



IDENTITY
CANADIAN PERSPECTIVES
ON **LGBTQI2S** INCLUSION

Presented by



**THE
READY
COMMITMENT**

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Contents

Executive Summary.....	4
Key Conference Findings.....	6
<i>Employment and Workplace Inclusion:</i>	6
<i>Housing and Homelessness:</i>	6
<i>Safer Schools and Campuses:</i>	7
<i>Sports Inclusion and Recreation:</i>	7
<i>Faith:</i>	7
<i>Health, Equity and Wellness:</i>	8
<i>Legal and Justice:</i>	8
DETAILED INFORMATION BY STREAM	
Intersex Pre-Conference	9
<i>Context:</i>	9
<i>Conference Findings:</i>	9
<i>Egale’s Work:</i>	9
<i>Way Forward:</i>	9
Stream: Employment and Workplace Inclusion.....	10
<i>Context:</i>	10
<i>Key Statistics:</i>	10
<i>Conference Findings:</i>	10
<i>Egale’s Work:</i>	11
<i>Way forward:</i>	11
Stream: Housing and Homelessness.....	11
<i>Context</i>	11
<i>Key Statistics:</i>	12
<i>Conference Findings:</i>	13
<i>Egale’s Work:</i>	13
<i>Way forward:</i>	13
Stream: Safer Schools and Campuses.....	14
<i>Context:</i>	14
<i>Key Statistics:</i>	14

<i>Conference Findings:</i>	15
<i>Egale’s Work:</i>	16
<i>Way Forward:</i>	16
Stream: Sports Inclusion and Recreation.....	16
<i>Conference Findings:</i>	16
<i>Egale’s work:</i>	17
<i>Way Forward:</i>	17
Stream: Faith.....	17
<i>Context:</i>	17
<i>Conference Findings:</i>	17
<i>Egale’s Work:</i>	18
<i>Way forward:</i>	18
Stream: Health Equity and Wellness.....	18
<i>Context:</i>	18
<i>Conference Findings:</i>	19
<i>Egale’s Work</i>	19
<i>Way forward:</i>	19
Stream: Legal and Justice.....	20
<i>Conference Findings:</i>	20
<i>Egale’s work:</i>	20
<i>Way forward:</i>	21
International Advocacy	21
<i>The Commonwealth Equality Network (TCEN) Panel Discussion:</i>	21
<i>Keynote Speech by Victor Madrigal, UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity</i>	22
Conclusion.....	23
About Egale Canada	23

Executive Summary

Marriage equality is often distinguished as the pinnacle achievement in Canada's gay rights movement. Egale, in partnership with Canadians for Equal Marriage, led the way for the passing of the Civil Marriage Act in 2005, seeing Canada become the first country in the Americas to legalize same-sex marriage. Landmark events such as the 1969 decriminalisation of homosexuality to marriage equality in 2005, resulting from long, tedious battles of activism have most certainly contributed further to a progressive discourse on rights relating to sexual orientation and gender identity within the Canadian context.

While these struggles of LGBTQI2S activism rightfully deserve celebration, it is equally important to note that despite significant victories, much more work is still to be done. The disproportionate representation of the LGBTQI2S community living in poverty, without adequate housing, higher rates of unemployment, greater illiteracy and secondary school drop-out rates, and greater victimization of hate crime is enough to warrant continued support and advocacy.

Legal and policy-level advancements, though crucial, in terms of endowing one with legal rights and remedies in law, do not necessarily contribute to fully combating prejudice as experienced within lived realities of individuals identifying as LGBTQI2S. For this reason, there is an undeniable need for conversations, engagements, and dialogues surrounding LGBTQI2S rights to continue. Civil society advancing the rights of LGBTQI2S populations cannot risk complacency with the passing of marriage equality laws as marriage is only one single aspect of civic life.

Considering the community still suffers from documented systemic and institutional discrimination, it calls for a more nuanced understanding of needs and concerns of the LGBTQI2S community together with a strengthened, sustained, and intersectional LGBTQI2S human rights movement in Canada.

With this intention, Egale organised the IDENTITY Conference, bringing together queer thought-leaders, activists, lawyers, politicians, labour advocates and allies from across the public and private sectors from the Canadian landscape to identify existing policy gaps and chart the future course of action for LGBTQI2S activism in Canada. The three-day conference took place between May 23-25, 2018 at The Hilton Hotel, Toronto to facilitate advance deliberations on rights and development needs of the community. The conference sessions were divided into seven streams, namely, Safer Schools and Campuses; Health Equity and Wellness; Housing and Homelessness; Sports Inclusion and Recreation; Employment and Workplace Inclusion; Faith and Legal and Justice. LGBTQI2S identities manifest themselves in each of these settings and are particularly vulnerable owing to the heteronormative occupation of these spaces. Purposefully, the streams were designed to engage with the most topical issues encountered by the community in exercise of their identity and positioning these issues within the larger rights narrative. In this process, evaluating existing socio-legal policy, programs, laws, their effectiveness, inadequacies and

potential reforms required for safeguarding gender identity and gender expression for complete realization of one's personhood.

With the emergence of neo-conservative governments, both domestically and internationally, there is a noticeable shift in the socio-political landscape across the globe. As a consequence, the global trend reflects deliberate shrinking spaces for dissent and civil society participation together with subversion of human rights language at large. In this climate, the IDENTITY conference which presented a democratic platform for civil society engagement becomes crucial, not only for domestic advancement of LGBTQI2S rights but for the overall global human rights. Moreover, the current challenges mean that the relevance of human rights and sustainable development are amplified more than ever with the need to mainstream LGBTQI2S rights within these agendas. Thus, global dialogues and international perspectives are essential to mitigate some of these challenges and exchange best practices to ensure safeguarding of LGBTQI2S rights. Mindful of the need to reform advocacy strategies to keep pace with changing times, the IDENTITY agenda included a plenary session with the members of The Commonwealth Equality Network (TCEN), a network of Commonwealth civil society organisations working on LGBTQI rights to shed light on strategic international advocacy and its impacts. In addition, Victor Madrigal, UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity assumed the role of Keynote speaker contextualizing Sexual Orientation and Gender Identity related rights within the normative international human rights law scheme.

For more than thirty years, Egale has been working to improve the lives of lesbian, gay, bisexual, trans, queer, intersex, and Two Spirit individuals nationwide by informing public policy, inspiring cultural change, and promoting equal rights and inclusion through research, education, and community engagement. In the spirit of Egale's longstanding pursuit of equality and inclusion, the IDENTITY Conference was preceded by the Intersex Pre-Conference, a focused conference on intersex rights as a conscious measure to firmly ground, the often overlooked Intersex rights, within the Sexual Orientation and Gender Identity rights discourse.

Key Conference Findings

Employment and Workplace Inclusion:

- Need to conduct national research on the state of inclusion for LGBTQI2S people in the workplace so we are not reliant on data from the US and other countries.
- The UN committee on Economic, Social and Cultural rights places an obligation on the state to “adopt appropriate legislative, administrative, budgetary, judicial and other measures to ensure its full realization”, thus, the federal government must ensure tangible steps are taken in terms of resource allocation towards civil society for workplace inclusion trainings together with other abovementioned legislative amendments.
- Through consultations with civil society, the federal government must work towards developing a comprehensive national implementation strategy for Bill C-16 that targets funding for the development of comprehensive and inclusive policies, programs and training around gender identity and gender expression.
- Targeted social assistance funding must be earmarked to sustain the income of trans and gender diverse employees who experience employment disruption while they are recovering from gender affirming procedures.

Housing and Homelessness:

- More national data needs to be gathered related to housing, poverty, and food insecurity specifically for LGBTQI2S populations to inform evidence based policy making. In doing so, especially include individuals who are marginalized due to intersecting identities of race, gender, immigration status, ability and age.
- Expanded direct service initiatives, focused on LGBTQI2S youth, in major cities across Canada to meet specific and unique needs of youth in our community.
- Increased transitional and emergency housing facilities across Canada, specifically for LGBTQI2S individuals.
- National research to further understand the specific needs of older LGBTQI2S people in Canada.
- Explore the need for Long-Term Care/Retirement facilities dedicated to older LGBTQI2S adults.
- Meaningful engagement of federal government with civil society working on LGBTQI2S issues for policy recommendations surrounding the needs of the LGBTQI2S community to ensure that the existing National Housing Strategy is addressing the unique needs of this community. In doing so, allocate targeted funding for policy, programming, and training development that is specific to LGBTQI2S communities, with an emphasis on LGBTQI2S youth and seniors, communities of colour, Two Spirit and other Indigenous communities, persons with disabilities, newcomers and asylum seekers.
- Meaningful engagement of federal government with diverse LGBTQI2S populations and civil society across the country as part of the consultative process behind the development of the Canada Poverty Reduction Strategy, and allocate targeted funding

for policy and programming development that is specific to LGBTQI2S communities and intersecting identities.

- Provide increased funding for government social assistance programs to ensure a basic standard of living through a sufficient living wage that is available for all Canadians.

Safer Schools and Campuses:

- Increased need for training of educators and school administrators on how to create safer spaces for LGBTQI2S students across the country.
- More research and data to better understand the current climate for LGBTQI2S students and educators in Canadian schools. Update the National Climate Survey on the state of inclusion for LGBTQI2S secondary school students in Canada.
- Better channels and procedures needed for students to vocalize complaints within schools, paying close attention to the safety of LGBTQI2S students in particular.
- National guidelines should be created for inclusion and safety of LGBTQI2S students at school. While isolated programs, functioning on similar mandates are in place, there is a need for overarching federal guidelines for staff, teachers and students in order to ensure meaningful access to education.
- National guidelines should be created for sexual education curriculum. The guidelines should aim to universalize the age at which students start receiving sexual education and a directive framework regarding the contents of sexual education which is inclusive of lived experiences of LGBTQI2S identities.

Sports Inclusion and Recreation:

- Sports organizations at all levels must be encouraged to adopt the Canadian Centre for Ethics in Sports' guidelines for creating inclusive environments for transgender participants.
- Coaches, physical education instructors at every level need training and education on LGBTQI2S inclusion in sport.
- Create educational resources and curriculum for sports providers.
- Develop a broad education campaign for fans on LGBTQI2S inclusion in sport.
- Enhance the Pride House concept for all major sporting events.

Faith:

- Catholic and religious based schools must liaise with civil society to design LGBTQI2S inclusive sexual education curriculum and ensure inclusion training for educators and staff.
- Create educational resources and curriculum for religious schools.
- Host a series of interfaith events across the country to discuss how relationships between faith and LGBTQI2S identities intersect.

Health, Equity and Wellness:

- Civil society expertise must be utilised for the training and ongoing professional development for healthcare practitioners surrounding LGBTQI2S health in general, and specifically issues related to HIV/AIDS, transition healthcare, intersex healthcare and sexual and reproductive health from a holistic and patient-centred lens.
- Federal government in consultation with civil society must work toward the development of a National Gender Affirming Healthcare Strategy that models the work and approach of Trans Care BC to ensure comprehensive healthcare for trans and gender diverse communities that is physically and economically accessible and addresses their wide-ranging healthcare needs.
- Accessibility to affordable contraceptives, immunization plans, and preventative sexual healthcare, including PrEP/PEP, within sexual health coverage across Canada, with a particular focus on rural regions must be improved.
- Federal government in consultation with civil society must work towards developing a National Harm Reduction Strategy with specific allocated funding that addresses the mental health and addiction needs of LGBTQI2S individuals, with particular focus on gender affirming care and holistic approaches that respect and acknowledge Indigenous ways of healing.
- Conduct large-scale consultations with intersex people living in Canada as an initial step towards reforming section 268(3) of Canada's Criminal Code, which continues to allow non-consensual surgery by medical practitioners to alter the bodies of infants and children whom they perceive to be ambiguous, a practice that disproportionately impacts intersex people.
- Egale will host the third international Suicide Prevention Summit in 2019.

Legal and Justice:

- Advocate for judicial systems to limit prosecution of HIV non-disclosure, particularly as it relates to sexual assault law.
- Conduct large-scale consultations with intersex people living in Canada as an initial step towards reforming section 268(3) of Canada's Criminal Code, which continues to allow non-consensual surgery by medical practitioners to alter the bodies of infants and children whom they perceive to be ambiguous, a practice that disproportionately impacts intersex people.

DETAILED INFORMATION BY STREAM

Intersex Pre-Conference

Context:

Section 268(3) of the *Criminal Code* continues to allow non-consensual surgery by medical practitioners to alter the bodies of infants and children whom they perceive to be ambiguous (i.e. intersex or, in current medical discourse, to have a “disorder of sex development”). This practice actively harms children based on cisnormative assumptions of what bodies are medically “correct” and violates the right to bodily autonomy. This practice has been recognised by several International Human Rights bodies, as rights violations of a significant nature within the scope of right to health together with a severe infringement of personal autonomy and integrity. The Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment in his 2013 report to the UN General Assembly also said that medically unnecessary, non consensual surgeries on intersex infants also implicate rights related to freedom from torture.

Conference Findings:

Egale organised Canada’s first Intersex conference bringing together academics, researchers, intersex children, youth and parents with objectives of fostering a dialogue to flesh out the needs of the intersex community in Canada. Conference attendees talked about there being a significant intersection between the intersex and disability community, in that the ableist notions of human body which assume that what works for the average person is desirable. This is also reflected in the ways in which practitioners, whether in social work, genetics counselling, pediatric surgery and/or endocrinology view intersex and lead parents toward normative interventions either to prevent intersex altogether through the use of pre-implantation testing, or to prevent some forms of intersex features from developing (through the use of prenatally administered dexamethasone), or finally and persistently, to advise surgical “correction” of those who are still apprehended in infancy or childhood with an intersexualized difference.

Egale’s Work:

Egale distributed a press release and call-to-action on Intersex Awareness Day (Friday, October 29, 2018) to raise awareness about the issues that intersex people face, as well as call on the Canadian Government to recognize that there are changes required to the law in order to protect intersex infants and children from “corrective” surgery.

Way Forward:

Egale will continue to facilitate dialogue with national intersex groups and individuals and work with the Federal Government in order to ensure that intersex individuals’ rights are protected by the criminal code.

Stream: Employment and Workplace Inclusion

Context:

The UN Committee of International Covenant on Economic, Social and Cultural Right (ICESCR) deems right to work recognised under Article 6 of the covenant as intrinsic to human dignity¹ which includes the right to not be deprived of work unfairly. LGBTQI2S communities are systematically excluded from career and employment opportunities due to institutional barriers as in the case of education and discrimination in the workplace. While workplace harassment and violence are rampantly prevalent, trans people, especially experience structural barriers to employment as systems are not designed for the possibility of trans experience. For example, nearly half of trans Ontarians are unable to obtain employment references or academic transcripts with their correct name, pronoun, and/or sex designation.²

Key Statistics:

According to Trans Pulse, a large scale Ontario based analysis, 18% were turned down from employment because they identified as transgender, 13% were fired for being transgender.³ Furthermore, 50% of trans people in Ontario earn less than \$15,000/year despite the fact that over 70% have completed at least some college or university education with only 37% of trans people in Ontario have succeeded in obtaining full-time employment.⁴ Sufficiently evidencing the manner in which LGBTQI2S populations are unfairly deprived of work, in thorough violation of the ICESCR rights.

Conference Findings:

Drawing from recent research and lived experience of trans individuals, various sessions within this stream undertook the process of first uncovering why LGBTQI2S employees remain closeted even in seemingly inclusive and diverse work environments and reasons for overall trans underemployment.

Following the identification of these underlying causes, interactive workshops based on contemporary research and lived transgender experience outlined successful inclusion strategies in the likes of privacy/ confidentiality, changes in documentation and communication together with discussing the role of allies and removal of infrastructural barriers impacting the progress of inclusion. Workshops also provided participants with strategies on the functions of unions to

¹ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 18: The Right to Work (Art. 6 of the Covenant)*, 6 February 2006, E/C.12/GC/18, available at: <http://www.refworld.org/docid/4415453b4.html> [accessed 5 July 2018]

² Bauer, G., Nussbaum, N., Travers, R., Munro, L., Pyne, J., & Redman, N. (2011). We've Got Work to Do: Workplace Discrimination and Employment Challenges for Trans People in Ontario (Trans PULSE E-Bulletin No. Volume 2, Issue 1) (p. 3). Ontario: Trans PULSE

³ *Id.*

⁴ *Supra* note 5.

support research, build inclusion and amplify advocacy for LGBTQI2S rights within the workplace. Goal oriented solutions such as access to career development opportunities, professional networks and mentoring for LGBT youth for easier transition into workplaces also formed a crucial part of these discussions. Considering the effects of discrimination and institutional barriers are further compounded when these marginalised identities intersect with gender and ability, sessions within this stream were specifically designed to address the importance of viewing LGBTQI2S inclusion with a disability and gender lens.

Egale's Work:

Pursuing workplace inclusion from a human rights perspective, Egale has been providing workplace inclusion training for organizations, engaging their leadership and staff to chart a path toward making inclusive practices a part of their core organisational objectives. Through sector specific training, Egale has helped organizations evaluate their existing practices and enhance their approach to inclusion through interactive learning and systems-change. In the years 2017 and 2018, Egale has partnered with 15 organizations and trained over 1300 people both nationally and internationally. Some of Egale's clients have included TD Bank, Barilla Pasta, the Canadian Olympic Committee, the City of Hamilton, the Government of Newfoundland and Labrador, Intact Insurance, Maple Leaf Sports and Entertainment (MLSE), Hockey Canada, the Parole Board of Canada, Toronto Alliance for the Performing Arts and the United Food and Commercial Workers Union (UFCW).

Way forward:

Workplace inclusion is heavily prioritised in terms of Egale's Strategic direction. We continue our work in this space by expanding our workplace inclusion trainings on a national scale; engaging with more public and private sector organizations throughout Canada in pursuance of our policy review mandate wherein our services can help stakeholders institutionalize LGBTQI2S inclusion within their organisational structures

Stream: Housing and Homelessness

Context

Despite being one of the most vulnerable groups, the LGBTQI2S population remains largely absent in housing related data as well. Homelessness is a pressing issue among LGBTQI2S communities, in particular LGBTQI2S youth and seniors, Two Spirit and LGBTQI indigenous communities, LGBTQI2S persons with disabilities, and LGBTQI2S communities of color. Studies suggest LGBTQI2S youth experience homelessness at higher rates, in comparison to cis gendered heterosexual youth with twice the occupancy rate in Toronto Shelter systems.⁵ Similarly, older

⁵ City of Toronto. (2013). Street needs assessment results 2013. Retrieved from <http://www.toronto.ca/legdocs/mmis/2013/cd/bgrd/backgroundfile-61365.pdf>

LGBTQI2S adults experience additional challenges to accessing housing due to physical, economic and social barriers to inclusion in long-term care settings. While quality housing is already a problem in first nation reserves, instances of ousting of two spirited persons from reserves reflects particular vulnerabilities of the LGBTQI2S communities. It is also pertinent to note that there is data to support that racialized LGBTQI2S youth are at particular risk of police violence and targeted police interventions. In addition, shelter systems and service agencies do not have requisite policies in place to educate workers about the unique experiences and needs of LGBTQI2S communities, more specifically, trans and gender diverse communities. Right to housing under Article 11 of ICESCR encompasses the right to adequate housing, wherein adequacy is assessed on the basis of, adequate security, infrastructure, accessibility and affordability.⁶ In light of the lived realities of LGBTQI2S communities, Canada is in severe violation of normative international standards pertaining to Rights to Housing under ICESCR.

As explained by the Committee on International Covenant on Civil Political Rights, for successful realization of Right to Life, states have a duty to protect life which entails taking appropriate measures to address the general conditions that threaten right to life and living with dignity and these conditions include extreme poverty and homelessness.⁷ This accepted principle of interdependence of rights is amply reflected in the relationship between poverty and its manifestations such as homelessness. Thus, in addition to rights violation of economic social cultural rights under the ICESCR, lack of adequate housing is also a right to life violation which is a non-derogable standard of international human rights law.

Key Statistics:

Due to discrimination in educational institutions as well as workplaces LGBTQI2S communities are further exposed to poverty which results in increased rates of homelessness. This likelihood increases when a member of the community is racialized, trans, gender diverse, indigenous and/or a person with disabilities. Ontario-based research found that, on average 34% of trans Ontarians and 25.7% of bisexual adults in Canada live below the LICO (Low income cut-off).⁸ Even the data available is largely insufficient insofar as understanding poverty levels across intersecting identifies from within the LGBTQI2S populations, as an example there is no data available on poverty rates among trans people of colour.

⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23, available at: <http://www.refworld.org/docid/47a7079a1.html> [accessed 6 July 2018]

⁷ UN Human Rights Committee (HRC), *CCPR General Comment No. 6: Article 6 (Right to Life)*, 30 April 1982, available at: <http://www.refworld.org/docid/45388400a.html> [accessed 6 July 2018]

⁸ Dignity for All. (2015). A national anti-poverty plan for Canada. Retrieved from <http://www.cwp-csp.ca/wp-content/uploads/2015/12/Dignity-for-All-A-National-Plan-for-Poverty-in-Canada.pdf>

Conference Findings:

The federal government has taken steps in compliance with its human rights obligation, recognizing housing as a human right. It has also announced the National Housing Strategy stipulating a federal investment of \$40 billion over a ten-year period for affordable housing, committing to Sustainable Development Goals (SDGs) agenda. While these are well intentioned steps in the right direction, the SDGs, together with obliging the states to leave no one behind also demand focused policy actions on the populations that are the furthest behind. Considering the disproportionate representation of LGBTQI2S populations within homelessness data, this population needs to be mainstreamed within the National Housing Strategy with attention on their specific development needs.

Sessions within this stream discussed these very housing related needs and concerns specific to the LGBTQI2S community. Existing policy gaps and remedial actions insofar as data collection, research, transitional housing needs were also examined. Specific importance was laid on housing programs providing safe spaces for trans people to medically transition and offering additional support around mental health and/or substance use challenges. Compared to heterosexual youth, rates of homelessness for LGBTQI2S youth are alarmingly high, given the disproportionate representation of these youth in homelessness data, strategic approaches to break the cycle of homelessness through client driven intervention that strengthens and nurtures family relationships were also deliberated upon.

Egale's Work:

Egale's 2012 research study, *Not Under My Roof*, identified that LGBTQI2S youth are severely over-represented in the homeless youth population (over 23-25%). This confirmed a strong demand for a dedicated transitional and emergency housing facility that would take a harm-reductive, intersectional, and skills-development approach to best address the unique challenges facing Toronto's LGBTQI2S youth. In April 2014, through the generosity of a private donor, Egale opened Egale Youth OUTreach, a mental health crisis intervention and housing stabilization program. Egale Youth OUTreach began addressing the needs of LGBTQI2S youth through the delivery of front-line services to homeless and/or precariously housed LGBTQI2S youth and the demand for this service continues to grow.

Way forward:

In 2016, Egale launched a capital campaign to build Egale Centre – Canada's first transitional and emergency housing facility dedicated to LGBTQI2S homeless youth. The lessons Egale learned from the crisis intervention and housing stabilization program helped shape the core of the Egale Centre approach, design and operating plan.

Egale Centre, set to open in the summer of 2019, is a result of Egale’s dedicated commitment to the housing rights mandate. It will be Canada’s first facility that will combine the proven counselling service of Egale Youth OUTreach with transitional and emergency housing. Egale will continue its funding efforts to capacitate Egale Centre and its front line services requirements, simultaneously, continuing its advocacy emphasizing mainstreaming of LGBTQI2S populations within Canada’s National Housing Strategy together.

Stream: Safer Schools and Campuses

Context:

Article 13 and 14 of The International Convention on Economic Social Cultural Rights (ICESCR) provide a comprehensive framework to right to education under international human rights law. While Canada makes available free and compulsory primary education to all, observing standards outlined in Article 13(2)(a)⁹ of the covenant, normatively, mere availability of free and compulsory primary education does not guarantee complete realization of this right.

For complete conformity with international human rights law standards, primary education must also be *accessible* to everyone without discrimination, especially towards the “most vulnerable groups” with *acceptable* curriculum and teaching methods that are “relevant and culturally appropriate” for students and lastly, education must be *adaptable*, embracing flexibility in terms of adapting to changing and diverse socio-cultural milieu.¹⁰

The Public Health Agency of Canada’s (2008) Canadian Guidelines for Sexual Health Education encourages education systems to include information about attraction and gender identity within sexual education curriculum and include sexual health information relevant to LGBTQI2S identities. Despite the cultural relevance of this curriculum to foster inclusive school environments, students across Canada do not receive adequate information on these issues as nature and access to sex education curriculum greatly relies on the prerogative of provincial governments. Needless to say, despite availability, the existing education system is riddled with systemic deficiencies on international human rights parameters of access, acceptability and adaptability for LGBTQI2S students in Canada.

Key Statistics:

Harassment and discrimination encountered in school together and the lack of remedial structures in place grossly impede access to education for students identifying as LGBTQI2S in

⁹ A.13 (2) The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

¹⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10, available at: <http://www.refworld.org/docid/4538838c22.html> [accessed 4 July 2018]

Canada. Egale’s first National Climate Survey revealed that 64% of LGB students and 78% of trans students feel unsafe in school due to instances of harassment and bullying.¹¹ Additionally, students identifying as LGBTQ have a documented higher drop out rates than their heterosexual counterparts.

Conference Findings:

The various sessions within the Safer Schools and Campuses stream discussed approaches and strategies to domesticate these normative standards of human rights within the Canadian jurisdiction. The foremost conclusion being that LGBTQI2S inclusivity within education must be framed as a Human Rights Issue, seeking accountability in law with litigation being an important aspect of policy change as reflected in cases such as *Jubran v. Board of Trustees- BC Court of Appeal*, *Kempling Case (BC)*, *Ross V. New Brunswick School District*.

Along the principle of adaptability, relevance of challenging gender stereotypes as early as primary education was reinforced as binary gender norms are embedded within the very infrastructure of primary school in both implicit and explicit ways – i.e.- “Boys and Girls” on building signage and lesson plans. In the same vein, the need to work on inclusive facilities design in school alongside municipal government was emphasized. Furthermore, Egale’s National Climate Survey was credited as being instrumental for progress made in New Brunswick, however, the need for further disaggregated data collection to inform evidence based policy making was stressed as key to understanding the needs and concerns of queer students across schools and campuses within Canada.

The sessions also incorporated nuanced discussions on different approaches to foster inclusivity within school curriculums. Examining the success of various SOGI inclusive school programs, it was found that film and first person narrative as empathy building tools were powerful medium for changing hearts and minds and anti-bullying campaigns that fail to name the specificity and prevalence of gender and attraction based bullying as bullying must be reformed. Deliberating on effectiveness of legislations to combat school bullying and harassment, a session was dedicated to a thorough analysis of Ontario’s Bill 13, an amendment to Education Act that placed crucial importance on bullying, discrimination, equity, and inclusion to ensure that all students were immersed in safe and accepting schools. It was observed, while the existing policy advocates for inclusion of marginalized students, it does so without dismantling institutional and systemic structures in school that maintain hetero normative values. Thus, the current policy must be remedied to convey structural and cultural changes in practices that reinforce damaging values to effect successful change. Together with discussing theoretical notions to policy change and models of inclusive school education, practical best practices for celebrating gender diversity

¹¹ Catherine Taylor and Tracey Peter et al (2011), *Every Class in Every School: Final Report on Homophobia, Biphobia, and Transphobia in Canadian Schools. Final Report*. Toronto, ON: Egale Canada Human Rights Trust, pg. 17.

in schools, and other practices ensuring smooth transitioning of Trans youth in schools were also exchanged.

Egale's Work:

Strongly invested in ensuring complete realization of right to education for LGBTQI2S youth in Canada and recognizing the need for further data collection, Egale is currently in the process of implementing its second National Climate Survey with hopes of engaging in data driven, evidence based advocacy for effective policy reforms. Egale has developed extensive curriculum for educators and has trained over 10,000 educators in the past three years. In addition, Egale has been conducting Safer School trainings for educators and school staff wherein participants engage in critical conversations and interactive activities to develop concrete strategies for best practices and proactive strategies for fostering healthy classrooms and action plans to create school environments that are inclusive of *all* students. Participants broaden their understanding of allyship together with developing relevant skills to confront homophobia, biphobia, and transphobia. Aligned with safer schools' programmatic mandate, Egale also organised a series of Principal Summits across Ontario, attempting to solidify leadership on LGBTQI2S issues. The summit provided an opportunity for principals and vice principals to learn, exchange ideas and develop plans for leadership in creating safer and accepting schools for lesbian, gay, bisexual, trans, queer, intersex, and two spirit (LGBTQI2S) students. Recognizing youth themselves as agents of change, Egale also organises the bi annual Outshine conference for youth leadership development across Canada.

In partnership with the Toronto District School Board, and with support from the Ontario Trillium Foundation, Egale operates a classroom for up to 8 LGBTQI2S students (aged 14-21) who experience mental health challenges. The classroom incorporates counselling ('treatment') into each day as part of the curriculum in an environment to learn that respects all of who they are.

Way Forward:

Egale is strongly invested in ensuring complete realization of right to education for LGBTQI2S youth in Canada. In pursuit of this objective, Egale wishes to expand its Safer Schools trainings on a national scale and continue engagement with school boards via organisation of annual Principals' Summits in efforts of fostering inclusive school environments. Egale is also conducting the second National Climate Survey of Homophobia, Transphobia and Biphobia in Canadian Schools.

Stream: Sports Inclusion and Recreation

Conference Findings:

The objective of this stream was to showcase the unique challenges faced by LGBTQI2S athletes while navigating careers in sports wherein binary classification of male and female form the very

basis of its organisational foundation. This inherently biased set up leaves very little room for participation from individuals who don't conform to binary notions of genders such as transgender, intersex and non-binary persons as evidenced by data that suggests that 84% of trans youth never play a team sport. In addition, homophobia manifesting itself in locker rooms, day-to-day inter-personal interactions further dissuade LGBTQI2S youth from effectively participating and excelling in sports. Workshops and seminars within this stream looked at strategies in the likes of engaging cisgender allies, making infrastructural modifications to recreational facilities, and sensitization trainings for coaches and co-athletes as measures for improving recreational athletic spaces for gay, transgender and gender diverse athletes.

Egale's work:

Egale has delivered LGBTQI2S inclusion trainings to Sports Canada, Centre for Ethics in Sports, and undertaken policy reviews for clients like Maple Leaf Entertainment, Hockey Canada and Sport North. In addition, Egale has also partnered with the Canadian Olympic Committee on their One Team initiative and is the Canadian partner of the You Can Play initiative, a social activism campaign by professional sports leagues and teams to foster inclusion of LGBTQI2S athletes.

Way Forward:

Egale will expand its work in the sphere of sports inclusion to engage with Sports Associations across Canada to deliver LGBTQI2S inclusion training for coaches, athletes as well as parents. We will continue our engagement with policy makers and other stakeholders in order to empower LGBTQI2S athletes to meet their fullest potential in the sports arena.

Stream: Faith

Context:

With the imposition of heteronormative values, conservative gender roles, faith and religion has often been used to oppress LGBTQI2S individuals and invalidate their experiences. Faith groups across the world have been the strongest opposition forces to progressive policy and legal advancements such as decriminalization of sodomy laws and same sex marriages. Given this hijacking and politicization of the concept of marriage and family by religious groups, the gay rights movement has often been attacked under the garb of religious freedom, thus running in tension with one other.

Conference Findings:

Sessions within this stream discussed counter narratives dismantling these traditional notions of family and relationships. Furthermore, as evidenced by Malta, a dominantly Roman Catholic country with very progressive Sexual Orientation and Gender Identity laws and the recent case of Malaysian Transgender groups advocating for change in gender status on official identity cards citing religious rights under Hinduism, religious freedom and progressive gay rights discourse can

co-exist. These sessions also deliberated upon approaches for resolving the conflict between religious freedom and Sexual Orientation and Gender Identity (SOGI) rights by fostering a relationship with religious groups. Additionally, interactive workshops within the stream also provided the participants an opportunity to reconcile their differences with faith through process of self affirmation and spiritual healing.

Egale's Work:

Egale has been working with Ontario English Catholic Teachers' Association on the Sexual Education curriculum to ensure inclusion of LGBTQI2S populations with hopes of reconciling faith with freedom of expression of sexual orientation and gender identity.

Way forward:

Egale will continue its engagement with Catholic schools by expanding its work to include policy reviews, LGBTQI2S trainings for educators, parents as well as students and sexual education curriculum reviews in Catholic Schools across Canada. Furthermore, Egale believes that open dialogues between faith leaders and queer communities is essential to bridge the gap between the two ideologies. Egale will give shape to this idea by holding a roundtable inter-faith conference in November, 2018 in order to build allyship in the faith community.

Stream: Health Equity and Wellness

Context:

The right to health is protected under international human rights law through article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and other international and regional treaties and conventions. While the Committee on the Economic, Social and Cultural Rights (CESCR) instructs that discrimination in affording the right to the highest attainable standard of health is in contravention to the principle of non discrimination, the lived reality of LGBTQI2S populations in Canada speaks to a different tone.

It is commonplace for LGBTQI2S communities to receive care that is not inclusive of their identities due to the lack of education, training, and cultural awareness of LGBTQI2S communities that health care professionals receive¹², LGBTQI2S patients often experience improper care. As a result of these previous negative experiences, as well as the trauma resulting from the history of pathologization and institutionalization within the medical community, there is significant mistrust of healthcare practitioners within LGBTQI2S communities¹³. Plus, access to publicly

¹² Obedin-Maliver et al. (2011) "Lesbian, Gay, Bisexual, and Transgender-Related Content in Undergraduate Medical Education." *Journal of the American Medical Association*. Vol. 306, No. 9, pp 971- 977

¹³ Meyer, I.H. (2003). Prejudice, social stress, and mental health in lesbian, gay, and bisexual populations: Conceptual issues and research evidence. *Psychological Bulletin*, 129, pp 674–697.

funded, comprehensive gender affirming healthcare remains a significant barrier for trans and gender diverse communities.

Conference Findings:

Sessions within this stream discussed barriers and required policy interventions to create affirming healthcare experiences for this population and mainstream LGBTQI2S within the sexual and reproductive health discourse. Affordability of HIV medical interventions such as Pre-exposure prophylaxis (PrEP) and Post-exposure prophylaxis PEP together with hormones and other medication needed for transitioning persons, places further limitations on healthcare access for LGBTQI2S people. In light of these issues, sessions were dedicated to assessing potential solutions such as universal pharmacare plans. Given the state of mental health crisis and high rates of substance abuse within the LGBTQI2S community, especially among trans populations, workshops within this stream also provided participants with coping strategies.

Egale's Work

In 2011, Egale took the lead on identifying the incidence, causes, and solutions to the crisis of LGBTQI2S youth suicide. In 2012, Egale held Canada's first North American Summit on LGBTQI2S youth suicide prevention and the second Summit took place in 2014. These summits resulted in a partnership with the Chief Coroners as well as the Chief Medical Examiners of Canada which led to the development of an LGBTQI2S protocol for medical examiners and coroners responding to suicides. Canada's coroners are now properly gathering statistical information about sexual orientation and gender identity/expression when processing documents related to cause of death.

Egale Youth OUTreach continues to provide mental health crisis intervention, scheduled counselling, and drop-in programs for LGBTQI2S youth. One program of note is a Voice Group specifically for trans-masculine and trans-feminine youth who are looking to change the octave of their voice through natural means, led by a voice coach who is an opera singer, which prevents trans-masculine youth from resorting to smoking to lower their voice.

Way forward:

Egale is committed to the cause of LGBTQI2S inclusive healthcare and will continue to advocate for allocation of specific funding towards services that attend to the mental health needs of diverse LGBTQI2S people across the country together with the implementation of a universal, national gender-affirming care strategy to ensure that trans and gender diverse communities across Canada have access to gender-affirming care that supports their long-term mental health, regardless of their location or socio-economic status. In addition, Egale will continue to build partnerships in the healthcare sector to mandate inclusion training for all service providers to ensure that they have the knowledge and resources to adequately serve and respond to the

needs of LGBTQI2S people. Egale will hold the third international Suicide Prevention summit in 2019.

Stream: Legal and Justice

Conference Findings:

The objective of this stream was to familiarize participants with existing policy advancements together with contemporary policy lacunae that require further advocacy efforts from civil society. Community consultations, litigation, successes and challenges thereof, preceding the Just Society report leading to PM Trudeau's apology for the LGBT Purge, were discussed to provide insights into effective advocacy strategies. The significance of an apology within the larger framework of human rights and justice as a means of reconciliation was reinforced through personal storytelling by members of the armed forces.

This stream was also intended for disseminating information on institutional structures and avenues for engagement to advocate for LGBTQI2S rights. In light of this purpose, the session provided an overview of the LGBTQ2 Secretariat, its function within the federal government structure, and the integration of LGBTQ2 issues within the federal government's Diversity and Inclusion priority. The presenters touched on the role of the Special Advisor on LGBTQ2 issues, the mandate of the Secretariat, key accomplishments of the Secretariat to date, and planned engagement with LGBTQ2 communities. Within these sessions, the need for federal data collection was reiterated with special emphasis on the use of an intersectional lens to allow for deeper consideration of LGBTQ2 identities within public policy development. Sessions also shed light on the processes and challenges of data collection by civil society in partnership with private stakeholders as in the case of RIWI (global trend-tracking and prediction technology firm) and ILGA (International Lesbian, Gay, Bisexual, Trans and Intersex Association) along with the various uses of data in local and global advocacy work.

In addition, interactive sessions, enhanced participants' knowledge of contemporary legal issues such as LGBTQI2S concerns under family law; attributing individual criminal liability for crimes against humanity of persecution under International criminal law for enforcement of anti-gay laws; potential hate crimes legislations for the protection of LGBTQI2S communities, which is of particular importance considering the rise in hate crimes against LGBTQI2S populations on the basis of perceived sexual orientation and gender identity; the impact of HIV non disclosure criminalization and the law reform required to bring the law in line with up-to-date science, human rights principles, and public health responses.

Egale's work:

The Canadian Prime Minister's apology to the LGBTQI2S communities for state sponsored discrimination against public servants and Military Personnel, can be credited directly to the work

of Egale’s Just Society Committee. The Apology set a gold standard for treatment of sexual and gender minorities, both in Canada and internationally, re-affirming Canada’s place as global leaders in LGBTQI2S Human Rights. Similarly, Egale continues to intervene in cases concerning LGBTQI2S populations; for example, the Trinity Western case, presented with the help of Egale’s Legal Issues Committee.

Way forward:

Egale will continue its efforts for the institutionalization of the Legal Aid Clinic to service LGBTQI2S populations, given access to justice for sexual and gender minorities is limited due to socio-economic factors. In addition, Egale will continue its advocacy against non-consensual and medically unnecessary surgeries on intersex infants; strengthening policy guidelines pertaining to Canada’s role in protection of LGBTQI human rights defenders; subsidized legal support and resettlement of LGBTQI refugees in Canada.

International Advocacy

The Commonwealth Equality Network (TCEN) Panel Discussion:

Speakers: Paul Dillane (UK), Steve Letsike (South Africa), Pang Khee Teik (Malaysia), Helen Kennedy (Egale Canada); moderated by Kim Vance (ARC International)

The Commonwealth Equality Network (TCEN) Panel Discussion Activists participated in an exhilarating panel discussion on LGBTQI rights from a global perspective to help frame the broader discussion around the context that Canada assumes internationally. The TCEN activists attended the Commonwealth Summit in London thus speaking to the challenges and impacts of international advocacy within domestic commonwealth jurisdictions.

Setting the tone for this discussion, the speakers unanimously established that, despite differences in the semantics surrounding the distinct LGBTI identities and the manner of gender expression, structural issues and resulting discrimination is the same across the commonwealth owing to common colonial legacies.

Given Commonwealth Equality Network’s staunch opposition to colonial legacies which form the basis of sodomy laws within the commonwealth, the moderator questions the paradox of this space which brings activists together because of those very colonial legacies. The activists responded by reinforcing the importance of visibility and prospects of strong coalition building that makes the Commonwealth an effective space for LGBTI advocacy. This was exemplified by Teresa May’s expression of regret for criminalization of same-sex conduct in commonwealth countries as acknowledging historical injustice is the first step for reconciliation in furthering LGBTI rights. Furthermore, international engagement of this nature was stressed upon in light of shrinking space for dissent and civil society participation in countries that leave few avenues for

LGBTI advocacy domestically. Considering this is a global trend, leveraging international spaces such as the commonwealth becomes all the more imperative to advance SOGI rights.

Commenting on the position that Canada assumes globally, Helen speaks to the importance of TCEN as a space to learn and inform domestic policies as cultural imbalance in the treatment of LGBTI persons in Canada still exist and marriage equality laws don't guarantee equal treatment. Also, stressing that when Canada takes up LGBTI rights as an agenda item in international engagements, as it did in the case of last year's summit, it does initiate the process of deliberation on LGBTI rights.

Keynote Speech by Victor Madrigal, UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity

Speaking to the kind of violence inflicted upon individuals identifying as LGBTI, he explains that the intent of this violence is to punish non conformity. For example, trans identity is the most radical rupture of gender binary norms, so when states deny access to trans identity, the violence therein is the denial of personhood on the basis of non conformity and exclusion from "proper citizenship". Moreover, violence against sexual and gender minorities requires to be analysed in light of existing power structures built on notions of conventional morality, perpetrated in order to regain control over societal regulatory systems such as family, faith, schools etc. He positions the concept of violence against LGBTI persons within systemic cultural criminalization of this population. Cultural criminalization which dehumanizes and creates a perpetual context for criminal actions to follow, essentially continuing cyclical violence against LGBTI communities.

In this context, he calls attention to the importance of apology as a measure for reparations. International law specifies five categories of reparations. In Canada's case, the apology comes under the reparation category of '*satisfaction*', considering it's symbolic and emblematic nature for both victims and society, reinforcing the state's commitment to non repetition together with verification of facts and public disclosure of the truth. Expanding on the importance of truth, he quotes the principal of "*Right to Truth*" under international law, a concept which was framed by the Inter-American court of Human Rights for cases of enforced disappearances, which has now been utilised in different settings to empower victims and societies to find out about past abuses by the state. An apology and consequent disclosure of truth is thus significant as it serves the function of lifting the burden of misgivings of their fate from the victims and places it on perpetrators. He lauded PM Trudeau's apology on it's sincere and impactful tone together with its effectiveness of this apology was inscribed in a process to show continued rights advancements and commemoration of victims.

Conclusion

The IDENTITY Conference was a thorough success, fulfilling all objectives conceptualised for this undertaking. The conference created a forum for fruitful discussions and exchange of ideas among participants within the various streams. Aligning with the solution oriented approach of this conference, together with identifying existing policy gaps, new research and advocacy objectives were also outlined to successfully advance the LGBTQI2S human rights movement in Canada. In addition, the nuanced presentations coupled with in-depth discussion were much needed opportunities for civil society organisation to strengthen and expand research and advocacy collaborative networks. The added international perspective conveyed via The Commonwealth Equality Network (TCEN) panel and Keynote speech of the Special UN Rapporteur, also gave participants an opportunity to acquire insights into best practices for strategic advocacy and international institutional engagement needed to further LGBTQI2S rights. The uniqueness and importance of this conference can be credited to the contextualisation of LGBTQI2S rights both within domestic and international Human Rights codes and the Sustainable Development agenda. This was fundamental in helping Egale and other civil society present recognise goals and strategic direction needed to be taken in order to ensure fullest realisation of human rights for LGBTQI2S persons in Canada. The overwhelmingly positive response from the participants validates all our efforts in the process and speaks to the actual success of the conference.

About Egale Canada

Egale Canada was founded in 1986, and is Canada's only national organization (and registered charity since 1995) promoting lesbian, gay, bisexual, trans, intersex, queer, and Two Spirit (LGBTQI2S) human rights. Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education, and community engagement. Egale's vision is a Canada, and ultimately a world, without homophobia, biphobia, transphobia and all other forms of oppression so that every person can achieve their full potential, free from hatred and bias. To date, Egale has intervened in 13 Supreme Court cases, with a 100% success rate.