

Sexual Orientation

“ Citizens whose sexual orientation is gay or lesbian ought not to be excluded from the protections afforded to all other citizens through either neglect or the failure of governments to develop the legislation that would provide that protection.

To leave one group of citizens beyond the pale is a dangerous precedent. In a democracy, it is equally dangerous to leave the decision about inclusion or exclusion of any particular group from human rights safeguards to the will of the public at any moment in history. ”

—Working Unit on Social Issues and Justice, Division of Mission, United Church of Canada, in a brief submitted to the Committee

Introduction

Section 15 of the *Charter* assures legal equality without discrimination. Some of the characteristics that have been regarded traditionally as objectionable grounds of discrimination are listed in the section; they are race, national or ethnic origin, colour, religion, sex, age, and mental or physical disability. But this catalogue of prohibited grounds of discrimination does not purport to be exhaustive, as we observed at the beginning of this report. Other similar characteristics — that is, those over which an individual has little or no immediate control and that are commonly used to make prejudiced judgments about an individual's particular qualities or capabilities — might also be improper grounds of discrimination. We have weighed the evidence we received with a view to deciding whether homosexuality is such a characteristic in contemporary Canadian society. If it is, the *Charter* can be properly taken to protect against discrimination on the basis of sexual orientation.

Many briefs and submissions to the Committee used a variety of terms to describe the same-sex relationships of men and women. To avoid confusion, we use the term 'homosexuals' to refer to both male and female persons involved in such relationships.