

2 Moral Regulation and the Disintegrating Canadian State

THE FIRST formal gay and lesbian movement organization in Canada emerged in 1964 in a historical context similar to that of gay and lesbian communities in the nations of Western Europe, the United States, Australia, and New Zealand. The post-World War II period in Canada was characterized by the legal prohibition of (male) homosexuality and a highly inhospitable social climate that included the repression of homosexual issues in "respectable" public discourse and an overt regime of persecution (Adam 1993a). Nevertheless, according to historical scholarship, from at least as early as the nineteenth century, there was a series of sites where men, and later women, came to recognize and meet one another in a manner that we today recognize as "gay" (Adam 1995: 7). From the 1960s, Canadian lesbian and gay communities developed through a period of militance and growth in the early 1970s, a period of self-defense against right-wing reaction in the late 1970s and 1980s, and renewed cultural and political growth in the 1990s. Much of this chapter takes up the question of prospects for the future. In an era characterized by globalization, neoconservative political agendas, and divisiveness between Canada's two largest national cultures, what challenges face gay and lesbian movement groups today? How will the changing constellation of social forces and struggles over national identity affect gay and lesbian people in Canada?

FROM DECRIMINALIZATION TO LIBERATION

The first homophile organization formed in Vancouver under the name the Association for Social Knowledge (ASK). Inspired by contemporary homophile groups in California, ASK founded a social center through the initiative of two former COC (Cultural and Recreational Center) members from the Netherlands who were cognizant of the success of the Amsterdam clubhouse (Kinsman 1996). Begun in 1964, it lasted until 1969.

In 1969 the federal Parliament amended the Criminal Code to exempt from prosecution two consenting adults engaged in private sexual activity. Two events in the 1960s precipitated law reform. The first was the

1966 conviction of Everett Klippert, a man from the Northwest Territories, as a habitual sexual offender simply because he had had sex with several consenting adult men. The 1967 Supreme Court confirmation of his indefinite sentence (essentially a life term) opened a public debate on the effects of the antihomosexual law. The second event was the 1967 British decision to decriminalize homosexual acts, following a decade of public discussion opened by the Wolfenden Report, the result of a royal commission to investigate prostitution and homosexuality. In the 1960s many governments in Western Europe and North America began liberalizing a series of laws concerning abortion, obscenity, and contraception at the behest of popular movements. In Canada, Pierre Trudeau, then Canada's justice minister, introduced decriminalization as part of a comprehensive reform of the Criminal Code, announcing that the "state has no place in the bedrooms of the nation." The law passed with the approval of the Liberal and New Democratic parties; many Conservatives and the rural Québécois Parti Créditiste voted against it (Sylvestre 1979; Adam 1995; Kinsman 1996).

Decriminalization came about in an era of social movement mobilization as the cautious, defensive strategies of oppressed groups in the 1950s were giving way to a renewed self-assertion and pride (Adam 1978, 1995). In 1967 a feminist group formed in Toronto, and between 1969 and 1971 gay and lesbian people mobilized across the country—at first in major cities and on college campuses but soon after in almost every city of more than 100,000 inhabitants.

In 1969 a small University of Toronto Homophile Association formed, in 1970 the Vancouver Gay Liberation Front met, and by 1971 Montréal and Ottawa groups had mounted the first march on Parliament Hill. Like the movement elsewhere, Canadian organizations debated and split over issues such as the adoption of militant tactics and forms of leadership and participation, with Toronto Gay Action taking the liberationist stance articulated in the journal *The Body Politic*, while the Community Homophile Association of Toronto organized a social center and pressed for civil rights. In Vancouver the more moderate Gay Alliance toward Equality rapidly succeeded the Gay Liberation Front. The 1971 march in Ottawa forwarded an agenda that set the course for gay and lesbian efforts for many years to come:

- abolition of the gross indecency law
- uniform age of consent
- protection through human rights codes
- equal rights for same-sex couples
- destruction of police files

- right to serve in the armed forces
- elimination of discrimination in immigration, employment, custody and adoption, and housing (Jackson and Persky 1982: 217–20; Adam 1995; Kinsman 1996)

Like its counterparts in other countries, the Canadian movement experienced tensions over the frequent subordination of the concerns of lesbians in organizations dominated by gay men. Such groups as Gays of Ottawa flourished through the 1970s by assuring parity in the representation of men and women and of Anglophones and Francophones in its leadership. Many lesbians left other gay groups to pursue issues from within the women's movement. The struggle for the recognition and integration of lesbian issues in the feminist program often proved difficult and disheartening, but by the mid-1970s most women's organizations had embraced lesbian demands (Creet 1990).

In 1977, movement work began to show results. The federal (Liberal Party) government dropped "homosexuals" from its list of persons banned from immigrating into Canada, following an incident in which a U.S. citizen was stopped at a land crossing but then flown into the country through movement sponsorship. The participation of many gay and lesbian activists in the nationalist movement in Québec resulted in the addition of "sexual orientation" to a provincial human rights code a year after the Parti Québécois came to power (Sylvestre 1979).

REACTION AND REPRESSION

In the late 1970s and 1980s, corporate and state elites moved to restabilize their control of economy and policy and to damp down the gains made by labor and new social movements (Adam 1993b, 1995). In the United States the reactionary shift took the form of a formidable alliance of corporate interests, evangelical churches, traditionally conservative rural, white Protestants, southerners, and groups that lobbied against gun control, women's rights, pornography, and abortion. This New Right alliance culminated in the Reagan/Bush presidency, which breathed new life into U.S. military and imperial traditions and renewed reactionary discourses in the mass media (Adam 1995: chap. 6). Never immune from the omnipresent U.S. media net, the rightward shift of public discourse in Canada emboldened two conservative governments, which had been in power for well over a generation, to attempt to push gay people back into the closet.

The Jean Drapeau administration in Montréal, which had come to power in the 1950s on a plank of Roman Catholic moral restoration, began with a "cleanup" campaign. In the months preceding the opening of

the 1976 Olympic Games, the police descended on seven bars and a bathhouse in four raids. The repressive offensive stalled in 1977 with the mass mobilization of a new Association pour les Droits des Gai(e)s du Québec, which resisted in the streets and in the courts by fighting the cases of several hundred men who had been arrested. It is in this context that the new Parti Québécois provincial government, a left nationalist political formation with no political connections to the Drapeau old guard, introduced "sexual orientation" into the provincial human rights code.

In Toronto, media panic was generated over the 1977 murder of a fourteen-year-old shoeshine boy by four men, reviving public images of gay child molestation and setting the stage for the police seizure of the *Body Politic*, a newspaper that had addressed pedophilia in an article called "Men Loving Boys Loving Men." The *Body Politic's* 1979 acquittal on obscenity charges was appealed by the Conservative provincial administration through four more years of court appearances before the paper's ultimate acquittal. In 1981, Toronto police arrested 286 "found-ins" and 20 "keepers" of a common bawdy house in a massive raid on city bathhouses during a provincial election campaign. As in Montréal, police attacks stimulated new gay mobilization, this time in the form of The Right to Privacy Committee, in a movement that had been losing energy in the mid-1970s.

In the late 1970s and early 1980s, then, the gay and lesbian movement was forced to take defensive action against a series of assaults initiated by police and governments. Not until the mid-1980s did the movement begin again to make gains in the consolidation of civil rights for gay and lesbian people. In the 1990s "the movement" has proliferated from a handful of organizations in major cities to many hundreds of specialized task-oriented groups located in numerous sites across the country. The single comprehensive gay or gay/lesbian organization has given way to groups of people interested in recreation, religion, film, theater, radio programming, politics, workplace, ethnic culture, parenting, police relations, addiction recovery, counseling, schools, scholarship, transgenderism, youth, and so on. Largest among them are AIDS organizations, which have become institutionalized through state funding. AIDS organizations have, over time, become "mixed" organizations, outgrowing their gay community roots (see Adam 1997). Groups tend to be loosely networked and visible primarily on Pride days, which grow every year. In Toronto, Pride day is the third largest event of the year after the Santa Claus Parade and Caribana, the Afro-Caribbean Mardi Gras. This proliferation and decentralization of movement organizations has profoundly impacted the larger society, as many nongay Canadians, in various spheres of their lives, encounter openly lesbian and gay people who work with them, share their interests, and participate in their cultural activities.

MORAL REGULATION IN CANADA

Some fifteen years after the first march on Ottawa, as a series of law reforms began to realize several aspects of the 1971 program, the momentum of change shifted back in favor of the gay and lesbian movement. The Ontario government added "sexual orientation" to its human rights code in 1986, and Manitoba and the Yukon Territory followed in 1987. By the 1990s, Canada's situation had become comparable to that of most of the European Union, Australia, and New Zealand, with eight of ten provinces and one of two territories passing the requisite legislation between 1977 and 1997. Holdouts, such as the military and the police, were eventually forced by lawsuits to accede to human rights demands. In 1996 the federal government amended the Canadian Human Rights Act after a Supreme Court ruling that read "sexual orientation" into Section 15 of the Canadian constitution, and in 1998 the Supreme Court ordered that "sexual orientation" be included in the human rights code of a ninth province, Alberta.

A number of indicators highlight how the state of civil rights for lesbian and gay people differs from Canada to the United States and the United Kingdom. Much of the difference has come about since the mid-1970s, as Canada has effected incremental change toward affirming equal legal rights, while a series of obstacles has checkmated change in the United States and the United Kingdom. The U.S. Congress has failed to pass a human rights law, even moving to strike down similar legislation, as well as a domestic partners' benefits law, in the District of Columbia.¹ Although ten of the fifty states, almost all in the north, have human rights laws, almost half continue to criminalize homosexuality, and existing city and state human rights laws have been subjected to repeated repeal referenda. In 1986 the U.S. Supreme Court upheld state laws that criminalize their gay citizens. In 1992 the Republican Party chose as a central party plank "family values," a program directed against single mothers and gay and lesbian people. In the same year, Colorado voted by a 53 percent majority to prevent the passage of equality rights laws for lesbian and gay people, striking down existing city ordinances. In 1996 the U.S. Supreme Court overturned the Colorado ban on human rights laws, leaving gay and lesbian residents in the state with the status *que ante*—that is, no statewide human rights protection, and in 1998 voters in Maine repealed that state's gay rights law.

In the United Kingdom, Anna Marie Smith (1994) demonstrates how the figures of the "dangerous queer" and the black immigrant have been deployed as trump cards to panic people into identifying with Thatcherism. Despite the mobilization of gay and lesbian communities and the

participation of community activists in Labour coalitions in local government, the equal rights struggle has come up against intransigence and containment by established political forces (Cooper 1994). British legislation was marked by the 1988 passage of Clause 28, a law intended to deny the use of taxes paid by gay and lesbian citizens for support of their community, and an assault on freedom of speech in educational institutions (Jeffery-Poulter 1991: 168–69).

It is not easy to account for the differences between Canada and the United States, but at least five factors stand out:

1. Relatively fewer Canadians (6 percent) than U.S. citizens (22 percent) identify themselves as evangelical Protestants. Evangelicals appear as one of the most consistent opponents of equality for lesbians and gay men in U.S. political coalitions (Adam 1995: chap. 6). Antifeminist and antigay organizations, such as Renaissance International and REAL Women, have had only limited effectiveness in Canada (Herman 1994).
2. Canada has a consistently higher rate of union membership, 29.7 percent of workers unionized, compared with 15.5 percent in the United States (Statistics Canada 1993: 192; U.S. Bureau of the Census 1995: 443). Unions have been important sites of human rights initiatives, as they have included sexual-orientation protection in labor contracts and advocated for human rights policies with the state.
3. Canada has a lengthy social democratic tradition in the form of the New Democratic Party, which has come to power from time to time at the provincial level.
4. Canada lacks the imperial and militarist traditions of the United States and the United Kingdom, which bind national identity with homophobic panic (Adam 1994).
5. The structure of the Canadian state differs from the structure of the U.S. state, a situation that requires a more detailed explanation (see below).

Differences between Canada and the United Kingdom are fewer, in that evangelical Protestants make up only a small part of the British population (United Kingdom. Central Office of Information 1994: 436), union members account for 35 percent of employees (United Kingdom. Central Office of Information 1994: 186), and the British Labour Party has traditionally represented a social democratic alternative.

The fifth, and perhaps most fundamental, difference between Canada and the United States concerns the structure of the state. Canada does not lack a history of “social purity” reformers consistent with other Anglo-American societies (Valverde 1991), which has perhaps had its