their pride - including pride in our union and our victories.

And rightly so because PSAC works for GLBT rights!





Notes:



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GLBT and Employment Equity

For many years, PSAC has defended the rights of our gay, lesbian, bisexual and trans members, and has taken the position that they should be fully protected by anti-discrimination legislation. Despite the significant victories that have been achieved throughout the years, discrimination in the workplace remains extensive.

According to the 2011 Angus Reid survey, 34% of gay men and 40% of lesbians have experienced discrimination at work¹. A 2015 survey done by the Canadian Centre for Diversity and Inclusion found that 29% of LGBT respondents have experienced discrimination in the workplace².

However, the most recent [Public Service Employee Survey](#) (2014) shows that discrimination rates may be much lower in the federal public service, since 8% of federal public service workers have experienced discrimination. Of this group, 3% say that they experienced discrimination based on their sexual orientation.

In response to the high rates of discrimination, a resolution calling for the inclusion of the “LGBTTIQ2S”³ group in the *Employment Equity Act* was submitted to the PSAC National Convention in 2015. While the resolution never made it to the floor, the National Board of Directors of the PSAC has directed us to work on the issue.

¹ Angus Reid, “Most LGBT Working Canadians Experience Tolerance, But Some Discrimination Persists,” angusreid.org/most-lgbt-working-canadians-experience-tolerance-but-some-discrimination-persists/

² In &Out: Diverging Perspectives on LGBT Inclusion in the Workplace, Canadian Centre for Diversity and Inclusion, 2015, ccdi.ca/wp-content/uploads/2016/06/20150528-Report-LGBT-Inclusion-in-the-Workplace-EN.pdf

³ The acronym refers to: lesbian, gay, bisexual, transsexual, transgender, intersex, queer and two-spirited.

The Legislative Framework

Human rights and discrimination in the workplace are addressed through two different types of legislative mechanisms at the federal level in Canada: a complaints-based process that targets specific cases of discrimination, and a proactive mechanism that promotes equity in the workplace.

The complaints-based process under the *Canadian Human Rights Act* requires an individual to file a complaint and mount evidence of discrimination.

The proactive approach is enshrined in the federal *Employment Equity Act*, and in some provincial legislation.

The federal *Employment Equity Act*

The *Employment Equity Act* applies to federally regulated workplaces including the federal public service. It recognizes four “designated groups” that have historically suffered from workplace discrimination and lack of access to meaningful employment: women, visible minorities, persons with disabilities, and Aboriginal people. GLBT persons are not included in the Act.

The *Employment Equity Act* seeks to redress inequality in the workplace, by monitoring an employer’s hiring patterns for the four equity groups when they are under-represented in the workforce.

The purpose of the *Employment Equity Act* is outlined in Section 2:

“The purpose of this Act is to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal, to correct the conditions of disadvantage in employment... by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences.”

In order to address the systemic barriers and make workplaces reflective of the diversity in our population, employers must:

- Survey their employees and ask them to self-identify if they belong to an equity group
- analyze their workforce statistics regarding representation levels of the four designated groups
- compare those numbers with workforce availability rates to determine whether there is an under-representation of any of the equity groups
- review their employment systems, policies, and practices to determine if there are systemic barriers to the hiring, retention and promotion of members of the equity groups
- develop an employment equity plan which specifies:
 - measures to remove systemic barriers;
 - measures for accommodation;
 - short term and long term numeric goals regarding the hiring and promotion of members of designated groups

In other words, instead of expecting the victims to challenge ongoing discrimination, this “proactive” law requires employers to take concrete measures to identify and remove discriminatory barriers and ensure equitable hiring practices.

Including GLBT in the EE Act

In order to include the GLBT group in the *Employment Equity Act*, a legislative amendment through Parliament would have to be made. The PSAC could make submissions and lobby to amend the Act.

However, in order to justify this amendment, we would need to demonstrate that the GLBT group is under-represented in the workplace, as compared to the group’s workforce availability.

Unfortunately, there exist several obstacles to demonstrating this basic requirement of employment equity law.

Obstacles to demonstrating workplace exclusion

Data on the GLBT population in Canada

It is difficult to determine how many Canadians are part of the LGBTTQ!2S group.

In fact, the only reliable data on sexual orientation comes from the [Canadian Community Health Survey](#), Cycle 2.1. This was the first Statistics Canada survey to include a question on sexual orientation. The results of this survey indicate that:

- **1.7%** — The percentage of Canadians aged 18 to 59 who reported in 2014 that they consider themselves to be homosexual (gay or lesbian)
- **1.3%** — The percentage of Canadians aged 18 to 59 who reported in 2014 that they consider themselves bisexual.

In 2012, the National Post conducted the “Forum Research Poll”, which found that 5% of Canadians identify as lesbian, gay, bisexual or transgender. Younger Canadians are far more likely to say they are GLBT (10%) than older Canadians (2% or 3% in the four older age categories)⁴.

The Chair of Transgender Studies at University Victoria, Aaron Devon states that 0.5% of the population, or one in 200, is transgender⁵.

Data on labour market participation rates

For Aboriginal peoples, women, and racialized people, the labour market data comes from the Canadian Census. Currently, the Census does not ask questions about the sexual orientation or gender identity of the respondent. The census does ask a question on marital status and the sex of the spouse, and this gives us information on the number of same-sex unions. But it does not inform us on actual numbers of self-identified GLBT persons.

⁴ “The true north LGBT: new poll reveals the landscape of gay Canada”, Kathryn Blaze Carlson, National Post, July 6, 2012

⁵ “University Victoria announces world’s first Chair in transgender studies”, Canadian Press, January 15, 2016

For people with disabilities, the labour market data comes from the Participation and Activity Limitation Survey, which is another survey done by Statistics Canada. This survey does not include questions on sexual orientation or on gender identity.

The Survey on the Labour Force Data data does not provide information on the GLBT group either.

And despite our past requests, the Public Service Employee Survey does not identify the identity of the respondents, apart from gender.

In other words, we cannot find any data on labour market participation rates of gay and lesbians, transgender and other sexual minorities. And we don't have any employer-based data either.

Diversity of experiences within the LGBTIQ2S group

Another difficulty in lobbying for changes to the *Employment Equity Act* stems from the fact that the “LGBTIQ2S” group is not a homogenous group, and that their experience in the workplace varies significantly.

Studies indicate that transgender persons have to deal with particularly high levels of discrimination, harassment and violence in society and at work. A survey that was done in Ontario establishes that 18% were turned down for a job, and 13% were fired or constructively dismissed because of their trans identity⁶.

⁶ G. Bauer, et al., We've got work to do : Workplace discrimination and employment challenges for trans people in Ontario, Trans Pulse E-Bulletin, May 30, 2011.2. Online: www.transpulseproject.ca

One study indicates that lesbians may on average earn more than heterosexual women: this is attributable to their higher education levels, the fact that they often work more hours of work per week and fewer have children⁷. But lesbians also have to contend with sexism and sexual discrimination in the workplace, they are often sexualized as women and subjected to heterosexist pressures⁸. And while lesbians are probably not under-represented in the workforce, like other women they have to deal with employment segregation and systemic pay inequity.

Gay men earn 12% less, on average than heterosexual men⁹. It is not sure that they are under-represented in the workforce per se, but they are often victims of discrimination, particularly in small towns and in certain trades.

Gay men and lesbians from other equity groups are also confronted with racism and other forms of discrimination experienced by Aboriginal women, racialized women and women living with a disability. Not surprisingly, they tend to be less often “out” of the closet¹⁰.

We have not been able to find any data on discrimination against bisexual, queer, intersex and two-spirited peoples workers.

The diversity of experiences in relation to discrimination against GLBT workers will make it more difficult to propose proactive employment equity measures that target this group.

⁷ Christopher Carpenter, “Sexual orientation, work and income in Canada”, Canadian Journal of Economics, 41 (2008): 1239-61, quoted in David Rayside, “The Challenges in Expanding Workplace Equity Policy: the case of Sexual Diversity”, paper presented at the Annual Meeting of the Canadian Political Science Association, Edmonton, June 2012

⁸ Line Chamberland and Christelle Lebreton, “Stratégies des travailleuses lesbiennes face à la discrimination : contre l’hétéronormativité des milieux de travail”, IREF, UQAM, 2012 : iref.uqam.ca/upload/files/Cahier_Agora_no3-2_en_ligne.pdf

⁹ Christopher Carpenter, *loc. cit.*

¹⁰ Chamberland and Lebreton, *loc. cit.*; David Rayside, *loc. cit.*

Self-identification

Another requirement of employment equity legislation is the workplace survey, which requires employees to self-identify. Individual responses on self-identification surveys are kept confidential and only provided to those in the organization in charge of the implementation of employment equity policies.

However, many workers in the designated groups may feel hesitant to identify themselves, in part due to fears about who will see the information and how it will be used, and for many other reasons, both political and personal. The issue of one's identity is a very personal one, and this is the case especially for those in the GLBT community. This issue is particularly delicate for transgender persons, who after having completed their transition may wish to only be known as a person belonging to their gender identity of choice, and not as a trans person.

Professor David Rayside, affiliated with the Mark S. Bonham Centre for Sexual Diversity Studies of the University of Toronto notes, "asking direct questions about sexual orientation or gender identity in the hiring process is almost always out of the question"¹¹. This makes it even harder to get an accurate portrait of the workforce. As Professor Rayside points out, even when an employer has including the GLBT group in their employment equity policy, such as the University of Toronto, "it is safe that most academic units have done nothing to act on the inclusion of sexual diversity in employment equity policy, and would not know how to"¹².

However, a recent survey conducted by the Canadian Centre for Diversity and Inclusion has found that 75% of LGBT+ respondents agree that employers should provide employees with the opportunity to self-identify at work. They specified that this must be done appropriately with attention to privacy and to confidentiality protocols, and it must be done on a voluntary basis. The individual must have the final choice regarding disclosure, without any pressure¹³.

¹¹ David Rayside, *loc. cit.*, p. 10.

¹² David Rayside, *loc. cit.*, p. 10.

¹³ In & Out, Diverging Perspectives on LGBT Inclusion in the Workplace, *loc. cit.*, p. 25.

Law reform option

As noted by Professor Rayside, what is at stake with sexual orientation and other sexual minorities is not so much the under-representation in the workforce, but the creation of a workplace climate that is welcoming and safe.

He suggests expanding employment equity legislation to include sexual minorities, and encourage employers to survey their workforce to learn more about the numbers of workers identifying themselves as LGBT. He also suggests that intersectionality be taken into account, to capture the other characteristics of the LGBT group. The point of this exercise, he says, is not to create numerical goals or hiring targets, but to produce data that is useful for policy makers, managers and regular employees. He writes:

“On sexual diversity in particular, it is important for institutions to create some visible indication that improvements in equity performance include sexual diversity.”¹⁴

Other Alternatives

In the absence of employment equity legislation that cover the LGBTTTQI2S group, several employers have created “equity and diversity committees”. These committees exist in the private sector and in the federal public service.

For example, the Canada Food and Inspection Agency created a LGBT Network in 2013. The Network’s mandate is:

“to contribute to an inclusive workforce by understanding, identifying and eliminating the biases, barriers and power dynamics that limit our employees prospects for achievement and success... The goal of this group is to continually provide peer education, training and outreach services about issues affecting LGB employees.”¹⁵

¹⁴ David Rayside, *loc. cit.*, p. 13.

¹⁵ “Out and About at the CFIA : the Canadian Food and Inspection Agency’s Guide to Understanding LGBT in a Diverse Workplace”2015, CFIA.

Ultimately this network aims to educate the CFIA community on how to become an ally for workplace equality.

CFIA has recently produced a guide that provides

- information on discrimination on the grounds of sexual orientation
- an extensive glossary of terms
- milestones in LGBT rights
- PSES survey data on discrimination based on sexual orientation
- Information on why some people have fears about being “out” in the workplace
- contact information for employees who are considering coming out at work
- confirms the institution’s commitment to respect and equality

This type of initiative can help transform workplace culture, and prevent incidents of homophobia and transphobia.

PSAC Safe Spaces Initiative

Our union can also play an important role in ensuring more equity in the workplace for our GLBT members.

PSAC strives for workplaces and communities that are “safe spaces” for all of our members. A safe space is:

- An environment where people are welcomed and respected and where they can feel free to express their sexual orientation and their gender identity.
- A place where human rights are respected and people are free from discrimination and harassment on the basis of sexual orientation, gender identity or gender expression.

The PSAC developed a ***Pride and Solidarity*** poster in spring 2016 that was widely distributed, along with a four-page background. We invited members to display the poster in their workplace, bring it to their union events. We invited members to help us break the pattern of silence and invisibility, and encourage others to create a more welcoming and equitable union environment.

We hope with this poster to promote visibility, solidarity and support regarding sexual/gender diversity within our membership and the general public.