

Terms & Concepts



Related to Canadian Criminal Law and History

The Criminal Code

A law that codifies most criminal offences and procedures in Canada. The Constitution Act of 1867 established that the Canadian Parliament would have sole jurisdiction over the criminal law in Canada.

Bill C-150

Also known as the Criminal Law Amendment Act, an omnibus bill which proposed to make sweeping changes to a number of different but related areas of Canada's Criminal Code, including abortion, the sale of contraceptives, drinking and driving, gun control, and same-sex sex activity among others. One of its more contentious clauses dealt with reform to two provisions, Buggery, and Gross Indecency, leading to what is widely understood as the partial decriminalization of homosexuality. The amendments decriminalized buggery and gross indecency between married persons of the opposite sex and between adults who were at least 21 years old provided the conduct was consensual and took place in private. The bill was first introduced as Bill C-195 into Parliament in 1967, by Pierre Elliot Trudeau, the Minister Justice at the time. It was modified and reintroduced in 1968 as Bill C-150 by Justice Minister John Turner. The Bill passed in May 1969 by a vote of 149 to 55 in the House of Commons.

Omnibus Bill

A bill consisting of a number of related but separate parts that seek to amend and/or repeal one or several existing Acts and/or to enact one or several new Acts. Bundling different but related proposals together in one place can be a strategy to pass controversial provisions by wrapping them into a broader bill that the majority are likely to be in favour of.

Buggery

A British law adopted by and applicable in British Colonies, based in prohibitions against "sodomy" (anal intercourse) established by the Roman Catholic Church. The law was passed originally during the reign of Henry VIII in England, 1533. Canada repatriated its own buggery law in 1859 in the Consolidated Statutes of Canada as an offence punishable by death, and reformed sentencing to life imprisonment in 1869. It was added to Canada's Criminal Code in 1892 and same-sex sexual activity continues to be regulated and enforced throughout the 19th and 20th Centuries. Though difficult to prove a conviction, this law provides powerful state-authorized reinforcement for social and systemic homophobic discrimination and violence. The offense of buggery is renamed in the criminal code as 'anal intercourse' in 1988 and the applicable age of consent is lowered from 21 to 18.

Gross Indecency A provision originally created in the English Criminal Law in 1885 and consolidated into the original Canadian Criminal Code in 1892, specifically designed to regulate a broad and vague range of male same-sex activities, which fell short of sodomy (anal intercourse). The law is intentionally ambiguous in defining what acts constitute “gross indecency” giving law enforcement officials a great deal of discretionary authority and lowering the burden of proof in enforcement. The gendered application of this provision is neutralized to include women in the mid 20th Century, even though the original law did not explicitly regulate female same sex sexual activity. The law is repealed and removed entirely from the Criminal Code in 1988.

Obscenity Laws A section of the Canadian Criminal Code which includes sections that prohibit the publication and distribution of “obscene, indecent, immoral and scurrilous” materials. This set of laws has been used to regulate, discriminate and enact state-authorized violence against LGBTQI2S peoples and communities, well beyond the “partial decriminalization of homosexuality” in 1969. Although obscenity law charges do not always result in conviction they often create significant financial hardships to those charged.

Bawdy House Laws A set of laws in the Canadian Criminal Code originally used to regulate brothels, allowing law enforcement officials to make arrests without a definitive proof of money being exchanged for sex. A Bawdy House is defined as “a place that is kept or occupied or resorted to by one or more persons for the purpose of prostitution or the practice of acts of indecency.” This set of provisions continue to be used by law enforcement officials to regulate and criminalize LGBTQI2S communities and peoples well beyond amendments to buggery and gross indecency laws in the 1969 criminal code reform. In fact, the use of Bawdy House laws are used in to raid and arrest LGBTQI2S people in bathhouses and other community spaces throughout the 80’s, 90’s and 2000’s.

Related to Identities and Experiences

Lesbian A woman-identified person who experiences attraction to people of the same gender.

Gay A person who experiences attraction to people of the same gender—gay can include both man-identified individuals and woman-identified individuals, or refer to man-identified individuals only.

Bisexual A person who experiences attraction to both men and women. Some bisexual people use this term to express attraction to both their own gender, as well as to people of a different gender.

Pansexual A person who experiences attraction to people of diverse genders. The term pansexual reflects a desire to recognize the potential for attraction to genders that exist across a spectrum and to challenge the sex/gender binary.

Transgender Refers to a person who does not identify, either fully or in part with the gender associated with the sex assigned to them at birth, according to dominant social expectations. It is often used as an umbrella term to represent a wide range of gender identities and may be called simply 'trans' for short.

Queer A term used by some in LGBTQI2S communities, particularly youth, as a symbol of pride and affirmation of diversity. This term makes space for the expression of a variety of identities outside of rigid categories associated with sex, gender or attraction. It can be used by a community to encompass a broad spectrum of identities related to sex, gender or attraction (as with the acronym LGBTQI2S), or by an individual to reflect the interrelatedness of these aspects of their identity. Queer was historically a derogatory term for difference, used in particular to insult homosexuality and LGBTQI2S people. Although sometimes still used as a slur, the term has been reclaimed by some members of LGBTQI2S communities.

Questioning An umbrella term that often reflects a process of reconciling three different pieces of information: 1) The feelings you have within yourself about the attraction(s) you experience and/or how you experience gender; 2) The language you have available to you to frame those feelings; and 3) The sense you have of how this will impact your interactions with other people in a social context.

Two Spirit An English umbrella term to reflect the many words used in different Indigenous languages describing the fluid and diverse nature of gender and attraction and its interconnectedness to community and spirituality. The terms seeks to restore traditional identities and roles forcefully suppressed or stamped out by Colonization. Some Indigenous people identify as Two Spirit rather than or in addition to identifying as LGBTQI.

Intersex Refers to a person whose chromosomal, hormonal or anatomical sex characteristics fall outside the conventional classifications of male or female. The designation of "intersex" can be experienced as stigmatizing given the history of medical practitioners imposing it as a diagnosis requiring correction, often through non-consensual surgical or pharmaceutical intervention on infants, children and young adults (some people may not be identified as "intersex" until puberty or even later in life).

Gender Variant An umbrella term for gender identities and/or gender expressions that differ from dominant cultural or societal expectations based on assigned sex. Other common terms associated with gender variant are gender diverse and gender non-conforming. Someone who is gender variant may or may not also identify as trans.

Non-binary An umbrella term to reflect a variety of gender identities that are not exclusively man or woman. Identity terms which may fall within this category may include, genderqueer, agender, bigender, or pangender.

Cisgender A person whose gender identity corresponds with the social expectations associated with the sex assigned to them at birth. Cisgender, or cis for short, helps describe a socially dominant experience of gender in relation to assigned sex. Using the term cis man or cis woman, instead of “real” or “normal” man or woman, helps avoid propagating transphobic attitudes and helps normalize and validate the reality of gender diversity.

Related to Systems of Oppression

Systems of Oppression and Privilege

The historically rooted societal structures that govern the rules of social hierarchies (ex- white supremacy, patriarchy, cisheteronormativity, etc.) They are the unjust and harmful exertions of power, authority, and control that construct some types of bodies, identities and experiences as more valuable or superior to others in order to justify forms of domination. These hierarchies are maintained by being built right into the structures, operations, institutions and discourses of a society.

Intersectionality

A concept coined by theorist, Kimberlé Crenshaw, which recognizes how each person simultaneously exists within multiple and overlapping identity categories (including but not limited to: ability, attraction, body size, citizenship, class, creed, ethnicity, gender expression, gender identity, race, religion.) An intersectional analysis recognizes that no individual’s experience of identity based oppression or privilege can be viewed solely within the context of any one single element of their identity. The ways in which an individual experiences systems of privilege and oppression are often impacted by the interplay of their various identity categories.

Cisnormativity

A cultural and societal bias, often unconscious, that privileges cisgender identities and gender norms, and ignores or underrepresents trans identities and/or gender diversity by assuming that all people are cisgender and will express their gender in a way that aligns with perceived gender norms.

Heteronormativity

A cultural and societal bias, often unconscious, that privileges heterosexuality, and ignores or underrepresents diversity in attraction and behaviour by assuming all people are heterosexual.

Homophobia

Fear and/or hatred of homosexuality, often exhibited by name-calling, bullying, exclusion, prejudice, discrimination or acts of violence—anyone who is LGB (or perceived to be) can be the target of homophobia.

Transphobia

Fear and/or hatred of any transgression of perceived gender norms, often exhibited by name-calling, bullying, exclusion, prejudice, discrimination or acts of violence—anyone who is trans and/or gender diverse (or perceived to be) can be the target of transphobia.

Biphobia Fear and/or hatred of bisexuality, often exhibited by name-calling, bullying, exclusion, prejudice, discrimination or acts of violence—anyone who is or is perceived to be bisexual or who experiences attraction to multiple sexes and/or genders can be the target of biphobia. Discrimination, erasure, and prejudice against bisexuals are serious problems in straight and LGBTQI2S communities alike.

Colonialism The historical practice of European expansion into territories already inhabited by Indigenous peoples for the purposes of acquiring new lands and resources. This expansion is rooted in the violent suppression of Indigenous peoples' governance, legal, social and cultural structures. Colonialism attempts to force Indigenous peoples to accept and integrate into institutions that are designed to force them to conform with the structures of the colonial state. "Colonialism remains an ongoing process, shaping both the structure and the quality of the relationship between settlers and Indigenous peoples."¹

White Supremacy A system of oppression that maintains and perpetuates the socioeconomic, political, cultural, historical and institutional domination as well as structural advantage (privilege) of white people over other ethnic/racialized groups, both at the collective and individual level. White supremacy is a system of oppression that functions to preserve and sustain racism. The individuals, groups and institutions that maintain white supremacy, may or may not be conscious of it.

Marginalization Refers to a long-term, structural process of systemic discrimination that creates a class of disadvantaged minorities. These groups become permanently confined to the margins of society; their status is continually reproduced because of the various dimensions of exclusion particularly in the labour market, but also from full and meaningful participation in society.¹

Racism Ideas or practices that establish, maintain or perpetuate the racial superiority or dominance of one group over another.

Racialized Often used to stand in for "visible minority," this more fluid term acknowledges that race is a social construction that can change over time and place. It can be applied to people who have racial meanings attributed to them as a group in ways that negatively impact their social, political, and economic life, e.g., Black, Asian, Muslim and Roma.

Racial categories are not based on science or biology but on differences that society has chosen to emphasize, with significant consequences for people's lives. People can be racialized not only based on skin colour but also other perceived characteristics such as their culture, language, customs, ancestry, country or place of origin, or religion as is the case with Islamophobia and antisemitism.¹

1) Government of Ontario. "Glossary." Data Standards for the Identification and Monitoring of Systemic Racism, 27 Feb. 2019, www.ontario.ca/document/data-standards-identification-and-monitoring-systemic-racism/glossary.

Anti-Black Racism

Anti-Black racism is prejudice, attitudes, beliefs, stereotyping and discrimination that is directed at people of African descent and is rooted in their unique history and experience of enslavement. Anti-Black racism is deeply entrenched in institutions, policies and practices such that it is functionally normalized or rendered invisible to the larger white society. Anti-Black racism is manifested in the legacy of the current social, economic, and political marginalization of African Canadians in society such as the lack of opportunities, lower socio-economic status, higher unemployment, significant poverty rates and overrepresentation in the criminal justice system.¹

Anti-Indigenous Racism

The ongoing race-based discrimination, negative stereotyping, and injustice experienced by Indigenous peoples within Canada. It includes ideas and practices that establish, maintain and perpetuate power imbalances, systemic barriers, and inequitable outcomes that stem from the legacy of colonial policies and practices in Canada. Systemic anti-Indigenous racism is evident in discriminatory federal policies such as the Indian Act and the Residential School System. It is also manifest in the overrepresentation of Indigenous peoples in provincial criminal justice and child welfare systems, as well as inequitable outcomes in education, well-being, and health. Individual lived-experiences of anti-Indigenous racism can be seen in the rise in acts of hostility and violence directed at Indigenous people.¹

Serophobia

A manifestation of fear and aversion by certain people, towards people living with HIV. Like homophobia, it manifests itself through acts of exclusion or discrimination, whether implicit or explicit.²

1) Government of Ontario. "Glossary." Data Standards for the Identification and Monitoring of Systemic Racism , 27 Feb. 2019, www.ontario.ca/document/data-standards-identification-and-monitoring-systemic-racism/glossary.

2) COCQ-SIDA. "What Is Serophobia?" Stop Serophobia, stopserophobia.org/hiv-aids/#what-is-serophobia.