

amended to add sexual orientation as a prohibited ground of discrimination. It reiterated this position in strong terms in its submission to this Committee. None of these recommendations by the federal and provincial human rights commissions has yet made its way into law.

There has also been action at the municipal level. The cities of Toronto, Ottawa, Windsor and Kitchener have policies prohibiting discrimination in employment on the basis of, among other grounds, sexual orientation. The City of Vancouver has applied to the British Columbia government for an amendment to the city's charter to enable it to prohibit discrimination by licence holders on the basis of, among other grounds, sexual orientation.

## **Other Jurisdictions**

In the United States, a series of Supreme Court decisions has indicated that the right to privacy reserves to each individual primary control over such matters as marriage, procreation and contraception. It has yet to consider how the right to privacy doctrine applies to homosexuals. Most lower courts that have considered claims based on the right to privacy by homosexuals have rejected them. The U.S. courts have also found that the prohibition of discrimination based on sex in the *Civil Rights Act* and the 'equal protection' clause of the U.S. Constitution do not protect the rights of homosexuals. Since 1949, the U.S. Department of Defense and the various armed services have had a policy of dismissing homosexuals. Recent court cases have upheld this practice, holding that it does not violate any constitutional rights.

In Europe, the situation is somewhat different. In decisions dealing with the right to privacy guaranteed by section 8 of the European Convention on Human Rights, both the European Commission of Human Rights and the European Court of Human Rights have, in recent years, indicated that the criminalization of private homosexual acts between consenting adults over 21 years of age is unacceptable. The decisions were phrased in such broad terms that their implications will be wide-ranging in future Commission and Court decisions.

The Parliamentary Assembly of the Council of Europe urged member states in 1981 to decriminalize homosexual acts between consenting adults, to apply the same age of consent to both homosexual and heterosexual conduct and to assure equality of treatment to homosexuals. In 1984, the European Parliament made a similar plea but with an emphasis on employment concerns. France, Norway, The Netherlands and Spain have, since the early 1980s, amended their criminal and anti-discrimination legislation in conformity with the recommendation of the Parliamentary Assembly of the Council of Europe and the European Parliament.

In its 1984 report, entitled *Homosexuals and Society*, the Swedish Parliamentary Committee on the Place of Homosexuals in Society disclosed the results of a thorough study of all problems affecting homosexuals. Among other recommendations, it urged that constitutional and anti-discrimination statutes in that country be amended to protect against discrimination on the basis of "sexual preference".

## **The Committee's View**

Developments in other jurisdictions indicate that there is an evolving recognition of the rights of homosexuals but that protection is not yet generally accorded to those