

# Welcome!

LGBTTIQQ2SAA+

In the world, in Canada and in Quebec  
The special case of trans people



# Me Hélène Montreuil

# **Summary of topics covered**

**The LGBT community**

**Around the world**

**In United States**

**In Canada**

**In Quebec**

**Who is she?**

**From where she come ?**

**Where she goes ?**

**The rights of LGBT people**

**The special case of trans people**

**The life and battles of Micheline Montreuil**



**Your presenter**

**Me Hélène Montreuil**

**Lawyer, CRHA and Adm.A.**

# Who am I?

- I am transgender.
- I will never be a CLL= Cute Little Lady.
- I will never be a BTYM = Beautiful Tall Young Man.
- I am not proud to be transgender just as I am not ashamed to be transgender.
- I am who I am.
- I am Hélène Montreuil.
- [www.helenemontreuil.ca](http://www.helenemontreuil.ca)
- [www.maitremontreuil.ca](http://www.maitremontreuil.ca)

# Who am I ? II

- American – I live in America (continent)
- British – I live under British laws
- Francophone – It is my mother tongue
- Canadian – My family has been living in Canada since 1637
- Christian – Religion I learned from my parents
- Occidental – I feel at home in Europe and in the United States
- White – It is a physical reality
- Intellectual – I have read and studied a lot
- Woman – By choice
- LGBT – It is a fact
- Conclusion : I am a **tutti frutti** or a blend of many specific characteristics that make me who I am.

# Introduction of Me Hélène Montreuil I

- Me Hélène Montreuil, D.E.S.S. in ethics, D.E.S.S. in Human Resources and Organization, M.B.A., Di. Adm., LL.L., CCVM, B.Ed., Adm.A., CRHA has been a lawyer in private practice since 1976 and lecturer at the University of Quebec in Rimouski since 1984, mainly in Labor Law, Administration and Negotiation of the collective agreement, Human resources management and Ethics.
  
- She studied at the University of Manitoba, at Laval University, at the University of Ottawa, at the University of Paris I - Panthéon-Sorbonne and at the University of Quebec at Rimouski in Common Law, Law civil, human resources and organization, administration, education and ethics.

# Introduction of Me Hélène Montreuil II

- She has written numerous administration and law books and presented several briefs both to the House of Commons in Ottawa and to the National Assembly of Quebec.
- She has also lectured and given training in Canada and the United States.
- See: <http://www.maitremontreuil.ca/conference.html>
- She focuses her activities mainly on labour law, human rights law and disciplinary law.
- In case law and in the present day, she has been known as Micheline Montreuil.
- See: [www.micheline.ca](http://www.micheline.ca)



**This book:**

<https://store.lexisnexis.ca/fr/categories/products/les-affaires-et-le-droit-skusku-cad-6422/details>

**Books written by Hélène Montreuil**  
<http://recif.litterature.org/recherche/ecrivains/montreuil-helene-1985/>

# **Books authored or co-authored by Hélène Montreuil**

**2020 - Les affaires et le droit, 2<sup>e</sup> édition**

**2012 - Les affaires et le droit**

**1999 - Le droit, la personne et les affaires, 2<sup>e</sup> édition**

**1994 - Le droit, la personne et les affaires**

**1993 - Organisation et dynamique de l'entreprise - Approche systémique, 2<sup>e</sup> éd**

**1991 - Initiation au droit commercial**

**1990 - Organisation et dynamique de l'entreprise - Approche systémique**

**1988 - Droit des affaires, 2<sup>e</sup> édition**

**1986 - Droit des affaires**

**1984 - Le marketing**

**1984 - Introduction à la comptabilité de gestion**

**1983 - L'entreprise d'aujourd'hui**

**1983 - L'entreprise et la gestion des opérations**

**1973 - Principes de base de la natation et du sauvetage**

**See: <http://recif.litterature.org/recherche/ecrivains/montreuil-helene-1985/>**

# **Hélène Montreuil's Diplomas**

**2018 - D.E.S.S. in ethics- Université du Québec à Rimouski**

**2007 – Teaching certificate– Ministère de l'éducation du Québec**

**2006 – Bachelor of Education- Université du Québec à Rimouski**

**1981 – Securities Trading Course- ICVM**

**1978 – Masters in Business Administration- Université Laval**

**1977 - D.E.S.S. in HR - Université de Paris I - Panthéon-Sorbonne**

**1976 - Diploma in administration - Université Laval**

**1974 – Certificate of Studies in Common Law - University of Ottawa**

**1974 – Law degree - Université Laval**

**1973 - Certificate of Studies in Common Law - University of Manitoba**

**Hélène Montreuil is married to Michèle Morgan  
Another lawyer and author**

**Am I heterosexual, gay, lesbian, trans or ????  
Is it so important to know it ?**



# **Books written by Michèle Morgan**

**1979 - Pourquoi pas le bonheur?**

**1983 - Les Clés du bonheur**

**1990 - Dialogue avec l'âme sœur**

**1997 - Petits Gestes et Grandes Joies**

**1998 - Le mieux de la peur**

**2007 - Le Goût d'être heureux**

**1999 - Le Courage d'être heureux**

**2011 - Suivre le courant et découvrir l'essentiel de sa vie**

**2017 - La Belle de l'Au-delà**

**2018 - Isabelle**

[www.michelemorgan.ca](http://www.michelemorgan.ca)

<http://recif.litterature.org/recherche/ecrivains/morgan-michele-1994/>

# Summary of the presentation

- Evolution of LGBT people's rights around the world, in United-States, in Canada and in Quebec
- How have rights evolved over time when you are not a "normal heterosexual" woman or man?
- What is the difference between the rights of LGBT people around the world?
- What is the current situation of the rights of LGBT people in Quebec and Canada?
- Is it possible to live without discrimination in Quebec and Canada?

# Comments

- **Multiplying letters in LGBTTIQQ2SAA complicates everything for all, in Canada and abroad: is it necessary to stand out at all cost ?**
- **Could I plead the violation of my rights in court?**
- **In my passport, I have an "F"; but, does it appear that I am a woman?**
- **If I am arrested, will I end up in a women's prison or a men's prison?**
- **Will I be charged with a serious crime? Which ?**

# Who are you LGBTTIQQ2SAA? I

- **L – Lesbian**
- **A woman who is physically and emotionally attracted to other women.**
- **G – Gai**
- **A man who is physically and emotionally attracted to other men.**  
**This word is preferred to the term "homosexual," which has had a negative connotation for a long time.**
- **B - Bisexual/Bi**
- **A person who is physically and emotionally attracted to people of any sex/gender and defines himself or herself as bisexual.**

# Who are you LGBTTIQQ2SAA? II

- T - Transgender/Trans
- A person who identifies with a different gender than the one assigned at birth. However, this does not necessarily mean that this person feels that they were born in the wrong body.
- People who do not define themselves as male or female can also define themselves as trans.
- T - Transsexual/Trans
- This is not sexual orientation, but gender identity. It is a person who has had a sex change that may or may not include genital surgery.

# Who are you LGBTTIQQ2SAA? III

- T –Tranvestite/Cross-Gender/Trans
- The cross-gender wears clothing and accessories that are, in a given society, generally associated with the opposite gender of his or her own in order to voluntarily resemble the opposite sex.
- The cross-gender may adopt behaviours associated with a gender different from the sex assigned at birth.
- Cross-dressing is distinct from transidentity, although it is often associated with it.
- Cross-dressing is about appearance, unlike transidentity, which is about the person's identity.

# Who are you LGBTTIQQ2SAA? IV

- I – Intersexual
- Intersexuality is when a person is born with sexual characteristics that do not fit the typical definitions of "male" or "female".
- Some intersexual individuals are assigned a sex at birth and are raised accordingly.
- This gender may not match the way they view their gender identity, just as it could.

# Who are you LGBTTIQQ2SAA? V

- Q – Queer
- It is a general term that encompasses all sexual and gender minorities, including those who do not identify with any other identity in the acronym LGBTQ. Historically, the word has been used as an insult, but it has subsequently been claimed as a positive and open way to identify. To say queer is to deny both the conformity and limitations of heterosexuality and the LGBT letters.
- Q - (in) Questioning
- Some people who are unsure of their sexual orientation or gender identity sometimes describe themselves as questioning. They may remain questioning until they identify with a particular identity or they may remain questioning throughout their lives.

# Who are you LGBTTIQQ2SAA? VI

- **2S – Bispirituel Two-spirit/ 2S**
- The "2S" comes from the English "two-spirit".
- It is a person with a female spirit and a male spirit living in the same body.
- It is an important term in some Indigenous cultures, and some Indigenous people use it to describe their sexual orientation, gender identity and/or spiritual identity.
- Berdache is considered by North Americans to be an individual of both sexes and is also called "two-spirits".

# Who are you LGBTTIQQ2SAA? VII

- **A – Asexual**
- **A person who does not feel sexual or physical attraction to other people, but who may feel a romantic or emotional attraction to some people.**
- **A – Ally**
- **An ally is a person who does not identify as LGBTQ, but who supports the rights and security of those who do.**
- **There is so much to say about sexual orientation and gender identity. There is even more to say about the issues, the difficulties, the victories experienced by all those involved. The most important thing is to be open, respectful and inclusive. We must all be allies!**

# Who are you LGBTTIQQ2SAA? VIII

- Drag Queen
- A drag queen is a man who plays the role of an overly feminine person, in a sophisticated costume often consisting of very showy dresses, super tall boots, loads of makeup, and a long wig. A drag queen can imitate roles of famous women, pop stars, or, like RuPaul, play her own role of excessive woman.
  
- Drag King
- A drag king is a woman who plays an overly masculine role, or who imitates an actor or singer. Some *FtMs* may also refer to themselves as a Drag King, although this usage is considered imprecise by some.
- Some women, such as Amantine Aurore Lucile Dupin, baronne Dudevant, French novelist, playwright, letter writer, literary critic and journalist have left their mark on history; she is better known as George Sand.

# Who are you LGBTTIQQ2SAA? IX

- **Fetichist**
- A transvestite fetishist is a person (most often a straight man) who dresses in the clothing of the opposite sex as a sexual fetish.
- The term underdressing is used by male crossdressers to describe the act of wearing female underwear under male clothing.
- Sometimes, one of the two members of a heterosexual couple can wear the other's clothes to turn them on.
- For example, the man can wear the woman's skirts and lingerie, and the woman can wear the man's underpants or various other clothes.

# So, are you LGBTTIQQ2SAA?

- **L = Lesbian**
- **G = Gay**
- **B = Bisexual**
- **T = Transgender**
- **T = Transsexual**
- **T = Tranvestite**
- **DQ = Drag Queen**
- **DK = Drag King**
- **F = Fetichist**
- **I = Intersexed**
- **Q = Queer**
- **Q = Questionning**
- **2S = Two spirited**
- **A = Asexual**
- **A = Ally**

# Do you want other terms? I

- **Agender:** A person who does not identify with any gender identity.
- « **Allosexuel** » or « **Altersexuel** »: is the translation for Queer.
- **Androgynous:** A person whose physical appearance may have characteristics that are not associated with a gender and therefore are somewhere between feminine and masculine.
- **Asexual:** A person who develops minimal or no sexual attraction to another person.
- **Cisgender:** A person whose gender identity corresponds to his or her biological sex; in other words, a "normal" person.
- **Aromantic:** A person who feels no romantic attraction to anyone.
- **Demisexual:** A person who feels sexual attraction only in the presence of a strong emotional connection.

# Do you want other terms? II

- **Gender fluid:** A person whose gender identity can vary and who can sometimes feel more of a man, sometimes a woman, and sometimes neither.
- **they :** A non-gendered pronoun to avoid using he or she when talking about a non-binary person
- **Intersex :** This biological term refers to people who are born with sexual characteristics that vary from typical definitions. These variations, which can be found at the chromosomal, anatomical or hormonal level, are manifested to varying degrees on the physical level, for example in the appearance of the external or internal genitalia. It is neither a sexual orientation nor a gender identity.
- **Misgendering :** Misgendering is the act of labeling others with a gender that does not match their gender identity. Sir instead of Madam.
- **Dead Name :** The name given at birth that a trans person no longer uses.

# Do you want other terms? III

- **MTF or FTM** : Sometimes we see acronyms «Male to Female» or «Female to Male». They indicate a "male" person (thus born with male genitals) who makes a transition to the female gender, and vice versa.
- **Non-binary** : is said of a person who does not identify with the gender assigned to them at birth, but not entirely the opposite gender. She is a person who is outside the norms of the feminine and the masculine.
- **Gender non-conforming**: A person who does not conform to the typical roles that society assigns to binary genres. For example, someone who wears clothes usually associated with another gender.
- **Pansexual** : A person who is attracted to people, regardless of their gender identity or sex.
- **Transidentity** :refers to a person whose gender identity does not agree with the biological sex assigned at birth.

# Who are you LGBTTIQQ2SAA? Do you see yourself?



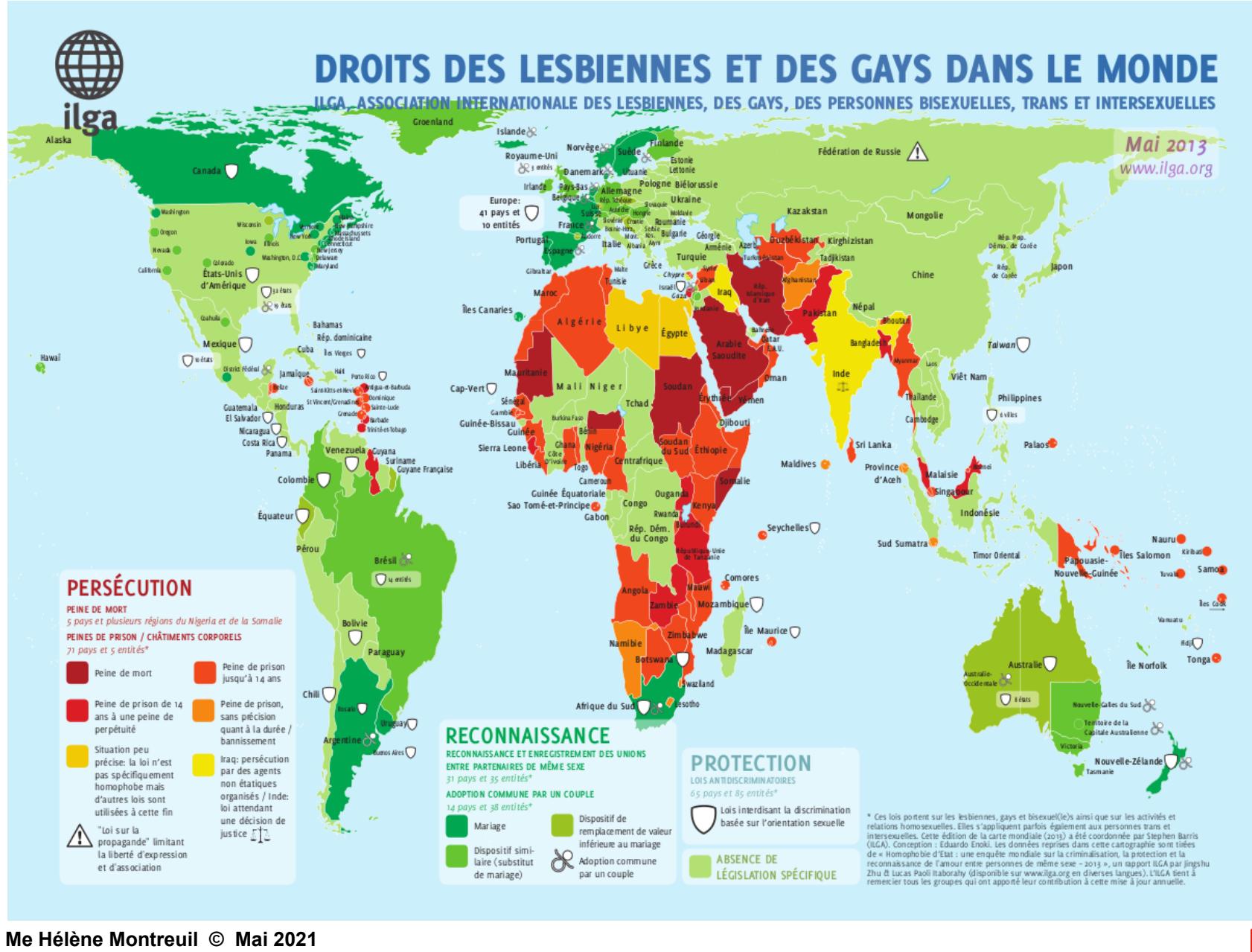
# Am I not the same one ?



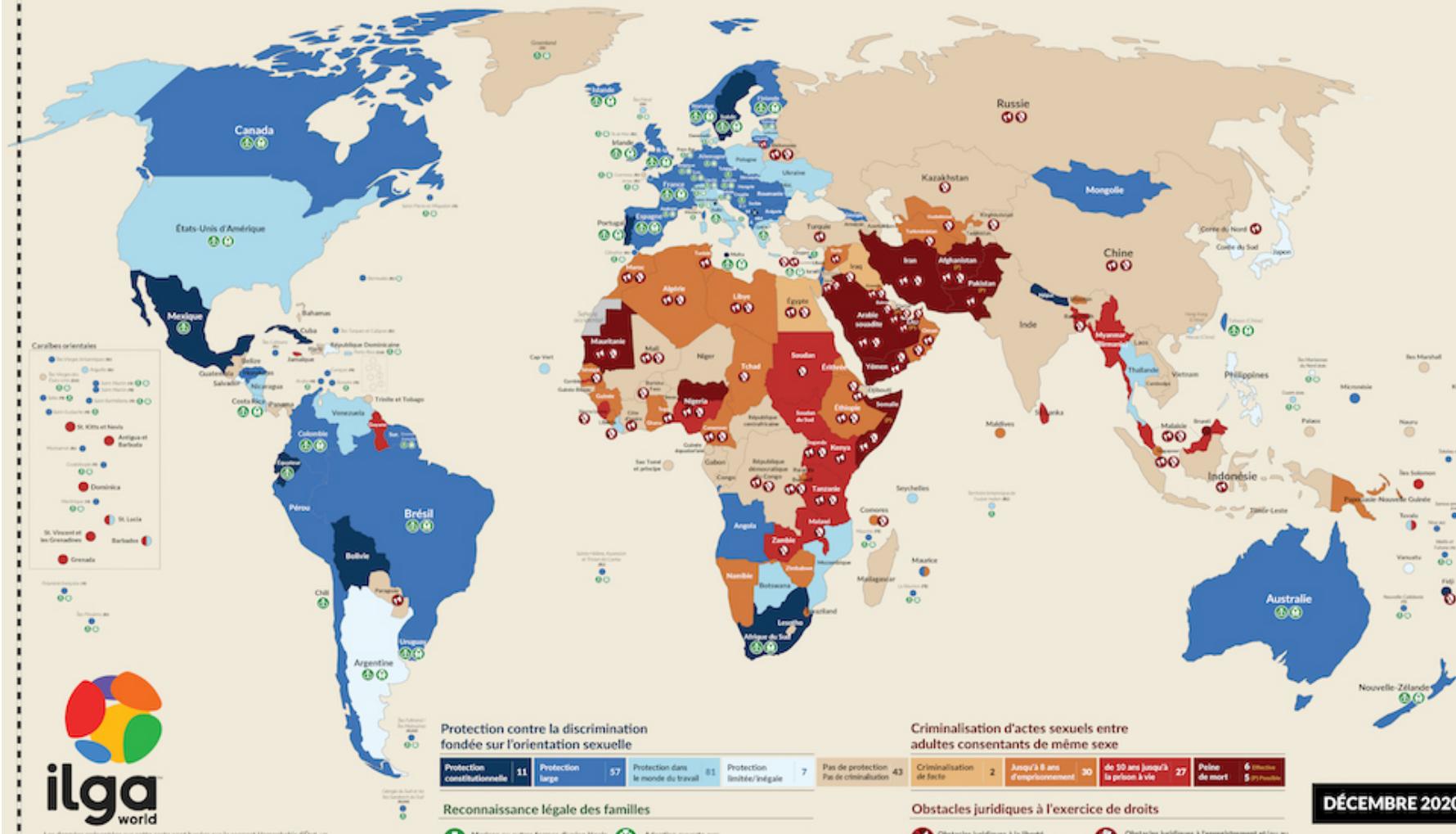
# The LGBT movement in the world

- ILGA World – the International Lesbian, Gay, Bisexual, Trans and Intersex Association is the International association for people who are lesbians, gays, bisexuals, trans and intersex.
- It is a global federation of over 1,600 organizations from more than 150 countries and territories campaigning for the rights of lesbian, gay, bisexual, trans and intersex people.
- ILGA World has consultative status with the United Nations ECOSOC.
- ILGA members are based in six regions: Pan Africa ILGA (Africa), ILGA Asia (Asia), ILGA-Europe, ILGALAC (Latin America and the Caribbean), ILGA North America (North America) and ILGA Oceania (Oceania).
- Led by an elected council of 19 representing the global family, ILGA World is queer democracy in action!
- <https://ilga.org/about-us>

# LGBT World Map– Search LGBT World Map on Google



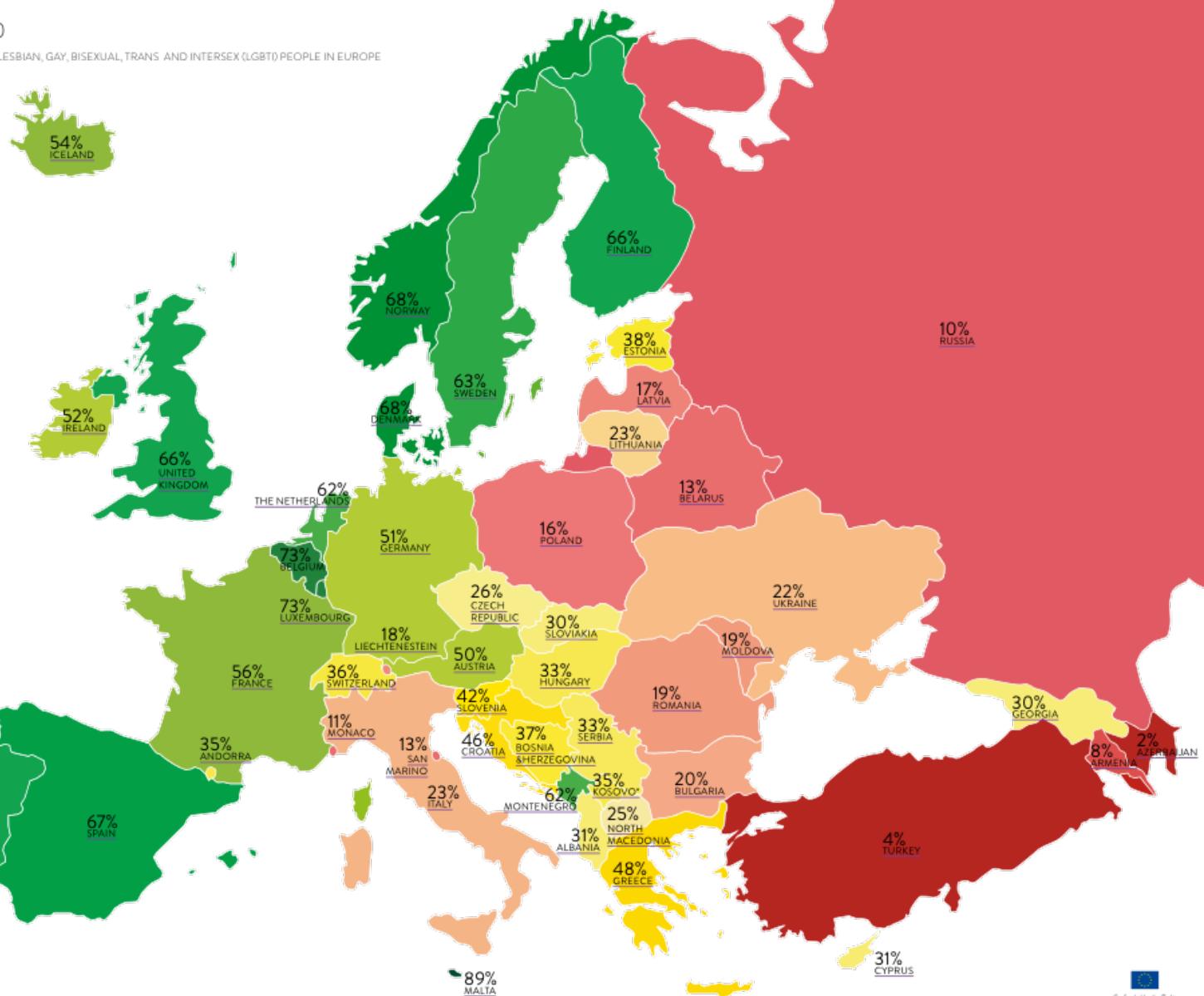
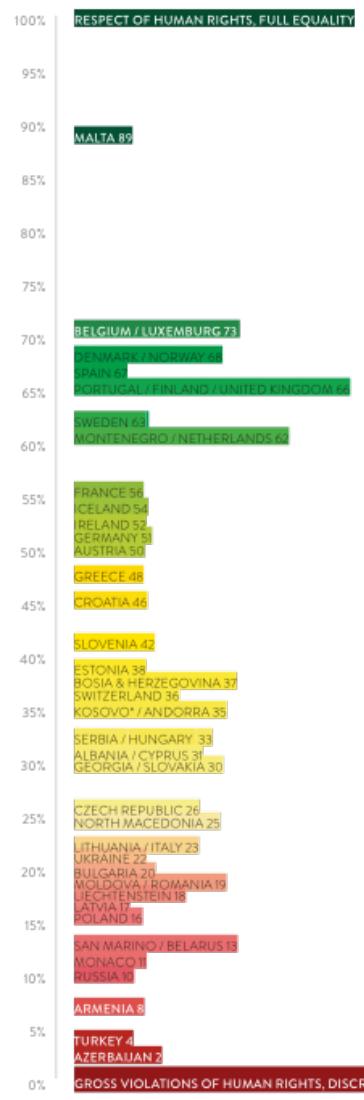
# World Laws on sexual orientations



Les données présentées sur cette carte sont tirées basées sur le rapport Homophobie d'État, un rapport de l'ILGA dont les auteurs sont Ramon Meeds, Karien Botha, Rafael Contreras Lello, Enrique López de la Peña, R.I. et Darren Tari. Cette carte peut être reproduite et utilisée sans permission tant que l'ILGA est crédible et que le contenu n'est pas altéré. ilga.org

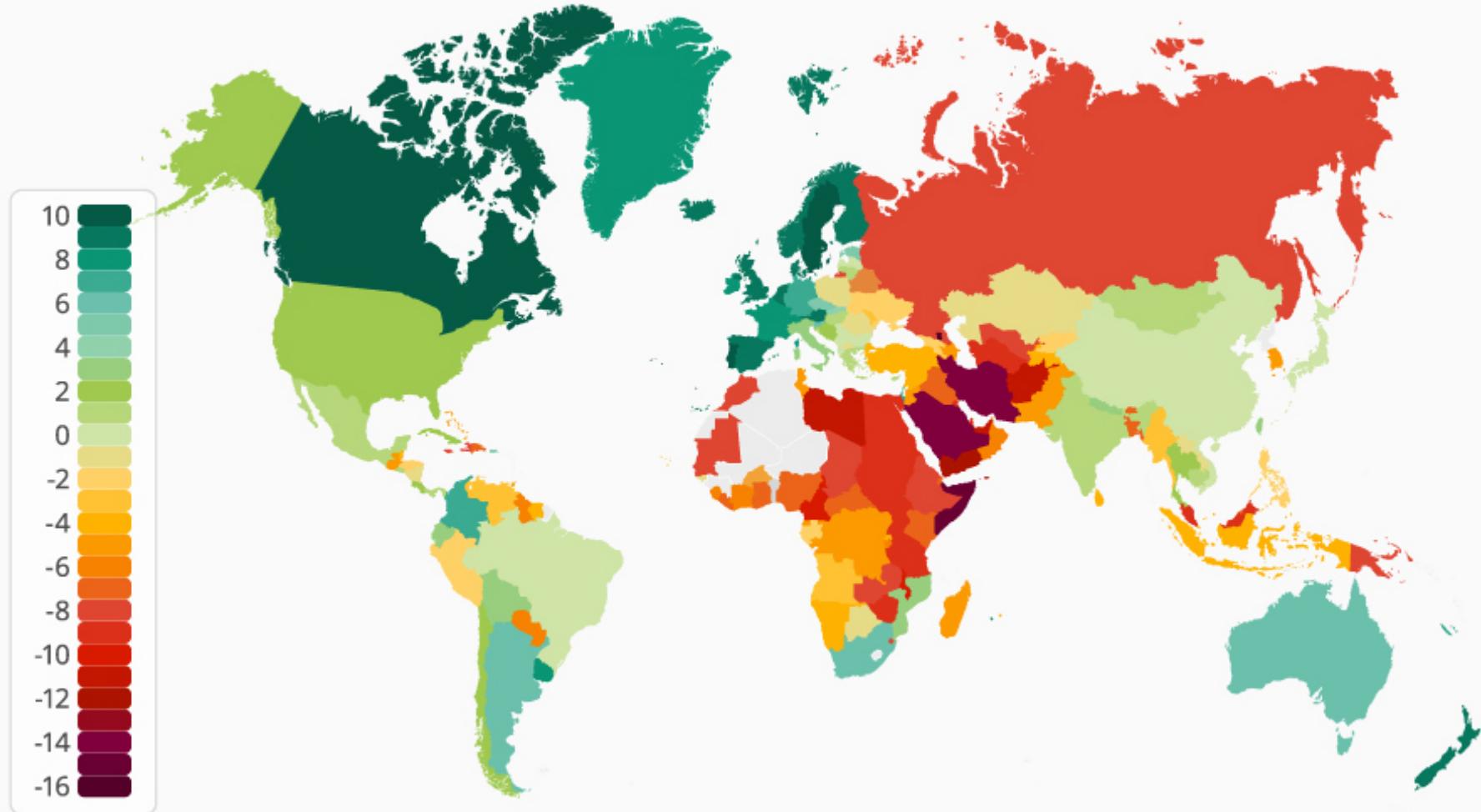
# RAINBOW MAP 2020

REFLECTING THE LEGAL AND POLICY HUMAN RIGHTS SITUATION OF LESBIAN, GAY, BISEXUAL, TRANS AND INTERSEX (LGBT) PEOPLE IN EUROPE



# Gay-friendly ?

## Pays classés selon le Gay Travel Index 2019 \*



\* plus le score est élevé, plus le pays est libéral et accueillant envers les personnes LGBT.

Source : Spartacus Gay Travel Index 2019 - Spartacus International Gay Guide



statista

## The friendliest countries for LGBT people

- According to the Spartacus Gay Travel Index 2019, the most LGBT-friendly countries and tied for the top of the rankings are Canada, Portugal and Sweden.
- The Berlin, Germany-based Spartacus International Gay Guide provides tips for gay travelers on its website and mobile app.
- Its most recent index ranks 197 countries according to 14 criteria, such as the existence or not in a given nation of anti-discrimination laws, laws on the rights of transgender people, laws on marriage and civil partnership, or laws on adoption, transgender rights and persecution.
- Chechnya ranks last. The guide says the country is involved in "state-organized persecution and murder of gay men."

# **Homosexuality and death penalty**

- **Afghanistan**
- **Saudi Arabia**
- **Brunei**
- **Iran**
- **Mauritania**
- **Nigeria**
- **Pakistan**
- **Qatar**
- **Somalia**
- **Yemen**

# International Day Against Homophobia, Transphobia and Biphobia

- International Day Against Homophobia, Transphobia and Biphobia is a global day celebrated on May 17. It is sometimes referred to for short as World Day Against Homophobia.
- May 17 was chosen at the initiative of Louis-Georges Tin as the symbolic date for the international day against homophobia and transphobia to commemorate the decision of the World Health Organization or WHO of May 17, 1990 to no longer view homosexuality as a mental illness.
- It was on May 17, 2005 that the anti-homophobia day initiative was first organized internationally, thanks to the efforts of Louis-Georges Tin, a French professor and activist. He was the chairman of the IDAHO Committee between 2005 and 2013.

# Transgender Day of Rememberance

- Transgender Day of Remembrance (TDoR), takes place on November 20 around the world, to commemorate the memory of trans people murdered for transphobic motives and to draw attention to the violence suffered by trans communities.
- Trans Day of Remembrance is held on November 20 of each year in honor of Rita Hester, who was killed on November 28, 1998 in Allston, Massachusetts, in a transphobic hate crime.
- It was started in 1998 by Gwendolyn Ann Smith, a graphic designer, columnist and trans activist.

# International Day for Transgender visibility

- International Transgender Visibility Day is an annual event that takes place on March 31 and is intended to celebrate transgender people and raise awareness of the discrimination they experience around the world.
- The first international transgender visibility day was held on March 31, 2009.
- The special day was created by Michigan-based transgender activist Rachel Crandall in 2009 in response to the lack of an LGBT celebration day dedicated to transgender people, citing frustration that the only known day that is dedicated to trans people was the trans day of remembrance which honors transgender people who have been victims of hate crimes, but no day was dedicated to celebrating living members of the transgender community.

# Montreal Declaration I

- The "Montreal Declaration" is a document adopted on July 29, 2006, by the "International Conference on LGBT Human Rights" which formed part of the first World Outgames.
- The Declaration will be raised and publicized to United Nations authorities and national governments in order to mobilize undeniable support for the respect of LGBT and intersex rights.
- The Declaration will be enriched by the participation of a large number of people from diverse backgrounds and cultures.
- More than 1,500 delegates participated and discussed in the various workshops and plenaries, where several international experts spoke: jurists, opinion leaders, academics, specialists and human rights defenders.

# Montreal Declaration II

- The Montreal Declaration takes stock of the rights of LGBT people in the world in general and in the world of sport in particular.
- It also denounces the double discourse of the UN, which refuses to apply its Universal Declaration of Human Rights to homosexuals.
- Several fundamental rights, including the right to life, are scorned in several UN member countries where homosexuality is criminalized.
- Homosexual acts are still punishable by death in some countries.
- In other countries homosexual acts were also condemned by various prison sentences or 100 lashes.

# Montreal Declaration III

- The Montreal Declaration calls to mind the governments of the world and the great religions. The former because they do not guarantee homosexuals the right to marry and raise a family and the latter because they do not apply their principles of tolerance towards LGBT people.
- "Intersexual individuals experience a particular form of violence, in the form of genital mutilation resulting from unnecessary post-birth surgery designed to make them conform to a rigid binary model of physical sex characteristics." This statement influenced Principle 18 of the Yogyakarta Principles.

# Montreal Declaration IV

- The Declaration requires "that governments permit all medical treatment necessary for gender reassignment, that they fund such treatment to the same extent that their resources permit them to fund other medically necessary treatment, and that they amend their legislation so as to permit a transgender person to change their legal sex to the one that corresponds to their gender identity."
- The Declaration influenced the drafting of Yogyakarta Principles 13 and 17 regarding medical treatment and Principle 3 regarding legal sex reassignment in all identity documents.
- The Montreal Conference can be considered as the point of emergence of a francophone intersex voice at the international level. The text of the Declaration is available at:

<http://www.declarationofmontreal.org/DeclarationofMontreal.pdf>

# History of Rainbow or LGBT Flag

- The rainbow flag is a flag representing stripes in the colors of a rainbow. The use of the rainbow flag is an ancient tradition common to many cultures. It generally evokes peace, diversity and harmony.
- Today, the rainbow flag has been known as the Lesbian, Gay, Bisexual and Transgender or LGBTQ+ flag since 1978.
- The first rainbow flag used as a symbol of the LGBT movement was designed and handmade by the American graphic designer and activist Gilbert Baker, then 27 years old, for the Gay and Lesbian Freedom Day Parade in San Francisco on June 25, 1978.
- The first flag has eight stripes. Gilbert Baker gives each of the colors a meaning described on the following page.

# Previous Rainbow or LGBT Flag



Rose : la sexualité
Rouge : la vie et la guérison
Orange : la santé et la fierté
Jaune : la lumière du soleil
Vert : la nature
Turquoise : la magie / l'art
Bleu : la sérénité / l'harmonie
Violet : l'esprit

You can find the different LGBT symbols at:

[https://en.wikipedia.org/wiki/LGBT\\_symbols](https://en.wikipedia.org/wiki/LGBT_symbols)

[https://en.wikipedia.org/wiki/Transgender\\_flags](https://en.wikipedia.org/wiki/Transgender_flags)

<https://en.wikipedia.org/wiki/LGBT>

# Actual Rainbow or LGBT Flag



# LGBT Rights in the United States of America I

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# LGBT Rights in the United States of America II

- Under the federal system in the United States, each of the 50 states promulgates its own Penal Code. "Sodomy" was an offense across the United States.
- In 1962, Illinois became the first state to decriminalize consented sex between adults of the same sex.
- In 1969, after the rebellion by patrons of the Stonewall Inn in New York City that began on June 28, 1969 against a brutal raid and the five nights of riots that followed, the United States became the flagship country of homosexual liberation: San Francisco or New York make you forget the fifteen states which, from Florida to Idaho via Texas, continue to ban sodomy.
- In 2000, the Executive Order 13160 of June 23rd 2000 prohibited discrimination on the basis of, among other things, sexual orientation in federal education and training programs and activities.

# LGBT Rights in the United States of America III

- In 2003, all remaining sodomy laws, still in force in 14 states, were overturned by a Supreme Court ruling in Lawrence v. Texas (2003). The laws on the age of consent also differ by state. Only three states maintain laws in place that set a different age of consent: Alabama, Kansas and Texas. In early 2017, John Kerry, the outgoing US Secretary of State, issued a formal apology to employees and their families who had been discriminated against because of their perceived sexual orientation.
- In 2009, Section 249 (a) (2) of the United States Code provides for increased penalties for crimes motivated by the victim's actual or perceived sexual orientation. This article is also known as the Matthew Shepard and James Byrd, Jr. Hate Crime Prevention Act. Many states have enacted hate crime laws that include sexual orientation.

# LGBT Rights in the United States of America IV

- In 2012, the Department of Housing and Urban Development issued an Equal Access Rule to ensure equal access to housing in programs offered by the Department, regardless of sexual orientation. Several states have enacted legislation prohibiting discrimination on the basis of sexual orientation in housing.
- In 2015, the United States Supreme Court ruled that same-sex couples had a constitutional right to marry in Obergefell v. Hodges, making same-sex marriage accessible in all 50 states. Prior to this ruling, only 13 of the 50 states prohibited same-sex marriage. Same-sex marriage is also legal in the following US territories: Guam (2015), Puerto Rico (2015), Northern Mariana Islands (2015), US Virgin Islands (2015), except American Samoa.

# LGBT Rights in the United States of America V

- In 2015, following the Supreme Court decision in Obergefell v. Hodges, joint adoption is now open to same-sex married couples in all 50 states. However, some states have laws allowing licensed child welfare agencies to discriminate against LGBT people, including married couples. Mississippi was the last US state to remove legal barriers to co-adoption.
- In 2016, Rule §752.7038 of USAID, the United States Agency for International Development, on non-discrimination against users of products or services requires that USAID suppliers not discriminate against any user or beneficiary of such products. and services during implementation because of, among other things, their sexual orientation.

# LGBT Movement in the United States of America I

- The New York neighborhoods of Greenwich Village and Harlem were home to a large gay population when, after World War I, many men who served in the military took advantage of the opportunity to settle in major cities. Gay and lesbian neighborhoods developed an alternative culture over the next two decades.
- The prohibition of the 1920s unintentionally benefited gay establishments as alcohol consumption was marginalized along with other behaviors deemed immoral.
- New York City had passed laws against homosexuality in public and private businesses, but authorities could not control all establishments, due to the surge in demand for alcohol and the proliferation of illegal drinking establishments.
- Nevertheless, the New York police or NYPD carried out numerous raids, leading to the closure of places as emblematic as Eve's Hangout in 1926, for "obscenity". Eve's Hangout was a famous New York teahouse opened in 1925 by Polish feminist Eva Kotchever and Swedish painter Ruth Norlander in Greenwich Village.

## LGBT Movement in the United States of America II

- In 1950, Harry Hay founded the Mattachine Society, the primary purpose of which was to achieve public recognition of homosexuality.
- In 1955, in San Francisco, Del Martin, Phyllis Lyon and six other women founded the Daughters of Bilitis or DOB, meaning The Daughters of Bilitis. They are considered the first historic lesbian organization in the United States.
- The association was conceived as an explicitly lesbian alternative to other homophile groups of the time such as the Mattachine Society.
- The Mattachine Society and the Daughters of Bilitis are at the origin of the liberation movement for gay rights in the United States which really took off after 1945.

# LGBT Movement in the United States of America III

- In the 1950s and 1960s, American homosexuals faced a very homophobic legal system. Earlier, already, American groups supporting the community sought to prove that homosexual people could be assimilated into society and they favored cohabitation between homosexuals and heterosexuals (Mattachine Society and Daughters of Bilitis).
- However, the end of the 1960s was very confrontational: many social movements were active, including the African-American civil rights movement against racial segregation in the United States, the Black Panther Party.
- It is also the time of the emergence and wide diffusion of the counterculture of the 1960s, as well as the peaceful protests against the Vietnam War. These influences combined with the liberal environment of Greenwich Village were the catalyst for the Stonewall riots.

## LGBT Movement in the United States of America IV

- In the 1960s, when Western societies experienced a sexual revolution, the homosexual community organized itself politically to defend itself against homophobia and the persecutions it suffered, like other movements that developed at the same time, notably the women's liberation movement and the Black Power movement in the United States, and is imbued with the revolutionary discourse which then characterized the youth protests.
- In New York in the 1960s, it was forbidden to serve alcoholic drinks to homosexuals, to dance with men or to cross-dress. Police raids on bars suspected of being frequented by gay men were common in the United States.
- It was commonplace for the police, before 1965, to note the identities of the people present in these bars. The police justified these measures by indecent assault in the event of kissing, wearing clothing traditionally reserved for the opposite sex, or simply the prohibited sale of alcohol to homosexuals.

## LGBT Movement in the United States of America V

- In the early 1960s, a campaign to rid the city of gay bars resulted in an order from Mayor Robert F. Wagner Jr. who was concerned about the city's image in the run-up to the New York International Fair. 1964-1965.
- The city has banned alcohol in all bars, and plainclothes police have been working to entrap as many gay men as possible.
- The police inducement was for an undercover agent to strike up a conversation with a man in a bar or a public park: if it emerged from the conversation that the two men could have dated or that the police officer could have been paid a drink, the man was arrested for solicitation.
- A story in the New York Post tells of an agent who, in a gym locker room, touched his crotch while moaning and stopped a man for asking if everything was okay.
- Few lawyers were willing to defend such undesirable cases.

# LGBT Movement in the United States of America VI

- At 53 Christopher Street in the heart of Greenwich Village, the Stonewall Inn is one of the only bars where gays can hang out, despite frequent raids.
- The Stonewall Inn was owned by the Mafia. It appealed to all types of customers but was famous for its popularity with the most marginalized in the LGBT community: transgender people, crossdressers, effeminate young men, prostitutes and homeless youth for example.
- The bar, which welcomes several hundred people every weekend, is nonetheless unlicensed and the boss is obliged to give "incentives" to the police officers of the 6th district so as not to see his establishment close.
- So, although several raids have taken place before, the bar still welcomed LGBT people on the night of the riots.
- The LGBT movement really made its appearance in June 1969, during the riots that broke out in New York around the Stonewall Inn bar. On the evening of June 28, 1969, this establishment in the Greenwich Village area was the object of a police raid which was perceived by customers as "one raid too many".

# LGBT Movement in the United States of America VII

- The Stonewall Riots are a series of spontaneous and violent protests against a police raid that took place on the night of June 28, 1969 in New York City at the Stonewall Inn in the Greenwich Village neighborhood. These events are often seen as the first example of lesbian, gay, bisexual and transgender people struggling against a system supported by the authorities and persecuting homosexuals.
- These riots represent the symbolic moment marking the real outbreak of LGBT activism, in the United States and around the world.
- Police raids were common at the time, but on June 28, 1969, police quickly lost control of the situation at the Stonewall Inn due to an outrageous crowd. Tensions between New York Police and the gays in Greenwich Village escalated the following evening and again several days later. Within weeks, residents of the neighborhood organized themselves into militant groups, setting up places where gays, lesbians and transgender people could meet without fear of arrest.

## LGBT Movement in the United States of America VIII

- The raid that took place on June 28, 1969 was different from previous interventions. Usually, the owners of the "Stonewall Inn" were warned by a mole of the arrival of the police, and these raids often took place early enough in the evening to allow the bar to reopen quickly.
- At around 1:30 a.m., later than usual, eight plainclothes policemen entered the bar. Most of the customers were able to leave without being worried, as the only people arrested were those without an identity card or wearing clothes usually reserved for protected persons of the sex, as well as the bar workers.

# LGBT Movement in the United States of America IX

- The riot begins after Stormé DeLarverie got into a fight with a police officer who was trying to stop him. This lesbian drag king had a head injury, and as she struggled against the policeman, she yelled at the crowd, "Why aren't you doing anything? "
- Stormé DeLarverie, a lesbian, is said to have delivered the first punch that starts the riot.
- **Sylvia Rivera, a trans woman throws the first bottle at the police.** Astonished and understaffed, they took refuge in the bar.
- Marsha P. Johnson, a black trans woman, throws bricks at the windshields of police cars.
- Crowds continue their attacks as people grab a parking meter and block police inside. Neighborhood residents and patrons of nearby bars began to pour in.

# LGBT Movement in the United States of America X

- Riots took place in the Stonewall Inn bar and in the surrounding streets: police were taken hostage, and for several days around 2,000 rioters clashed with law enforcement in the neighborhood.
- During the night, many transgender women and men deemed too “effeminate” were taken to task by the police and beaten. The first night thirteen people were arrested. Four police officers and an unknown number of protesters are injured. The crowd, estimated at 2,000 people, threw bottles and stones at the 400 police officers who arrived on the scene.
- The police eventually sent in the **Tactical Patrol Force**, a riot police unit then used to fighting opponents of the **Vietnam War**. However, these men did not manage to disperse the crowd which continued to throw stones and all kinds of projectiles at them.
- Craig Rodwell, who in 1967 established the world's first gay authors' bookstore, the **Oscar Wilde Memorial Bookshop**, on Christopher Street, stirred up the press. Journalists witness several days of fighting, which continues in the streets. Indeed, on June 28 the riot died down, but the crowd returned the following days. **The scuffles lasted five days, with all the bullying previously suffered by homosexuals resurfacing.**

# LGBT Movement in the United States of America XI

- After the Stonewall Riots, New York's gays and lesbians crossed gender, generation and class divides to form a unified community.
- Within six months, two gay support organizations were formed in New York to organize activism and three newspapers were founded to promote gay and lesbian rights.
- Within a few years, gay rights organizations have sprung up in the United States and around the world.
- On June 28, 1970, the first gay pride parades were held in Los Angeles and New York City to mark the anniversary of the Stonewall riots.
- Similar marches have been held in other cities and today Pride Marches are held globally every year during the month of June to commemorate the riots.

## LGBT Movement in the United States of America XII

- On July 4, after a very restless night, Craig Rodwell participated in front of the Capitol in Washington in the traditional Independence Day parade organized for several years by the Mattachine Society. Noting that during this demonstration the leaders of Mattachine separate the couples of women or homosexuals too "sighted", Craig Rodwell decides that he will organize the following year a demonstration in honor of the events on Christopher Street .
- He participated with Brenda Howard in New York in the creation of the Gay Liberation Front (GLF), then in December 1969 of the Gay Activist Alliance (GAA), and founded the organizing committee of the Christopher Street Liberation Day.
- After a legal battle to obtain the right to demonstrate, the first demonstration of a few hundred gays and lesbians takes place under the slogans "Come Out", "Gay Pride", "Gay is Good" and singing "Gay Power" .

## LGBT Movement in the United States of America XIII

- The Stonewall riots and the demonstration triggered by Craig Rodwell mark a milestone in the emancipation of homosexuals. They are the precursors of what will become gay pride.
- It is in tribute to this Stonewall riot that many Pride Marches around the world are held on the last weekend of June.
- Roland Emmerich's **Stonewall** (2015) is set during the riots, as does Nigel Finch's **Stonewall** (1995).

# LGBT Rights in Canada I



# LGBT Rights in Canada I

- The history of LGBT rights in Canada is a effervescent one from the 1960s to the 2000s.
- Before the 1960s, homosexuality in Canada was an indictable offence punishable by imprisonment and remained underground.
- In 1841, Canada passed the first law condemning this crime. It punished homosexuals with the death penalty.
- In 1885, Canada passed the Criminal Law Amendment Act, whose purpose was to define homosexuality as an act of gross indecency, subject to prosecution and criminal conviction.
- Homosexuals were then victims of police, church and popular repression. The church considers homosexuals as sinners, medicine as mentally ill, and the law as criminals.
- On a daily basis, the police present a case of homosexuality before the courts. Those convicted may be imprisoned for up to five years. This repression forced homosexual Canadians to live in hiding.

# LGBT Rights in Canada II

- In 1968, George Klippert, a Yellowknife mechanic, was jailed for four years for telling police officers that he had had relations with other men. His case went all the way to the Supreme Court of Canada and it was his story that prompted Justice Minister Pierre Elliott Trudeau to review the Criminal Code with respect to homosexuality. George Klippert is the last person in Canada to be arrested, charged, prosecuted, convicted and imprisoned for his homosexuality.
- On May 14, 1969, Trudeau government reformed the Criminal Code of Canada and decriminalized homosexual acts by introducing the Omnibus Bill: "All we are proposing as an amendment to the penal code is what is done between two consenting adults; it is not a matter for the police. We don't allow homosexuality, but we're not going to punish it, we're not going to send police officers to see what happens between consenting adults of full age, in private."
- In brief, the government has no business in the bedrooms.

# LGBT Rights in Canada III

- Nevertheless, the daily life of homosexuals remains difficult in Quebec and Canada because until the mid-1970s, homosexuality was considered a mental illness within the medical community. Until that time, electroshock therapy, insulin and lobotomy were advocated by psychiatrists.
- In 1971, the document "We demand" was published. It proclaimed the defense and equality of homosexuals and also led to the emergence of the gay movement. It was essential, since it helped to make the state react and encouraged the struggle of the homosexual community.
- We Demand is a 13-page document calling for changes to discriminatory federal laws and policies regarding the rights of gay, bisexual and lesbian Canadians. The 10 point brief was submitted to the federal government in 1971. It set out a national strategy that was pursued for decades until all requests were met.

# LGBT Rights in Canada IV

- We Demand is sponsored by 12 of Canada's first LGBTQ groups that helped launch Canada's gay liberation and lesbian feminist movement. These organizations were formed in the wake of the 1969 amendments to the sodomy and gross indecency provisions used to prosecute gay men, bisexuals and lesbians.
- Since the beginning of Canadian colonization, sexual acts between men (and later between women) have been illegal. As a result of the 1969 amendments, sexual acts between two men or two women became legal in certain circumstances. Nevertheless, many sections of the Criminal Code continue to discriminate against people who identify as LGBTQ.
- A letter attached to We Demand states: "In our daily lives, we still face discrimination, police harassment, exploitation and pressure to conform by denying our sexuality. This prejudice against homosexuals permeates our society and is very much due to the practices of the federal government." The letter also highlights the threat to all members of society who tolerate this discrimination, concluding: "In a democratic society, if a minority is denied freedom, all citizens are violated."

# LGBT Rights in Canada V

- The ten requests are :
  1. The removal of the terms "gross indecency" and "indecent acts" from the Criminal Code and replacing them with specific offences that apply equally to homosexual and heterosexual acts.
  2. The removal of "gross indecency" and "sodomy" as grounds for indictment as a "dangerous sexual offender."
  3. The requirement of a uniform age of consent for homosexual and heterosexual acts.
  4. The 1952 amendments to the *Immigration Act*, which prohibits homosexual persons from entering or applying for immigration or permanent residence in Canada. Individuals who have a "constitutional psychopathic personality" are also refused, this category including "homosexuals".

# LGBT Rights in Canada VI

5. The right to equal employment and promotion at all levels of government.
6. The 1968 amendments to the Divorce Act, which included sodomy and homosexual acts in the same category as physical and mental cruelty, bestiality, and rape as grounds for divorce.
7. The decision of custody of a child based on the merits of each parent, regardless of their sexuality. In practice, the courts often deny custody of children to gay men and lesbians.
8. The right to know whether the RCMP has a practice of spying on or identifying gay men and lesbians to the federal government in order to expel them from their jobs, and if so, to stop this practice and destroy all records. (This was indeed RCMP policy at the time. See Purges in the Canadian Public Service during the Cold War: The Case of LGBTQ People).

# LGBT Rights in Canada VII

9. The right of gays, lesbians and bisexuals to serve in the Armed Forces. (see also Purges in the Canadian Armed Forces during the Cold War: the case of LGBTQ people).
  10. Amendments to human rights laws to extend their reach so that gays, lesbians and bisexuals enjoy the same privileges and freedoms as the rest of society. (We Demand did not address the issue of gender identity, and thus the rights of the trans community).
- These requests are considered so radical for their time that they are seen as the equivalent of a call for social revolution.
  - On August 28, 1971, activists and their supporters gathered on Parliament Hill in Ottawa, accompanied by a smaller group of protesters in Vancouver. Their goal was to promote the We Demand issue. These rallies were the first large-scale public LGBTQ demonstrations in Canada, with approximately 100 to 200 people in total.

# LGBT Rights in Canada VIII

- There is slow progress. In 1973, Toronto became the first municipality to ban sexual orientation discrimination in the municipal workplace, followed by Ottawa and Windsor in 1976. We Demand's first and only victory in the 1970s was the passage of the 1976 Immigration Act, which came into effect in 1978 and ended the ban on gay and lesbian immigrants and visitors. In 1977, Quebec became the first province to ban discrimination based on sexual orientation. As the 1970s came to an end, most of We Demand's goals were not met.
- However, in the early 1980s, a new era of political organization emerged, breathing new life into the cause. This happened literally overnight. On the evening of February 5, 1981, Toronto police conducted a series of violent raids on Toronto's saunas, resulting in hundreds of arrests. These raids triggered large and furious demonstrations the following evening by the LGBTQ community that drew national attention and sympathy. More demonstrations followed.
- For the first time, a large cross-section of the LGBTQ community was ready to stand up and fight for their rights. This response creates a new and sustainable environment of activism, public protest and legal challenges that eventually lead to the repeal of all laws and policies targeted by We Demand.

# LGBT Rights in Canada IX

- In 1971, the Homosexual Liberation Front (FLH) was the first gay group in Canada, but it lasted only one year, victim of police repression. The first gay demonstration in Canada took place in front of the Parliament of Canada in the fall of 1971. The homosexual magazine *The Body Politic* is created in 1971.
- Until 1977, Immigration and Citizenship Canada still refuses access to Canadian territory to anyone who is a registered homosexual.
- In December 1977, for the first time in America, Quebec Justice Minister Marc-André Bédard had an amendment to the Charter of Rights and Freedoms adopted, prohibiting all forms of discrimination on the basis of sexual orientation.
- In 1979, the Montreal Catholic School Board refused to rent premises to a gay association. After a court ruling, gays won their case for the first time thanks to the Charter of Rights.
- In 1988, Svend Robinson was the first Canadian MP to publicly declare himself gay.

# LGBT Rights in Canada X

- On May 25, 1995, the Supreme Court of Canada, in a five-to-four decision in *Egan v. Canada*, refused to award an allowance to a same-sex partner, but found discrimination against homosexuals.
- For that matter, the Court ruled that the definition of "spouse" in the Old Age Security Act was constitutional (majority by Lamer C.J. and La Forest, Sopinka, Gonthier and Major JJ. in favour; L'Heureux-Dubé, Cory, McLachlin and Iacobucci JJ. dissenting).
- However, the Supreme Court recognized that although "sexual orientation" is not listed as a prohibited ground of discrimination in section 15(1) of the Charter, it is an analogous ground on which a claim of discrimination can be based.
- On June 20, 1996, Bill C-33 added sexual orientation to the Canadian Human Rights Act as a prohibited ground of discrimination.

# LGBT Rights in Canada XI

- On May 20, 1999, the Supreme Court of Canada, in *M v. H*, ruled that same-sex couples are included in common-law relationships with respect to the definition of spouse.
- In June 2002, the National Assembly passed the law on civil unions, a substitute for marriage for which homosexuals are admitted, three months after the first Quebec court decision in favour of same-sex marriage.
- Same-sex marriage was legalized in several Canadian provinces following court cases in which judges determined that the marriage law limiting it to heterosexual couples was unconstitutional.
- On July 20, 2005, Canada legalized same-sex marriage by passing the Civil Marriage Act or Bill C-38, changing the situation in 4 of 13 Canadian jurisdictions, the other 9 having already accepted it through court decisions.
- On Saturday, September 9, 2006, Micheline Montreuil and Svend Robinson were elected to the positions of National Co-Chairs of the LGBT Committee and the Federal Council of the NDP Canada.

# LGBT Rights in Canada XII

- The possibility for a same-sex couple to adopt children has been legalized by most provinces before marriage:
  - in 1996 for British Columbia
  - in 1999 for Ontario
  - in 2001 for Saskatchewan
  - in 2001 Nova Scotia
  - in 2002 for Newfoundland and Labrador
  - in 2002 for Quebec
  - in 2002 for Manitoba
  - in 2002 for the North West Territories
  - in 2003 for Yukon

# LGBT Rights in Canada XIII

- In Alberta, the adoption by a couple of the child of one spouse was legalized in 1999 and joint adoption in 2007.
- New Brunswick legalized joint adoption in 2008.
- Prince Edward Island legalized joint adoption in 2009.
- Nunavut legalized joint adoption in 2011.
- Following the passage of the Civil Marriage Act, Citizenship and Immigration Canada took an interim position that did not recognize same-sex marriages performed outside Canada. This policy was changed in 2007 and an individual can now sponsor a same-sex spouse for immigration purposes "provided the marriage is legally recognized both by the law of the place where the marriage ceremony took place and under Canadian law".
- As you can see, the rights of LGBT people in Canada are generally and widely protected.

# LGBT Rights in Canada XIV

- In 1969, the enactment of An Act to Amend the Criminal Code (Bill C-150) introduced an exception that decriminalized "bingeing" between spouses or between two persons over the age of 21 years who consent.
- In 1988, section 159(2)(b) of the Criminal Code replaced this law on anal intercourse, while maintaining a different age of consent: 18 years for "anal intercourse" and 16 years for non-anal intercourse. This provision was declared unconstitutional by five provincial courts.
- In 1995, protection from discrimination on the basis of sexual orientation was introduced into section 2 of the Canadian Human Rights Act following the 1995 Supreme Court decision in *Egan v. Canada*.
- See ILGA's official reports at:  
<https://ilga.org/trans-legal-mapping-report>

# LGBT Rights in Canada XV

- In 1996, section 7 of the Canadian Human Rights Act prohibits discrimination in employment and establishes various prohibited grounds of discrimination. Section 3(1) includes sexual orientation among these grounds.
- In 1996, section 718.2(a)(i) of the Canadian Criminal Code states that a sentence must be increased if there is evidence that the crime was motivated by, among other things, bias, prejudice or hate based on sexual orientation.
- In 1996, sections 2 and 3(1) of the Canadian Human Rights Act (R.S.C., 1985, Chapter H-6) prohibit discrimination on the basis of sexual orientation. The Act was amended in 1996 to explicitly include sexual orientation.

# LGBT Rights in Canada XVI

- In 1996, section 318(4) of the Criminal Code included "sexual orientation" in the definition of "identifiable group" that could be a victim of genocide. Section 319(7) applies the same definition of "identifiable group" to the crime of public incitement of hatred. Under section 320, publications that may be hate propaganda may be seized.
- In 1999, section 44(1)(b) of the Extradition Act (S.C. 1999, Chapter 18) provides that the Minister of Justice may refuse extradition if he is satisfied that "the request is made for the purpose of prosecuting or punishing the person concerned on grounds of ... sexual orientation".
- In 2004, section 2(e) of the Assisted Human Reproduction Act (S.C. 2004, Chapter 2) prohibits discrimination on the basis of sexual orientation against a person seeking to use assisted human reproduction procedures.

# LGBT Rights in Canada XVII

- In 2005, the Civil Marriage Act recognized same-sex marriage across the country. Starting with Ontario in 2003, most provinces and territories allowed same-sex marriage before the federal law was passed. The provinces of Alberta and Prince Edward Island, as well as the territories of Nunavut and the Northwest Territories were the only jurisdictions that did not have such legislation before 2005.
- In addition to marriage, civil unions, conjugal partnerships and other forms of unions are open to same-sex couples in many jurisdictions across Canada:
  - Alberta in 2002
  - Manitoba in 2001/2002
  - Nova Scotia in 2001
  - Quebec in 2002

# LGBT Rights in Canada XVIII

- In 2011, joint adoption by same-sex couples is legal in all Canadian provinces and territories. Each jurisdiction has its own laws and regulations in this area. Alberta (2007), British Columbia (1996), Manitoba (2002), New Brunswick (2008), Newfoundland and Labrador (2003), Northwest Territories (2002), Nova Scotia (2001), Nunavut (2011), Ontario (2000), Prince Edward Island (2009), Quebec (2002), Saskatchewan (2001).
- In 2011, adoption by the second parent is permitted in several provinces and territories, including Alberta (1999), British Columbia (1996), Manitoba (2002), New Brunswick (2008), Newfoundland and Labrador (2003), Northwest Territories (2002), Nova Scotia (2001), Nunavut (2011), Ontario (2000), Prince Edward Island (2009), Quebec (2002), Saskatchewan (2001).

# LGBT Rights in Canada XIX

- In 2016, Toronto's police chief apologized for the 1981 raids on gay saunas.
- Since August 15, 2016, men who have had sex with another man are allowed to donate blood if they have not had sexual contact with a man for at least one year.
- In 2017, the Canadian government announced its intention to review several landmark gay conviction cases.

# Transsexualism in the world I

- From a legal point of view, in its first judgment of October 10, 1986 relating to transgender persons, the European Court of Human Rights defines them as "persons who, while physically belonging to one sex, have the feeling of belonging to another sex".
- A transgender person is someone whose gender does not match the sex assigned to them at birth.
- A Council of Europe report estimates that one in 500 people are affected by transidentity.
- Trans people are particularly discriminated against. A US report in February 2011 found that 90% of transgender people faced discrimination in the workplace and were twice as unemployed as the general population, and more than half were harassed or rejected when they did try to access public services. Members of the transgender community also face high levels of discrimination in health care.
- <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=17853&lang=en>

# Transsexualism in the world II

- Transidentity is when a transgender person has a different gender identity from the sex assigned at birth, unlike a cisgender person.
- The terms “transsexual” and “transsexualism” are old medical terms, abandoned by doctors and considered pathologizing by Francophone activists.
- Transidentity is distinguished from intersex, which according to the UN refers to situations of people "born with sexual characteristics that do not correspond to the typical definitions of" male "and" female ".
- The Larousse dictionary defines "transsexualism" as a disorder of sexual identity in which the subject feels a discrepancy between their "psychological sex" and their biological sex.
- Some people recommend using the terms “gender identity” and “transgender person”.

# Transsexualism in the world III

- The term transsexualism is considered pathologizing.
- "Transsexualism" was included in 1980 in the list of mental disorders (DSM) established by the American Psychological Association (APA).
- As this document has been revised, the term has changed to "**gender identity disorder**" and then "**gender dysphoria**". Likewise, the 11th version of the WHO International Classification of Diseases replaced "transsexualism" with "**gender incongruence**".
- Today many people reject the idea that transidentity is a disease. APA psychiatrists insist that it is transphobia and not transidentity as such that can be a source of unease.
- A person who is not trans is referred to as "**cisgender**", a term constructed in opposition to "**transgender**".
- Personally, I am transgender and that is enough for me.

# Transsexualism in the world IV

- Lili Ilse Elvenes, better known as Lili Elbe (December 28, 1882 - September 13, 1931), is a Danish painter and trans woman known to be one of the first people to transition undergoing surgery. sexual reassignment, in 1930. Lili Elbe died in 1931, three months after her uterus transplant, probably because of a transplant rejection.
- Christine Jorgensen (born May 30, 1926 in the Bronx, New York, United States, died May 3, 1989) rose to fame for being the first person in the world to undergo gender reassignment surgery.
- RuPaul (born RuPaul Andre Charles on November 17, 1960 in San Diego) is an American drag queen, singer, actor, and lyricist who rose to fame in the 1990s, where he appeared in several television shows, films as well as musical albums.
- Caitlyn Marie Jenner, born October 28, 1949 in Mount Kisco, New York, is an American television host. A trans woman, she was an athlete, specialist in the men's category of decathlon in the 1970s under the identity of Bruce Jenner. Winning the gold medal at the 1976 Summer Olympics in Montreal, Jenner broke the discipline's world record three consecutive times from 1975 to 1976.

# The transsexualism in Quebec

- The most important judgment in the field of transsexualism in Quebec is that of *Maison des jeunes* identified as:
- *Commission des droits de la personne et des droits de la jeunesse c. Maison des jeunes*, Human Rights Tribunal, file number 500-53-000078-970, judgment of July 2, 1998.
- In this 40-page judgment, the Honourable Michèle Rivest gives a complete overview of the rules of law, case law and doctrine concerning sex reassignment.
- At the end of this 40-page judgment, we find 7 additional pages of jurisprudence and doctrine.
- This judgment is regularly cited in any case involving a transsexual, transgender or person in transition.

# Maison des Jeunes I

- The conclusions read as follows :
- DECLARES that transsexualism or the process of unifying disparate sexual criteria is included in the expression "sex" in section 10 of the Quebec Charter of Human Rights and Freedoms;
- NOTES that La Maison des jeunes, as well as C.T. and A.T. infringed M.L.'s right not to be dismissed from her job as a street social worker and to have her contract subsequently renewed because she was in the process of transsexualism;
- NOTES that the Maison des jeunes, as well as C.T. and A.T. have not discharged their burden of proving that this dismissal was deemed non-discriminatory since it complies with the parameters of the justified professional requirement;

# Maison des Jeunes II

- ORDERS the defendants to pay jointly and in solidarity to M.L., as compensation, an amount of \$ 5,750.00 distributed as follows :
  - a sum of \$ 1,750.00, as material damage for loss of wages;
  - a sum of \$ 4,000.00 in moral damages for infringement of their right to the recognition and exercise of their rights on an equal basis, without discrimination and for infringement of their right to respect for their dignity;
- ORDERS that the Court file be consulted only in the presence of the litigation lawyers;
- THE WHOLE AMOUNT with interest since they were served with the proposed remedial measures, date of February 12, 1997, at the rate fixed according to section 28 of the Act respecting the Ministère du Revenu (RSQ, c. M-31), as well as the allows article 1619 CCQ

# Maison des Jeunes III

- The important thing is not the amount but the first conclusion that reads like this :
- DECLARES that transsexualism or the process of unifying disparate sexual criteria is included in the expression "sex" in section 10 of the Quebec Charter of Human Rights and Freedoms;
- This is an important step forward because although the term "gender identity" or the phrase "gender dysphoria" is not used, it is the extension of the meaning of the word "sex" that is important
- **A transgender or transsexual person is covered by the word sex.**
- This is an important judgment to read.
- The judge makes an excellent detailed analysis of the situation.

# Kimberly Nixon vs. Vancouver Rape Relief Society I

- Even if one is a member of the select group of folks holding more nuanced attitudes towards gender, it must be recognized that there are still areas in which work is needed. In the recently dismissed application for leave in *Kimberly Nixon v Vancouver Rape Relief Society (B.C.)*, the Supreme Court of Canada (“SCC”) dodged just such a bullet. Looking through the case history it becomes clear that there is a tension between the individual rights of Ms. Nixon to be free from discrimination on the basis of sex and the ability of the Vancouver Rape Relief Society to define itself and the interests it serves.
- At the British Columbia Court of Appeal, the legal analysis of *Vancouver Rape Relief Society v Nixon*, centered on British Columbia’s Human Rights Code ss. 8, 13, & 41. Ms. Nixon claimed discrimination as a male-to-female transgendered woman who was denied the opportunity to participate in the provision of peer counseling services provided by the Vancouver Rape Relief Society. This denial by the Society was communicated by Ms. Cormier, one of Rape Relief’s facilitators, who had identified Ms. Nixon as transgendered, based solely on her appearance. It was at this point that Ms. Nixon was asked to leave and informed by Ms. Cormier that “a woman had to be oppressed since birth to be a volunteer at Rape Relief and that because she had lived as a man she could not participate . . . men were not allowed in the training group.”

# Kimberly Nixon vs. Vancouver Rape Relief Society II

- This is the judgment of the British Columbia Supreme Court in favour of Kimberly Nixon.  
[https://rapereliefshelter.bc.ca/wp-content/uploads/2021/03/BC-Supreme-Court-Reasons-for-Judgement-Nixon-v-rape-relief\\_1.pdf](https://rapereliefshelter.bc.ca/wp-content/uploads/2021/03/BC-Supreme-Court-Reasons-for-Judgement-Nixon-v-rape-relief_1.pdf)
- This is the judgment of the British Columbia Court of appeal that cancelled the judgment of the British Columbia Supreme Court.  
<https://www.bccourts.ca/jdb-txt/ca/05/06/2005bcc0601.htm>
- The Supreme Court of Canada refuses to hear this case.  
<https://decisions.scc-csc.ca/scc-csc/scc-l-csc-a/fr/item/11008/index.do?q=Kimberly+Nixon>
- An article about this judgment.  
<https://canliiconnects.org/en/commentaries/36090>
- This is the British Columbia Human Rights Code.  
<https://www.canlii.org/en/bc/laws/stat/rsbc-1996-c-210/latest/rsbc-1996-c-210.html>

# Kimberly Nixon v. Vancouver Rape Relief Society III

- In the case at the Supreme Court of British Columbia, *Vancouver Rape Relief Society v Nixon et al, 2003 BCSC 1936*, Ms. Cormier listed the collective political beliefs that the Society requires its volunteers not to disagree with:
  1. Violence is never a woman's fault,
  2. Women have the right to choose to have an abortion,
  3. Women have a right to choose who their sexual partners are, and
  4. Volunteers agree to work on an on-going basis on their existing prejudices, including racism.
- The requirement that a woman be a woman from birth was stated to be complementary to the tenets to which all volunteers and members of the Society must subscribe in the Court of Appeal case. Ms. Nixon was awarded \$7,500 by the Human Rights Tribunal for her claim, but this was overturned on appeal. At the Court of Appeal Honorable Madam Justice Saunders stated "In my view, the behavior of the Society meets the test of 'discrimination' under the Human Rights Code, but it is exempted by s. 41."
  - s. 41 If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or corporation must not be considered to be contravening this Code because it is granting a preference to members of the identifiable group or class of persons.
- The exemption provided by s. 41 applied was enough for Honorable Madam Justice Saunders to determine that the Society had a defense to Ms. Nixon's claim.

# Kimberly Nixon vs. Vancouver Rape Relief Society IV

- One wonders how it is that the Vancouver Rape Relief Society could not be attuned to a more nuanced understanding of sex and gender issues. The position of the Society as communicated by Ms. Cormier hardly reflects such a sophisticated attitude.
- The Society's screening process for volunteers did not include an element to weed out transgendered individuals and as such leaves transgendered individuals in a position where their participation could depend on what is often referred to as passing. A transgendered woman's ability to fully participate becomes dependent on whether her previous gender is in any way detectable.
- The legal definition of transgendered seems to still be a grey area despite some human rights tribunal cases having touched on the subject. See :
  - *Montreuil v National Bank of Canada*  
<https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/6521/index.do>
  - *Kavanagh v Canada (Attorney General)*  
<https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/6582/index.do>

# Kimberly Nixon vs. Vancouver Rape Relief Society V

- It may be prudent for the law when given a chance, such as the one the SCC decided to pass up on in this case, to develop a greater understanding of transgenderism.
- If society believes what it is told of the lives of its transgendered members then the Vancouver Rape Relief Society's complementary position that a woman from birth and be oppressed from birth to qualify as a volunteer need not exclude Ms. Nixon.
- In the ambiguity surrounding the treatment of transgendered individuals in law leaves many issues that still need to be worked out. In this case, the early age at which Ms. Nixon realized her condition seems to suggest that she was indeed *born a women*, simply trapped in a male body.
- As for the Society's additional requirement of oppression since birth, it is hard to imagine that existing in a body at odds with one's identity would somehow fall short of fulfilling that requirement.

# Kimberly Nixon vs. Vancouver Rape Relief Society VI

- An interesting question arises :
- Is it useful or necessary for a male-to-female trans person to have the right to work in a women's shelter?
- The question can certainly arise on a legal level, but it can also be asked on an ethical or moral level?
- Is a woman who runs away from a man and takes refuge in a women's shelter entitled to expect to be welcomed and treated by a woman and not by a trans person from male to female?
- Which right is more important: the right of the female victim or the right of the trans person?
- Personally, I would not have applied for such a position considering that I am not a woman born female and that it could upset the woman who comes to the shelter. **This is not only a question of ethics but also of dignity and common sense.**

# Synthia Kavanagh vs. Attorney General of Canada I

- This is the case of a male-to-female transsexual who was imprisoned in a penitentiary for men. The judgment summarizes the situation well:
- <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/6582/index.do>
- [1] In Canada, the federal correctional system consists of both men's and women's institutions. In this case, the dispute concerns the Correctional Service of Canada's policy regarding the placement of transsexual inmates, as well as its policy prohibiting inmates' access to sex reversal surgery.
- [2] Synthia Kavanagh was born with a male anatomy. However, from her early childhood, she understood that she was different, that something was wrong. She was eventually diagnosed with a gender identity disorder; that is, her biological or anatomical sex did not match her gender identity, her subjective sense of being a woman.
- [3] Ms. Kavanagh is currently an inmate in the federal correctional system as a result of her conviction for second degree murder in 1989. She was initially sentenced to life imprisonment without eligibility for parole for fifteen years. Her parole ineligibility period was reduced to 10 years on appeal.
- [4] At the time of her incarceration, Ms. Kavanagh was living as a woman. She had been taking female hormones since the age of thirteen and had been deemed fit to undergo sex reassignment surgery. At the time of sentencing, the presiding judge recommended that she be allowed to serve her sentence in a women's institution.

# Synthia Kavanagh vs. Attorney General of Canada II

- [5] Despite the recommendation of the trial judge, Ms. Kavanagh was incarcerated at Millhaven Penitentiary, a maximum security male institution in Kingston, Ontario. Over the next eleven years, Ms. Kavanagh, despite repeated, though sometimes conflicting, requests for placement in a women's institution, was incarcerated in various maximum and medium security male institutions in Ontario and British Columbia.
- [6] Ms. Kavanagh's incarceration had an impact on the treatment of her gender identity disorder. She was initially prohibited from continuing to take hormones, which resulted in the loss of many of her secondary female sexual characteristics and caused her great suffering. In 1993, she was allowed to return to hormone therapy; however, despite her repeated requests, Ms. Kavanagh was not allowed to undergo sex reassignment surgery.
- [7] Following these incidents, Ms. Kavanagh filed complaints with the Canadian Human Rights Commission regarding the withholding of hormones, the refusal to allow sex reassignment surgery and her placement in a male institution. In each complaint, she alleged discrimination on the basis of sex and disability.

# Synthia Kavanagh vs. Attorney General of Canada III

- [8] The complaints made by Ms. Kavanagh in a personal capacity against CSC have been resolved. As a result of the settlement, Ms. Kavanagh underwent gender reassignment surgery. She is currently incarcerated at the Joliette Institution for Women, a medium security penitentiary.
- [9] Currently, CSC's Health Services Policy allows for the administration of hormones to transsexuals, on the recommendation of a recognized gender identity disorder clinic. Access to hormone therapy is not in this case a contentious issue on which the court must rule. The remaining dispute relates to CSC's policy regarding the placement of transgender inmates at the preoperative stage, as well as a policy restricting inmate access to gender reassignment surgery.

# Synthia Kavanagh vs. Attorney General of Canada IV

- [195] Having concluded that CSC is responsible, it remains for us to determine the necessary remedial measures.
- [196] The CSC has demonstrated that it is justified not to place preoperative transsexuals in institutions reserved for the target sex. However, we have concluded that the application of section 30 of the CSC Health Services Policy puts transgender inmates at a disadvantage. By requiring that preoperative transsexual inmates be incarcerated with other inmates of the same anatomical structure, CSC policy fails to take into account the particular vulnerability of this group of inmates, as well as the need for accommodation in prison.

# Synthia Kavanagh vs. Attorney General of Canada V

- [197] In our opinion, there is no need to order that CSC cease to apply the provisions of section 30 of its policy on health services. Nonetheless, steps must be taken by CSC, in conjunction with the Board, to develop a policy to identify and address the needs of transsexual inmates.
- [198] We have concluded that section 31 of CSC's Health Services Policy constitutes discrimination based on both sex and disability, and that CSC failed to justify its blanket prohibition on access to it. surgical sex reversal. Therefore, we order that CSC cease to apply the provisions of section 31. CSC will be granted a six-month stay from the date of this decision to consult the Canadian Human Rights Commission on the matter for the development of a new policy in line with these reasons, regarding inmate access to gender reassignment surgery.

# Synthia Kavanagh vs. Attorney General of Canada VI

- [199] The parties will file in court, within six months of the date of this decision, copies of revised CSC policies regarding the placement of transgender inmates and their access to gender reassignment surgery. The court retains its jurisdiction with regard to any contentious point in the event that the parties cannot agree on any modality of application of these policies.
- [200] For the above reasons, we declare that sections 30 and 31 of the CSC Health Services Policy constitute discrimination on the basis of sex and disability, and we order:
  - that CSC take action, in conjunction with the Canadian Human Rights Commission, to develop a policy to identify and address the placement needs of transsexual inmates, in accordance with this decision;
  - that the CSC cease to apply the provisions of article 31 of its policy on health services; (CSC will be granted a six-month delay from the date of this decision to consult with the Canadian Human Rights Commission on the development of a new policy consistent with these reasons, with respect to the 'access of inmates to gender reassignment surgery.)
  - that the parties file in court copies of revised CSC policies regarding the placement of transgender inmates and their access to gender reassignment surgery, within six months of the date of this decision. (The court retains jurisdiction over any contentious issue relating to the manner in which these policies are applied.)

# Synthia Kavanagh vs. Attorney General of Canada VII

- The most interesting part of the judgment is not found in the conclusions drawn by the Canadian Human Rights Tribunal, but in all the analysis that follows:
  - Treatment of transsexualism – 19 to 28
  - Gender affirming surgery and inmates – 48 to 91
  - Placements of transsexual prisoners at the preoperative stage – 92 to 133
  - Legal principles – 134 to 139

# Synthia Kavanagh vs. Attorney General of Canada VIII

- I really liked paragraphs 138 and 139.
- [138] Once a prima facie case of discrimination has been established, the onus is on the respondent to prove, on a balance of probabilities, that the discriminatory policy or standard contains justifiable cause. From this perspective, the respondent must now prove:
  - I. that it adopted the standard for an end or for a purpose that is rationally related to the function performed;
  - II. that it adopted the standard in good faith, believing that it is necessary to achieve the end or goal in question;
  - III. that the standard is reasonably necessary to accomplish the end or purpose pursued, in the sense that the responding party cannot deal with persons who exhibit the characteristics of the complaining party without undergoing undue hardship.

# Synthia Kavanagh vs. Attorney General of Canada IX

- [139] The term “undue hardship” is not defined in the Act. However, Meiorin and Grismer go a long way in determining whether a defense of undue hardship has been established.
- In Meiorin, the Supreme Court observed that the use of the word “excessive” suggests that some hardship is acceptable; in order to meet the standard, it is essential that the hardship imposed is “excessive”. The Supreme Court also noted that the defendant, in order to prove that the standard is reasonably necessary, must always show that it includes any possibility of accommodation without causing undue hardship. The onus is on the respondent to establish that it has considered and reasonably rejected all viable forms of accommodation.
- The respondent must demonstrate that it was impossible to incorporate positive aspects of individual accommodation into the standard without causing undue hardship. In order to determine whether the respondent's efforts to accommodate have been sufficient, one must take into account the prospect of actual infringement of the rights of others. The adoption of the defendant's standard must be supported by convincing evidence. The proof, consisting of impressions, is generally not sufficient. Finally, the Supreme Court indicated that factors such as the cost of possible accommodation methods should be applied in a flexible and common sense manner, depending on the facts of each case.

## **Centre for Gender Advocacy vs. Attorney General of Quebec I**

- On January 28, 2021, Justice Gregory Moore, J.C.S. invalidated part or all of articles 59, 71, 111, 115, 132, 146 and 166 of the Civil Code of Quebec which infringe the right to equality and dignity of trans and non-binary persons in the judgment **500 -17-082257-141**.
- The parties involved are:
  - Centre for gender advocacy
  - SAMUEL SINGER
  - SARAH BLUMEL
  - ELIZABETH HELLER
  - JENNA MICHELLE JACOBS
  - Plaintiffs
  - vs.
  - Attorney General of Quebec
  - Defendant
  - and
  - EGALE CANADA HUMAN RIGHTS TRUST
  - LGBT FAMILY COALITION
  - GENDER CREATIVE KIDS CANADA
  - Stakeholders

## Centre for Gender Advocacy vs. Attorney General of Quebec II

- The applicants ask, by way of a declaratory judgment, to invalidate certain articles of the Civil Code of Quebec relating to:
  - ❖ The requirement to be an adult and to be a Canadian citizen to obtain a change in the designation of sex (art. 71, 72 C.c.Q.);
  - ❖ The requirement of the designation of sex on civil status documents (arts. 93, 111, 115, 116, 124, 126, 146 C.c.Q.);
  - ❖ The limited effects of changing the designation of the sex of the transgender parent on the mother / father designation of the birth certificate of her child (art. 132 C.C.Q.);
  - ❖ The impossibility for the transgender minor to request a change of his or her name alone (art. 59, 60 C.c.Q.)
- The plaintiffs argue that these sections violate the rights guaranteed in sections 1, 4, 5 and 10 of the Charter of human rights and freedoms and sections 7 and 15 of the Canadian Charter of rights and freedoms

## Centre for Gender Advocacy vs. Attorney General of Quebec III

- The applicants plead that certain articles of the Civil Code of Quebec are invalid because they infringe the rights to integrity, security of the person, life, liberty, dignity, privacy and equality guaranteed by the Charter of Human Rights and Freedoms and the Canadian Charter of Rights and Freedoms.
- This appeal claimed the fundamental rights of those left behind in the major legislative reforms carried out in recent years:
  - ❖ Non-citizens who did not have the right to change their name and sex designation with the civil registry
  - ❖ Non-binary and intersex people whose existence was outright denied by the Civil Code
  - ❖ Trans parents who could not change their parental designation on their child's birth certificate after their transition or be designated as "parent" instead of "mother" or "father"
  - ❖ Young trans people who still faced significant barriers to being able to change their name and gender designation.

## **Centre for Gender Advocacy vs. Attorney General of Quebec IV**

- The judgment finds the extreme vulnerability of trans and non-binary people and recognizes that not having access to identity documents that adequately reflect one's gender identity exacerbates this vulnerability.
- The judgment also notes the high suicide rate in this community, especially among trans and non-binary adolescents who have no family support.
- The greatest impact will be that all people who have waited for years to have the same rights as all other Quebecers will finally be able to obtain recognition of their identity by the civil status and will also be able to obtain identity documents that reflect this identity.
- Finally, the judgment recognizes the existence of a non-binary identity, that is, other than "Male" or "Female".

## Centre for Gender Advocacy vs. Attorney General of Quebec V

- There is also an interesting conclusion:
- The plaintiffs had challenged the requirement to designate a newborn's sex as male or female. In his decision, Justice Moore wrote : “The obligation to designate the sex of a newborn is justified. They do not have a gender identity, so there can be no distinction based on that ground. Articles 111, 115, and 116 of the Civil Code must be amended, however, to allow non-binary people to identify themselves as a parent instead of a mother or father on their children's acts of birth.”
- However, the requirement to give a M or F sex designation also creates pressures on parents and doctors to assign a gender both legally and socially which often they can do through non-consensual surgeries on intersex newborns, which is a violation of their bodily integrity.
- One thing is certain ; it will be interesting to see how the Government of Quebec responds to this judgment.
- The Government of Quebec decided to go to the Court of Appeal.

## Centre for Gender Advocacy vs. Attorney General of Quebec VI

- Below are the conclusions for the judgement:
- DECLARES that articles 111, 115, and 116 of the *Civil Code of Québec*, because they oblige non-binary parents to be identified as a mother or father instead of a parent, violate the dignity and equality rights of non-binary parents, and are invalid and of no force or effect and SUSPENDS this declaration of invalidity until December 31, 2021;
- DECLARES that article 71, paragraph 1 of the *Civil Code of Québec*, because it does not allow non-binary people to change the designation of sex on their act of birth to correspond to their gender identity, violates the dignity and equality rights of non-binary people, and is invalid and of no force or effect and SUSPENDS this declaration of invalidity until December 31, 2021;
- DECLARES that the citizenship requirement at articles 59 and 71 of the *Civil Code of Québec* violates the dignity and equality rights of non-citizens domiciled in Quebec and STRIKES the words “who is a Canadian citizen and” (“*a la citoyenneté canadienne et*”) from article 59 and the words “and is a Canadian citizen” (“*et ayant la citoyenneté canadienne*”) from article 71, paragraph 3;

## Centre for Gender Advocacy vs. Attorney General of Quebec VII

- **DECLARES** that section 23.2 of the *Regulation respecting change of name and of other particulars of civil status* violates the dignity and equality rights of transgender and non-binary people aged fourteen to seventeen and is invalid and of no force or effect and **SUSPENDS** this declaration of invalidity until December 31, 2021;
- **DECLARES** that article 132 of the *Civil Code of Québec* must be interpreted and applied to authorize the registrar of civil status to draw up of new acts of civil status for a person whose parent has changed their name or their designation of sex;
- **DECLARES** that article 146 of the *Civil Code of Québec*, because it requires a designation of sex on certificates of civil status, violates the dignity and equality rights of non-binary people and is invalid and of no force or effect and **SUSPENDS** this declaration of invalidity until December 31, 2021;
- **TAKES FORMAL NOTICE** of the registrar of civil status's undertaking to issue, upon application, certificates of civil status that do not include a designation of sex

# Contested Articles of the Civil Code of Quebec I

**59. A person who is a Canadian citizen and who has been domiciled in Québec for at least one year may be the subject of an application for a change of name.**

A child under one year of age, born and domiciled in Québec, is considered to have been domiciled in Québec for at least one year.

**71. Every person whose gender identity does not correspond to the designation of sex that appears in that person's act of birth may, if the conditions prescribed by this Code and by government regulation have been met, have that designation and, if necessary, the person's given names changed.**

These changes may in no case be made dependent on the requirement to have undergone any medical treatment or surgical operation whatsoever. Subject to article 3084.1, only a person who has been domiciled in Québec for at least one year and is a Canadian citizen may obtain such changes.

A child under one year of age, born and domiciled in Québec, is considered to have been domiciled in Québec for at least one year.

The conditions prescribed by government regulation that must be met to obtain such changes may vary, in particular according to the age of the person who is the subject of the application.

# Contested Articles of the Civil Code of Quebec II

## 111. The accoucheur draws up an attestation of birth.

An attestation states the place, date and time of birth, the sex of the child, and the name and domicile of the mother.

➤ 115. A declaration of birth states the name assigned to the child, the sex and the place, date and time of birth of the child, the name and domicile of the father and of the mother, and the family relationship between the declarant and the child. Where the parents are of the same sex, they are designated as the mothers or fathers of the child, as the case may be.

## 116. Every person who gives shelter to or takes custody of a newborn child whose father and mother are unknown or prevented from acting is bound to declare the birth to the registrar of civil status within 30 days.

A declaration states the sex and, if known, the name and the place, date and time of birth of the child. The person making a declaration shall also provide a note relating the facts and circumstances and indicating, if known to him, the names of the father and mother.

# Contested Articles of the Civil Code of Quebec III

132. A new act of civil status is drawn up, on the application of an interested person, where a judgment changing an essential particular in an act of civil status, such as the name or filiation of a person, has been notified to the registrar of civil status or where the decision to authorize a change of name or of designation of sex has become final. The same applies where an Aboriginal customary adoption certificate has been notified to the registrar of civil status.

To complete the act, the registrar may require the new declaration he draws up to be signed by those who could have signed it if it had been the original declaration. The new act is substituted for the original act; it repeats all the statements and particulars that are not affected by the alterations and, in the case of an adoption with recognition of a pre-existing bond of filiation, those relating to that bond, specifying their antecedence. In the case of an Aboriginal customary adoption, the new act in addition makes mention, where applicable, of the rights and obligations that subsist between the adoptee and a parent of origin, with a reference to the altering act. Finally, the substitution is noted in the original act.

146. A certificate of civil status sets forth the person's name, sex, place and date of birth and, if the person is deceased, the place and date of death. It also sets forth, if applicable, the place and date of marriage or civil union and the name of the spouse. The registrar of civil status may also issue certificates of birth, marriage, civil union or death bearing only the particulars relating to one certified fact.

# Contested Articles of the Civil Code of Quebec IV

- Regulation respecting change of name and of other particulars of civil status- chapter CCQ, r. 4

**23.2.** An application for a change of the designation of sex that appears in an act of birth of a person of full age must be accompanied by, in addition to the documents referred to in section 4, an affidavit of a person of full age who attests to having known the applicant for at least one year and who confirms that the applicant is fully aware of the seriousness of the application.

An application for a change of the designation of sex for a minor child must be accompanied by, in addition to the documents referred to in section 4, a letter from a physician, a psychologist, a psychiatrist, a sexologist or a social worker authorized to practise in Canada or in the State in which the child is domiciled who declares having evaluated or followed the child and is of the opinion that the change of designation is appropriate.

# Historic of the LGBT movement in Quebec

- The first homosexual association to emerge in Quebec was the Front de libération homosexuel (FLH) in March 1971, linked to the sovereignist movement.
- It was during an anti-Canada march on July 1, 1971, that the Front de libération homosexuelle made its first public appearance by forming a homosexual contingent. One of the members of the group, Denis Côté, declared that "the liberation of Quebec would be done with the collaboration of all and that it was necessary to liberate oneself before liberating Quebec".
- Composed of only about thirty members at the beginning, the political formation quickly grew to nearly 200 people, a progression which had repercussions on the ideological composition of the LFH. Those who cultivated a more global and political vision became a minority in the LFH and chose to leave its ranks. In August 1972, the young organization was dissolved, in part due to police harassment.

# Main LGBT groups in Quebec

- The **Conseil québécois LGBT** (CQ-LGBT) is the central reference point in Quebec for the defense of the rights of lesbian, gay, bisexual and trans people here. The **Conseil québécois LGBT** seeks to consolidate the rights of LGBT people in Quebec, in addition to militating for the rights to be acquired, so that no one is left behind in the recognition of sexual and gender diversity. <https://www.conseil-lgbt.ca/> (in French)
- The **Alliance Arc-en-ciel de Québec** aims to mobilize and sensitize the population to the issues and concerns of people of sexual diversity and gender plurality in addition to ensuring their inclusion and the defense of their rights.  
<https://arcencielquebec.ca/> (in French)
- For the past 30 years, the **Montreal LGBTQ+ Community Centre** has been providing the services necessary for the start-up, development and smooth operation of Montreal LGBTQ+ organizations in order to improve the quality of life of community members. It also houses a library specializing in works related to sexual diversity and makes more than 20,000 documents of all kinds available to the public.  
<https://ccglm.org/en/>
- See also the **LGBT Resource Guide** at:  
<http://guidelgbt.org/> (in French)

# Hélène Montreuil from 1995 to 2020

- From 1995 to 2020, Hélène Montreuil's life merges with major LGBT demands.
- She was involved in all the fights, more or less present, but the briefs she submitted to the House of Commons of Canada and to the National Assembly of Quebec as well as the judgments she obtained facilitated the opening of many doors.
- As she puts it so well:
- "I didn't systematically open new doors, but I systematically turned muddy, winding trails into straight, asphalt highways."

# Who is Hélène Montreuil ? I

- Also known as Micheline Montreuil, Hélène Montreuil occupies a certain place in the news through her presence and her battles to have her rights recognized as a simple person, incidentally LGBT or transgender.
- Born in Quebec in 1952, her personality, values, beliefs and character have developed over time thanks to the education received from her parents and the teachings received at school, college and university.
- She is a white French-speaking British citizen of a Christian tradition with the cultural characteristics of a person born in such an environment plus the education she received.
- So she cannot think like a Jew, a Muslim, a Hindu, an African, an Asian or a black.
- So she sees the world through the eyes of the person she is.
- She tries to understand but she cannot understand everything. At least she's listening to try to understand.

# Who is Hélène Montreuil ? II

- Her numerous trips to North America, Central America and Europe for study, work or pleasure have allowed her to develop a greater sensitivity and a deeper acceptance of the differences that characterize the societies in which we live and of the people who make up these societies.
- Volunteering in several community organizations has enabled her to better understand the needs and sufferings of the poorest people who make up our society.
- After studying law and management in Quebec City, Common Law in Winnipeg and Ottawa, and industrial relations in Paris, she began working as a lawyer, management consultant and systems analyst. She has also been a partner in a restaurant, grocery store and real estate company.

# Who is Hélène Montreuil ? III

- Then, she began a career as a professor of management and law while pursuing a parallel career as a lecturer in finance and banking.
- Finally, she returned to the practice of law as a lawyer, management consultant and professor of law and management at the University of Quebec at Rimouski.
- She applies her method of analyzing ethical problems because ethics is certainly one of the most important challenges of the 21st century.

# Who is Hélène Montreuil ? IV

- Author of some books on law, management and accounting as well as some articles on the banking industry, she is curious about everything and nothing and that is why she often asks questions because she wants to know and understand.
- Those who know her well often say the following three sentences about her:
- Hélène's word is worth a thousand times the signature of many people.
- What Hélène says, she does and what Hélène does, she says.
- Hélène is honest, she has never played with anyone, she has character and she knows where she is going.

# Why did I become a transgender ?

- This is probably the only question that does not have a logical or certain answer.
- The only answer that comes to my mind is that I felt deep inside that I wanted to live in a different way. It seemed to me that what I looked like was not what I would like to have.
- For example, one person may prefer to live in the city and another in the countryside.
- One person may prefer to work for a salary and another to be self-employed.
- One person may prefer to have children and another not to have them. There can be a number of factors behind these desires, but it is not always obvious.
- Likewise, a man may prefer to live as a man and another may prefer to live as a woman.
- You will say that the comparison is lame but it still represents a certain reality.

# How did I become a transgender ? I

- In 1965, at the age of 13, I put on my first bra.
- Why ?
- Out of curiosity !
- I wanted to know why a woman was wearing a bra while I was not?
- I wanted to know what a bra is for and I understood that when I learned that a woman has breasts and I don't.
- I wanted to know how a woman who wears one feels.
- I found it different and interesting.
- Around the same age and still out of curiosity, I also put on my first petticoat and my first long bathing suit.
- I also found it different and interesting.

# How did I become a transgender ? II

- In 1968, at the age of 16, I dressed completely as a woman.
- This means that I dressed in a bra, panties, nylons, dress and high heeled shoes.
- Why?
- I know it was still just a teenage curiosity.
- If at least I had dressed as a woman for Halloween, I could have gone outside and completed this interesting experience and thus draw conclusions from it, but that did not happen.
- I also wanted to know why a woman can wear soft fabrics like silk, satin, nylon etc. while I can't wear it even though I love the softness of these fabrics? It's called sensuality.
- The lure of the forbidden fruit is often very strong and after all, I don't hurt anyone.

# How did I become a transgender ? III

- In 1975, at the age of 23, I did her first make-up and my first night out, of course.
- It was a fantasy, it was fun, even exciting. I was happy but scared at the thought of being discovered.
- In 1977, at the age of 25, in Paris, I went out dressed as a woman a few times.
- I also took the opportunity to buy some pieces of lingerie to increase my wardrobe.
- From 25 to 34, I went out dressed as a woman a few times to improve my confidence and ease, but always in relative anonymity.

# How did I become a transgender ? IV

- In 1986, at the age of 34, I asked myself the fundamental existential question.
- Who am I?
- Incidentally, I asked myself other traditional existential questions.
- Where I come from?
- Where I will go?
- Why am I going there?
- How am I going to get there?
- What is the meaning of life ?
- Why am I on Earth?

# How did I become a transgender ? V

- I couldn't find answers to these questions, at least no answer that could satisfy my curiosity.
- **But is it really necessary to find an absolute answer to these questions?**
- However, I wondered if I would rather live as a woman than as a man because it seemed to me that I had more in common with women than with men.
- Yes, I am very different from what I might define as the "average woman", but I am also very different from what I might define as the "average man".

# How did I become a transgender ? VI

- Plus and to be honest, I feel good when I'm dressed as a woman.
- Note that this doesn't mean that I hate being dressed as a man, but it does mean that if I have a choice, I prefer to be dressed as a woman.
- I would rather wear a nice dress with nylons and high heels than wearing a jacket, shirt, tie and pants.
- I feel more comfortable, more me, when I am dressed as a woman.
- This is not a question of logic but a question of feeling, of well-being.

# Birth of Micheline Montreuil in 1986

- In 1986, I decided that if I had to one day and in a more progressive, more important or more permanent way live as a woman, work dressed as a woman, go out dressed as a woman, travel dressed as a woman and finally integrate myself as much as possible. in the world of women, it would be logical for me to choose a "traditionally female" first name to identify myself as a woman and thus give a name to the one I affectionately call my "twin sister" or my alter ego.
- I chose the first name of "**Micheline**".
- Why **Micheline**?
  - I find it a beautiful classic feminine name, not too common, easy to pronounce, easy to write, which sounds sweet to the ear and which gives a beautiful name when I add it to my last name, that is to say **Micheline Montreuil**. . If you have a sense of humor my initials are like **M & M**.
- So I gradually began to obtain identity cards, subscription cards, credit cards in the name of **Micheline Montreuil** and to open a telephone account, an electricity account, a cable account, a bank account, etc. on behalf of **Micheline Montreuil**.

# Micheline Montreuil from 1992 to 1997

- In 1992, at the age of 40, Micheline Montreuil began to go out openly dressed as a woman in Quebec.
- In 1995, at the age of 43, Micheline Montreuil began traveling dressed as a woman in Canada and the United States.
- So I traveled to other provinces and crossed the American border dressed as a woman on an automobile, bus, train, plane and even in a boat like any other woman would.
- In 1996, at the age of 44, Micheline Montreuil gave a conference in law on the occasion of the 5th ICTLEP Congress, the International Conference on Transgender Law and Employment Policy which was held from 3 to 7 July 1996 in Houston, Texas.
- In 1996, at the age of 44, I even won the "Miss Best Dressed" trophy at Fantasia Fair.
- However, throughout my travels I always encountered slight practical difficulties considering that, for example, my credit card with which I had booked my plane ticket and rented a car was in the name by Micheline Montreuil while my passport and driving license were issued under another name.

# **Micheline Montreuil in 1997 |**

- In September 1997, at the age of 45, I decided to submit a request for a change of name to the Registrar of Civil Status of the Province of Quebec to have the first name of "Micheline" added to my deed of birth in order to be able to obtain a passport and a driving license in the name of Micheline Montreuil to solve once and for all these slight practical difficulties.
- Eventually and in order to maintain consistency in my identity, I will one day also have to request the issuance of a social insurance card, a health insurance card and a Barreau du Québec membership card in the name by Micheline Montreuil.
- On October 12, 1997, my request for a name change was published in the Charlesbourg Express newspaper".
- On October 25, 1997, my request for a change of name was published in the "Gazette officielle du Québec".

# **Micheline Montreuil in 1997 II**

- On November 20, 1997, I filed a name change request with the Registrar of Civil Status of the Province of Quebec to have the first name “Micheline” added to my birth certificate.
- On Wednesday, December 3, 1997, Jean Leclerc, director of human resources, and Louis-Mari Cormier, human resources coordinator, from the Cegep Garneau in Quebec City where I had been teaching law since August 1987, asked me to choose between a resignation or a dismissal on the grounds that I had been seen dressed as a woman in the shopping center of the Galeries de la Capitale in Quebec City and that I had participated in a Halloween party dressed as a woman because, according to Jean Leclerc and Louis-Mari Cormier, I am causing serious damage to the reputation of the College.

# **Micheline Montreuil in 1997 III**

- **Jean Leclerc and Louis-Mari Cormier give me 30 seconds to make a decision, without any prior notice despite a blank disciplinary file in more than ten years of teaching as a professor of legal techniques at Cegep Garneau and a petition from my students in my favor deposited in the hands of Jean Leclerc and Louis-Mari Cormier.**
- **On Thursday, December 4, 1997, I lost my job as a paralegal professor.**
- **On Friday, December 5, 1997, Micheline Montreuil began to take up almost all the space because the loss of her job as a professor of legal techniques removed the only major restriction which still obliged her to work dressed as a man and which prevented her from living her life dressed as a woman every day. I have chosen to live my life to the fullest and it is as a woman that I have chosen to live my life.**

# **Micheline Montreuil in 1998**

- **On Wednesday, May 13, 1998, I made the decision to cut all ties with my past and make my old masculine identity disappear. Since that time, my old male identity has never appeared in public again.**
- **On Thursday September 10, 1998, following the release of a judgment from the Superior Court concerning the issuance of a driver's license in the name of Micheline Montreuil, journalists published articles on my request for a change of name and in over the next few hours, my story goes around Canada. It is the beginning of the public and mediatized life of Micheline Montreuil.**
- **I never chose and I never wanted my story to become public, but following the articles in the newspapers and the numerous television interviews that followed the publication of the articles relating to this judgment, it was obvious that my story had become public.**

# **Micheline Montreuil becomes public in 1998**

- I then had two possible choices:
  - not tell journalists anything and thus let them write what they find in information, or
  - meet journalists to tell them the truth and thus present a positive image of a transgender which would have the effect of positively changing the image that the population has of a transgender, a transvestite or a transsexual.
- I chose the second option and agreed to be available for journalists because I believe it is the best way to do something positive for society.
- The rest is now history.
- See the website: [www.micheline.ca](http://www.micheline.ca)

# The consequences of becoming a transgender

- I lost a job that I loved, that of a teacher.
- I have lost friends or people who call themselves my friends.
- Many jobs are closed to me or close when the employer sees me.
- Employers are afraid to hire a "transgender or a transsexual" because it is not politically correct.
- Several people discriminate against me.
- Do I take advantage of the beautiful side of both worlds, that of man and that of woman?
- For many, I suffer from the bad side of both worlds.
- The bills of rights may give me certain rights, but I have to fight to have them respected and it takes a tremendous amount of time, money and effort.
- Even if the situation is sometimes difficult, I continue to hold firm the course because I know that I will get through these difficulties; it's just a matter of time.
- In addition, I can count on the support of my new spouse and my family; that is a great comfort to me.

## **Micheline Montreuil breaks down barriers as a transgender I**

- **On September 13, 1999, I began teaching in the Department of Biology, Chemistry and Health Sciences at the University of Quebec at Rimouski.**
- **On September 5, 2000, I began my doctorate in law at Laval University and on September 28, 2000, I was elected president of the Association of graduate students in law at Laval University.**
- **On June 3, 2002, I started working as a tax collection agent at the Tax Perception Center of the Quebec Revenue Department in Laval.**
- **On January 22, 2003, I was elected first vice-president of Section 205 - Revenu Laval of the Syndicat de la fonction publique du Québec.**
- **On December 2, 2004, I was elected president of Section 225 - CPF MESSF Laval of the Quebec Public Service Union.**
- **On September 11, 2006, I was elected co-chair of the LGBT Commission of the New Democratic Party of Canada and a member of the NDP Federal Council.**
- **On December 11, 2006, I started working as a lawyer at the Administrative Justice Council.**

## **Micheline Montreuil breaks down barriers as a transgender II**

- **On March 31, 2007, I was chosen as the NDP candidate for the riding of Quebec for the next federal election.**
- **On September 10, 2007, I started teaching at the Department of Management Sciences at the University of Quebec at Rimouski.**
- **On June 13, 2008, I was appointed representative of the Gay and Lesbian Coalition of Quebec to ECOSOC, the Economic and Social Council of the United Nations Organization.**
- **On September 23, 2010, I became an account arbitrator for the Barreau du Québec.**
- **On April 15, 2011, I became a trainer for the Barreau du Québec.**
- **On June 17, 2013, I became Vice-President for Information of the Union of Lecturers and Lecturers of the University of Quebec in Rimouski SCCCCUQAR, affiliated with the Confédération des Syndicats Nationaux CSN. I did all of this as a woman and a transgender and it broke down some barriers.**

## **Micheline Montreuil breaks down barriers as a transgender III**

- The course is long and difficult but it must be done and it will be done.
- I say, with a smile, that you have to be a strong and proud man like me to make a strong and proud woman like me.
- I am the first known transgender in Quebec and it is I who must therefore open the doors. There is however a price to pay and this price is quite heavy, but I accept it so that I have the right to live my life as I see fit.
- In January 1933, in a memorable speech, Franklin Delano Roosevelt, President of the United States of America from 1932 to 1945, said: "The only thing you need to be afraid of is fear itself."
- Winston Churchill, Prime Minister of the United Kingdom from 1940 to 1945, said: "You should never surrender except when honor or common sense demands it."
- I will continue to fight and with your help, society will eventually evolve.

# My biggest dream

- Being hired by an employer who looks not at what I look like but rather at what qualities I have.
- An employer who will not only say they have an anti-discrimination policy, but also enforce it by hiring someone who doesn't have a good looking.
- As a good friend would say, the boots have to follow the lips.
- Now, let's move on to my main fights.
- Remember the most important thing:
- My fights have earned me money, but they haven't given me a job!

# The technique used by Hélène Montreuil

- In the negotiation courses that I give at UQAR, I teach the "salami" or "slicing" technique.
- The "salami" technique is to not ask for a major concession, but rather a large number of small concessions which, taken individually, seem minimal, but, when put together, represent the equivalent of a desired major concession, and sometimes even more.
- It is easier to gain small concessions rather than one large one.
- In a court application, it is easier to succeed with several small wins than with one big win.
- It takes longer and costs more, but it is more efficient. However, you have to have the time and energy to do it.

# Salami v. Registrar of Civil Status I

- To start off, it should be noted that the Registrar of Civil Status did not hand down decisions on name changes in accordance with a regulation made by the Government of Quebec, but with unwritten guidelines that the Registrar had set.
- These guidelines therefore had to be invalidated first so that the Quebec government could make a valid regulation.
- What's more, the Registrar of Civil Status did not want to change my name on my birth certificate until the name on my driver's licence and on my health insurance card had been changed first.
- This is an illogical position and has no legal basis because the Société l'assurance automobile du Québec and the Régie de l'assurance maladie du Québec didn't want to change my name on my driver's licence and on my health insurance card so long as my birth certificate had not been changed.
- This makes sense because the driver's licence and health insurance card are issued according to the information appearing on the birth certificate.

# Salami v. Registrar of Civil Status II

- The first step was to sue the Société l'assurance automobile du Québec and the Régie d'assurance maladie du Québec to force them to change my name on my driver's licence and on my health insurance card, even though I knew that these two lawsuits were doomed to fail, and that is what happened.
- This was intentional because it put an end to an argument by the Registrar of Civil Status and would later be used before other courts.
- See Montreuil c. Quebec (Société de l'assurance automobile), Superior Court judgment 200-05-009867-982 dated September 3, 1998
- See Montreuil c. The Régie de l'assurance-maladie du Québec, Administrative Tribunal of Quebec judgment SS-10402 dated October 16, 1998, AZ-98091223

# Salami v. Registrar of Civil Status III

- Now that the issue of the driver's licence and the health insurance card was settled, we could use the salami technique against the Registrar of Civil Status; Justice Claude Rioux wrote in:  
**Montreuil c. Directeur de l'état civil, C.S. 200-05-010173-982 of October 27, 1998**, in particular at paragraphs 25, 26 and 27.

## ➤ [TRANSLATION]

25 The Registrar of Civil Status added this to page 4 of his decision.

- WHEREAS in the present case, the main reason supporting the request for a change of the applicant's name is to ask the Registrar of Civil Status to be able to legally live for all appearances as a woman while the reference to the "male" sex remains unchanged;
- WHEREAS the desire to associate his masculine identity with his feminine appearance does not constitute a serious reason, within the meaning of article 58 of the Civil Code of Quebec, allowing the Registrar of Civil Status to authorize the name change requested by the applicant;
- WHEREAS article 58 of the Civil Code of Quebec, in the opinion of the Registrar of Civil Status, does not allow an individual to change their name to add a first name attributed to the opposite sex, suggesting a name change incidental to a change of sex designation, when the entire change of sex designation process has not yet been finalized and confirmed by medical reports;

# Salami v. Registrar of Civil Status IV

- 26 The Registrar of Civil Status also alluded in his decision to the discretionary power conferred on him by law. On this point, the Court cannot agree, given the new article 74 of the *Civil Code of Québec* and the *Commentaires du Ministre de la justice* given under this article and which read as follows:  
[TRANSLATION]
  - This article is new in law. Previously, a decision of the Minister of Justice whether or not to authorize a change of name or to change the sex designation was not subject to review. This rule was consistent with the fact that a name change was a privilege, not a right. However, as the Civil Code of Québec changes this situation, it becomes desirable to bring an application for review of the decision of the Registrar of Civil Status. This remedy provides a procedural guarantee, given that the Code lists, in article 58, a certain number of grounds that could justify a change of name and, in articles 71 and 72, sets precise criteria for the change of designation of sex.
- 27 Therefore, the Registrar must base his decision in matters of name changes on relevant facts, established before him, and on valid legal considerations, that is, the legislation and not on the discretionary powers which he could use before the advent of the new *Civil Code of Québec*.
- Second step: the case was lost, but so were the discretionary powers that the Registrar thought he had.

# Salami v. Registrar of Civil Status V

- Now, the discretionary powers of the Registrar of Civil Status no longer exist. This was confirmed by Justice France Thibault of the Court of Appeal, who wrote:

## [TRANSLATION]

• In fact, the legislature made the administrative appeal to the Registrar of Civil Status subject to review before the Superior Court, thus transforming what was considered a privilege before the advent of the Civil Code of Québec into a right.

- This is found in the following judgment:
- Montreuil c. Directeur de l'état civil, CA 200-09-002310-982 of November 1, 1999

# Salami v. Registrar of Civil Status VI

- Now what about the issue of the sex of the first name?
- Justice France Thibault of the Court of Appeal answered this question.

## [TRANSLATION]

- In my opinion, the Registrar of Civil Status and the Superior Court were wrong to conclude that the addition of a so-called female first name to a male person's act of civil status.
- Each person is individualized within our society, that is, they are differentiated from others by their personal and individual characteristics. The legislature has listed four elements which, it seems to me, perform the function of identifying a person: the last name allows the person to be designated and ensures the exercise of their civil rights; the sex adds to the identification; the domicile is used to situate a person in a territorial framework; and the acts of civil status ensure awareness of the family situation of an individual because of the legal consequences it entails.
- In conclusion, it must be recognized that, legally, the assignment of a name is not intended to designate the sex of a person. Also, it is incorrect to conclude that the use of a so-called female first name by a male person creates confusion as to their individualization in relation to other members of society.

# Salami v. Registrar of Civil Status VII

- Now, what about the long-enough-period-of-use of this new name?
- Justice France Thibault of the Court of Appeal answered this question.

[TRANSLATION]

- In my opinion, the exceptional nature of a change of name, together with the importance of its stability, favours a two-fold obligation: not only must the use be widespread, but it must also have been so for a reasonably long period before it can be concluded that it is in general use. The Registrar of Civil Status requires such use for a five-year period, which seems to me, because of the public order nature associated with legislative provisions, a minimum period of time.

- The question of the period of use of this new first name is therefore settled; it should be five years.

# Salami v. Registrar of Civil Status VIII

- Now, what about the Registrar's requirement of using the new first name on the driver's licence and health insurance card?
- Justice France Thibault of the Court of Appeal answered this question.

## [TRANSLATION]

•The appellant's second question relates to the impact of the use of the appellant's Bar membership card, driver's licence and health insurance card, all issued in the name of Pierre Montreuil, and of which the modification depends on that of the birth certificate. In my opinion, the appellant is correct in asserting that the general usage dealt with in article 58 CCQ must exclude acts in which the expression of the name depends directly on the act of birth. This seems obvious to me because, otherwise, the exception in article 58 CCQ would be difficult to apply.

- The question of the use of a new first name on driver's licences and health insurance cards is therefore settled; it is a requirement that cannot and must not exist.
- However, I still haven't obtained my first-name change.

# Salami v. Registrar of Civil Status IX

- Now, what about the 5-year time limit for changing a first name?
- Justice Gérard Lebel of the Superior Court answered this question in Montreuil c. Directeur de l'état civil of May 16, 2001, number 200-05-014594-019
  - [TRANSLATION]
    - [10] . . . If the Registrar of Civil Status does not have written policies and rules in place relating to the use of a name, as claimed by the applicant, there is now, at least since November 1, 1999, a judgment of the Court of Appeal on which the Registrar of Civil Status can rely. And as long as the legislature does not adopt this written policy advocated by the applicant, the Registrar of Civil Status has no other choice but to rely on the existing unwritten policy on which he has testified. According to the Registrar's testimony, no change of name was or has been authorized before or since he took office, without proof of the proposed name's use for an extended period of at least five years. This has not been contradicted, and no one can deny the existence of an unwritten but long-standing policy.
- Justice Lebel's reasons go against the judgment of Justice Claude Rioux of October 27, 1998, which stated that the Registrar had to base his decision regarding name changes on relevant facts and valid legal considerations, that is, primarily on the legislation. The Registrar of Civil Status refused or neglected to have a law or regulation adopted.

# Salami v. Registrar of Civil Status X

- Back to the Court of Appeal, and Justices Thérèse Rousseau-Houle and Jacques Delisle agreed with me in the judgment:
- Montreuil c. Directeur de l'état civil, CA 200-09-003658-017 of November 1, 1999
- Justice Thérèse Rousseau-Houle recalled the rules of law in these terms.

## [TRANSLATION]

- [12] Three main points emerge from this Court's judgment of November 1, 1999:
  - The Registrar and the Superior Court judge were wrong to conclude that the addition of a so-called female first name by a male person creates confusion as to the person's individualization with respect to other members of society.
  - The generalized use dealt with in article 58 CCQ must exclude acts where the expression of the name depends directly on the birth certificate, such as the health insurance card, driver's licence and Bar membership card.
  - The importance of the stability of names favours a sufficiently prolonged use. Due to the public order nature associated with the provisions of the Civil Code relating to name changes, a period of five years seems to be a minimum period.

# Salami v. Registrar of Civil Status XI

- [15] In her third request for a name change, dated September 12, 2000, the appellant relies on proof of use of the first name Micheline, already submitted to the courts for assessment. She attached photocopies of her passport, social insurance card, voters list, hypothecary deed, employment contract, credit cards, municipal and school property tax accounts, telephone, electricity and insurance accounts to her request. She also added the list of television or radio interviews given under Micheline's name as well as newspaper articles and conferences proving a constant and recognized public use of the first name Micheline since her last application.
- [16] At the hearing before this Court, she was allowed to file her employment contract as a tax collection agent for the Ministère du Revenu du Québec signed on May 5, 2002, under the first name of Micheline. The authorized new evidence also included a document reporting the deletion of her name from the electoral list because the name Micheline Montreuil did not appear on her birth certificate. The appellant alleged that this decision infringed on the exercise of her civil rights under article 5 CCQ and section 22 of Quebec's *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12.

# Salami v. Registrar of Civil Status XII

- [17] By requiring that the use of the name be generally known and widespread for at least five years, this Court has established a rule of sound judicial policy. However, this rule leaves the Registrar of Civil Status a discretion to judge, in each case, the merit of the evidence relating to the general use of the name that a person wishes to have entered on their birth certificate.
- [18] In light of the new evidence presented, also in light of the admission by the Registrar of Civil Status that the authorization of the change of name required by the appellant no longer depends solely on the mere passage of the five-year period, it seems to me that it would be unreasonable to compel the appellant to make a fourth application in 2003.
- [19] In fact, the specific circumstances of the case and more specifically all of the documents produced in evidence since the first application in 1997, as well as the widespread media coverage that the appellant's claim has had in recent years in print and television media, in my opinion justify allowing her appeal today and ordering the Registrar of Civil Status to add, between the first names Pierre and Yves, that of Micheline in her birth certificate.

# Salami v. Registrar of Civil Status XIII

- In this same judgment, Justice Jacques Delisle added important details concerning the sex of the first name in these terms:
  - [TRANSLATION]
- [30] The appeal therefore raises the following question: can a man, who presents himself for all appearances as a woman, use a first name traditionally attributed to the female sex?
- [32] The question is serious. It pits the individual's right to a first name against the right of other people to know with whom they are dealing. Just think, for a given example, of requests that would come from people working in the field of health: gynecologists, nurses, etc.
- [32] It is merely custom that first names such as *Francoise*, *Lucie*, *Huguette*, etc. are associated with women. They are not, however, the prerogative of the female sex, any more than pants are exclusive to men or skirts, to women.

# Salami v. Registrar of Civil Status XIV

- [33] From this perspective, the appellant's parents could have, if they had so desired, given him the first name of *Micheline*. Except for a hitch regarding custom, there is nothing, in principle, that prevents first names customarily associated with women from being given to males, or vice versa.
- [34] The argument that the first name should indicate the person's sex does not hold up against the widespread use of neutral first names such as *Claude*, *France*, *Chantal*, *Dominique*, etc., which only allow the sex of the people who bear them to be known by sight, on the basis of specific physical attributes and clothing.
- [35] In short, a first name is not misleading as long as the appearances of the person using it allow their sex to be identified.

# Salami v. Registrar of Civil Status XV

- Finally, with this last judgment of the Court of Appeal, all the contentious issues were decided.
- Montreuil c. Directeur de l'état civil, CA 200-09-003658-017 of November 7, 2002
- In short, first names have no sex.
- A first name must be used for at least five years to achieve the change on the basis of use.
- I could have obtained a change of first name more quickly by pleading insanity, deep personality disorder and gender dysphoria, but the Bar could have expelled me by saying that I am "crazy" and therefore incapable of adequately representing my clients.
- So usage was the only smart solution.

# Salami v. Registrar of Civil Status XVI

- In 2008, the Registrar of Civil Status added the first name Anne to my birth certificate on the basis of prolonged use.
- In 2011, the Registrar of Civil Status added the first name Hélène to my birth certificate on the basis of prolonged use.
- In 2016, the Government of Quebec adopted the *Regulation respecting change of name and of other particulars of civil status*, which responded to the conclusions of this judgment.
- In 2016, the Registrar of Civil Status amended the gender on my birth certificate from male to female.
- I am now a woman, believe it or not!
- Patience and the fullness of time do more than force or fury.
  - Jean de La Fontaine
  - Fables (1668 to 1694), Book II, XI, The Lion and the Rat

# Hélène Montreuil's claims I

- On December 14, 1999, Hélène Montreuil appeared before the Canadian Human Rights Act Review Panel in Ottawa.
- She submitted a brief on [TRANSLATION] "The recognition of gender identity as a prohibited ground of discrimination within the meaning of *Canadian Human Rights Act*."
- In June 2000, the Committee produced a report entitled "Promoting Equality: A New Vision".
- Recommendation 123 of this report reads as follows: "We recommend that gender identity be added to the list of prohibited grounds of discrimination in the Act."
- The Act was amended in 2017.
- <http://publications.gc.ca/site/eng/412031/publication.html>

# Hélène Montreuil's claims II

- On April 28, 2003, Hélène Montreuil appeared before the Standing Committee on Justice and Human Rights of the House of Commons of Canada.
- She submitted a brief on [TRANSLATION] "Marriage and the legal recognition of same-sex unions."
- On July 20, 2005, the Civil Marriage Act received Royal Assent; it provided, in section 2:
  - 2 Marriage, for civil purposes, is the lawful union of two persons to the exclusion of all others.
  - It is therefore no longer a question of a union between a man and a woman only, but between two persons.

# Hélène Montreuil's claims III

- On May 13, 2015, Hélène Montreuil submitted to the Committee on Institutions of the National Assembly of Quebec a brief, [TRANSLATION] "Concerning the draft regulation relating to the Regulation respecting change of name and other particulars of civil status for transsexual or transgender persons," in response to an unsatisfactory draft regulation.
- In 2016, the Government of Quebec adopted the *Regulation respecting change of name and other particulars of civil status*.
- To view this brief, go to:
- <http://www.maitremontreuil.ca/conferences/2015-05-13-changement-nom.pdf>

# Hélène Montreuil's claims IV

- Regarding the change of sex, the Regulation provides:
- 23.1. If an applicant's affidavit required under section 1 is in support of an application made by a person 14 years of age or over for a change of the designation of sex that appears in the person's act of birth, the affidavit must also attest that:
  1. the designation of sex requested is the designation that best corresponds to the applicant's gender identity;
  2. the applicant assumes and intends to continue to assume that gender identity;
  3. the applicant understands the seriousness of the undertaking; and
  4. the applicant's undertaking is voluntary and his or her consent is given in a free and enlightened manner.

# Hélène Montreuil's claims V

- Regarding the change of sex, this Regulation also includes an interesting provision:
- 23.2. An application for a change of the designation of sex that appears in an act of birth of a person of full age must be accompanied by, in addition to the documents referred to in section 4, an affidavit of a person of full age who attests to having known the applicant for at least one year and who confirms that the applicant is fully aware of the seriousness of the application.
- It is no longer necessary to undergo a sex reassignment operation, and marital status is left to the individual's choice.
- In my case, I did not have to provide this sworn statement, given the extensive documentation provided, specifically two judgments from the Quebec Court of Appeal confirming my intention to be designated as a woman.

# Hélène Montreuil's claims VI

- On the website of the Registrar of Civil Status, here are the conditions for obtaining a change of name:
  - The use, for five years or more, of a surname or given name not entered on the act of birth
  - A name of foreign origin, too difficult to pronounce or write in its original form
  - Serious prejudice or psychological suffering caused by the use of the name
  - A name that invites ridicule or that is infamous (marked by disgrace, shame or humiliation)
  - The intention to add to the surname of a child under 18 the surname of the father or mother, or a part of it if it is a compound surname
- <http://www.etatcivil.gouv.qc.ca/en/change-name.html>

# Hélène Montreuil's fights

- Hélène Montreuil's battles concerning employment discrimination against transgender people and name changes have set legal precedents.
- Employment discrimination is difficult to prove, but Hélène Montreuil was able to develop the "**subtle scent of discrimination**" test in the following two cases:
- Montreuil v. National Bank of Canada in:
- <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/6521/index.do>
- Montreuil v. Canadian Forces Grievance Board
- <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/7139/index.do>
- These judgments have been cited many times.

# Montreuil v. National Bank of Canada I

- The particular difficulty of the judgment in Hélène Montreuil v. National Bank arises from the application of the "subtle scent of discrimination" test.

[39] In Basi, the Canadian Human Rights Tribunal stated that discrimination is not a practice that one would expect to see displayed overtly. The Tribunal went on to say that in fact, rarely are there cases where one can show by direct evidence that discrimination is purposely practiced. A tribunal should therefore consider all circumstances to determine if there exists a "subtle scent of discrimination".

- It is interesting to note the procedural battle that took place before the case could be heard on the merits:
- <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/42564/index.do>
- <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/39379/index.do>
- <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/6798/index.do>

# Montreuil v. National Bank of Canada II

- In this procedural judgment:  
<https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/39379/index.do>
- The Human Rights Commission is even blamed for its excessive formalism in these terms:
- [8] Although the Act gives the Commission substantial discretion in determining whether a complaint is filed in an acceptable form, in my opinion this provision cannot allow the Commission to arbitrarily exclude a complaint that is *prima facie* within its jurisdiction solely because the signature on the complaint form, albeit the applicant's usual signature, is inconsistent with his or her birth certificate. The complaint is only the first step in the Commission's investigation process. It is not a legal proceeding *per se*, so the formal requirements under article 5 of the C.C.Q. are unnecessary in such a case.
- [9] Furthermore, I find it surprising that the Commission, which demands flexibility and tolerance in human relations from everyone else, should become so formalistic in the particular circumstances of this case. This is perhaps the reason why the Commission chose not to intervene to explain to the Court how its jurisdiction could be affected by the mere fact that the complaint is signed with the applicant's usual signature.

## Montreuil v. Canadian Forces Grievance Committee I

- The judgment in Montreuil v. Canadian Forces Grievance Board is cited below and affirmed on appeal
- <https://decisions.chrt-tcdp.gc.ca/chrt-tcdp/decisions/en/item/7139/index.do>
- <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/56291/index.do>
- The "subtle scent of discrimination" test is described in the following terms:

[24] The case law recognizes the difficulty by allegations of discrimination by way of direct evidence. Discrimination is frequently practised in a very subtle manner. Overt discrimination on these grounds is not present in every discriminatory situation or occurrence. (See *Basi, supra*, at para. D/5038.) It is consequently the Tribunal's task to consider all of the circumstances to determine if there is what has been described as the "subtle scent of discrimination" (Premakumar, paragraph 79).

## Montreuil c. Canadian Forces Grievance Committee II

- [67] Therefore, it is not necessary to demonstrate that the Board members intended to discriminate against Ms. Montreuil. Indeed, discrimination is often invisible. Individuals who discriminate often are not aware of what they are doing. This does not mean, however, that others are not aware of it. Hence, taking into account all of the circumstances, is it possible that there is a "subtle scent of discrimination" in this case, as described in *Basi, supra*?
- [68] To arrive at my finding, I reviewed the entire situation by proceeding with a careful, in-depth review of the evidence filed by both parties. I objectively considered Ms. Montreuil's arguments and those of the Board. The evidence and the arguments submitted to me by the Board did not persuade me that there was not a "subtle scent of discrimination" in the decision not to offer a grievance officer position to Ms. Montreuil.

## **Montreuil v. Canadian Forces Grievance Committee III**

[72] The Board was not able to provide a reasonable explanation justifying its decision not to hire Ms. Montreuil for a grievance officer position and for these reasons, I find that there is a "subtle scent of discrimination". I therefore find that the Board discriminated against Ms. Montreuil on the basis of sex (transgender) contrary to sections 3 and 7 of the CHRA.

- So, even if the discrimination cannot be proved directly, it is possible to demonstrate discrimination by highlighting the "subtle scent of discrimination".

# Same-sex marriage

- Same-sex marriage, commonly referred to as gay marriage, is the possibility for a couple, two women or two men, to enter into a marriage, civil or religious, formerly reserved for a man and a woman.
- While examples of such marriages are found in some civilizations in antiquity, from the 19th century until the end of the 20th century, homosexuality was considered a mental disorder until 1990 by the World Health Organization and often criminalized. But by the early 21st century, the evolution of societies and the demands made by gay rights movements led some states, after authorizing civil unions, to extend the legal recognition of civil marriage to all couples, different-sex or same-sex, without distinction.
- In 2001, the Netherlands became the first country to institute marriage for all. As of May 2020, it is legal in 29 countries. Almost all of them also recognize same-sex parenting and adoption. In contrast, only the Church of Sweden, since 2009, and a few other religious movements celebrate same-sex religious marriage or its religious blessing.

# Same-sex marriage is allowed

- Argentina
- Australia
- Austria
- Belgium
- Brazil
- Canada
- Columbia
- Costa Rica
- Denmark
- Ecuador
- Finland
- France
- Germany
- Iceland
- Ireland
- Luxemburg
- Malta
- Netherlands
- New Zealand
- Norway
- Portugal
- Spain
- Sweden
- Taiwan
- United Kingdom
- United States
- Uruguay

# State of law I

- Over the years, the federal and provincial governments have passed or amended legislation and regulations. Now, in 2020:
- Canadian Charter of Rights and Freedoms
- 15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, color, religion, sex, age or mental or physical disability.
- Human Rights Act
- 3 (1) For the purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, color, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, conviction for which a pardon has been granted or disability.

# **State of law II**

- **Charter of Human Rights and Freedoms**
- **10. Everyone has the right to the recognition and exercise, in full equality, of human rights and freedoms, without distinction, exclusion or preference based on race, color, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, disability or use of any means to palliate a disability.**

# **State of law III**

- **Professional Code**
- **43. An order shall not refuse to issue a license or specialist certificate or to grant special permission on the basis of race, color, sex, religion, national ancestry or social origin.**
- **57. No professional shall refuse to provide services to a person on the basis of race, color, sex, age, religion, national ancestry or social origin of that person.**

# Your Canadian Passport I

- <https://www.canada.ca/en/immigration-refugees-citizenship/services/canadian-passports/change-sex.html#update-gender-f-m>
- There are 3 options for the **Sex** field on passports for Canadians and travel documents for non-Canadians:
  - F – female;
  - M – male;
  - X – another gender.
- How you choose your gender identifier depends on:
  - the type of travel document;
  - if you're applying for a new travel document or updating the one you already have.

# Your Canadian Passport II

- Before you travel
- The Government of Canada can't guarantee that other countries you visit or travel through will accept the sex or gender identifier on your passport or travel document. Check with your local Canadian embassy, high commission or consulate in the countries you plan to visit or travel through to make sure you understand their entry requirements.
- You should also be aware that current systems used by some countries and travel companies may not recognize the X gender identifier. You may still be asked to provide information regarding your sex/gender as either male or female when travelling.

# Your Canadian Passport III

- <https://travel.gc.ca/travelling/health-safety/lgbt-travel>
  
- Most lesbian, gay, bisexual, transgender, queer and two-spirit (LGBTQ2) Canadians experience no problems at all when they travel abroad. However, foreign laws and customs can be very different from those of Canada, which can result in increased risks. Researching and preparing for your trip in advance will help your travels go smoothly.
  
- Before you go
- Check out a good travel guide. Most have sections that provide advice for LGBTQ2 people travelling to your destination.
- Visit online forums and blogs for information on your destination's LGBTQ2 events, culture, safety and laws.

# Your Canadian Passport IV

- Consult our Travel Advice and Advisories for destination-specific information on laws that may affect LGBTQ2 people.
- If you identify your gender as "X" in your passport, or if your Canadian passport has an observation indicating "the sex of the bearer should read as X, indicating that it is unspecified," check with the Embassy, High Commission or consulate of all of the countries you intend to visit or transit through to enquire about their entry requirements.
- Research your destination's LGBTQ2 press and organizations, as they will be able to provide information on the local situation
- Speak with your travel agent or tour operator about information on your destination that is specifically related to your sexual orientation or gender identity.

# Your Canadian Passport V

- While you are travelling outside Canada, you are subject to, and must follow, local laws, even if they are different from Canadian laws. Not all countries have the same values and legal system as Canada, so it is important to research laws relating to LGBTQ2 people in your destination country. For more information, see the [State Sponsored Homophobia Report](#) and related links under Other resources.
- When you are choosing a travel destination, you should consider that same-sex marriages and relationships are not legal in many countries. You should carefully consider whether you are comfortable visiting a country where LGBTQ2 rights are not recognized, or where LGBTQ2 people are not socially accepted, as you may face discriminatory laws or practices that may be applied arbitrarily or inconsistently.

# Your Canadian Passport VI

➤ When you are planning to travel outside Canada, consider that:

- Legislation on same-sex relationships may change from one region to another, even within the same country.
- There may be no laws prohibiting same-sex relationships, but they may be considered socially unacceptable.
- Your destination may have laws that protect LGBTQ2 people but they are not followed or enforced.
- Depending on your destination, you may not have access to certain services and rights. Health care institutions may refuse to treat you, hotels may not accept your booking, or your same-sex partner may be denied power of attorney or next-of-kin rights because of your sexual orientation.

# Your Canadian Passport VII

- The Government of Canada cannot guarantee your entry into or transit through another country, regardless of whether your passport or other Canadian travel document includes the "X" designation.
- When you travel abroad, you should be aware of all of the entry requirements of the countries you visit or transit through, as not all countries have the same values and legal systems as Canada.
- Current systems used by some countries and travel companies may not recognize the X gender identifier and you may still be asked to provide your sex/gender information as either Male or Female when travelling.

# Your Canadian Passport VIII

- You should be aware that you may face discrimination because of your gender identity or expression, and you may not have access to services in your preferred gender while you are travelling abroad.
  - Some border authorities may question or refuse to recognize your gender as indicated on your passport or supporting identification.
  - Health services specific to transgender persons could be limited or non-existent in your destination country.
  - You could face a discriminatory justice system if you get into trouble with local authorities.

# Your Canadian Passport IX

- **LGBTQ2 people who would like to adopt or become parents through surrogacy while abroad should be aware that:**
  - **Some countries may prevent LGBTQ2 people from adopting a child because it is against their laws, culture or beliefs.**
  - **You could face discrimination from national authorities responsible for adoption.**
- **You should carefully research which countries have laws in place to allow LGBTQ2 people to adopt and work closely with your provincial or territorial adoption central authority to ensure the adoption process complies with both Canada's and the other country's legislation and procedures.**

# Your Canadian Passport X

- Border officials may question a same-sex couple travelling with a small child and may request supporting documentation to explain why there is no biological other-gendered parent. Carrying certified copies of adoption orders and birth certificates that list the custodial parents may help you and your family pass through border control. We strongly recommend that Canadian children carry a consent letter if they are travelling abroad alone, with only one parent/guardian, with friends or relatives or with a group.
- If you are considering becoming a parent through a surrogacy contract, you should be aware that more and more countries consider surrogacy contracts illegal. LGBTQ2 couples may face difficulties because of discrimination from national authorities responsible for child welfare. There may also be legal difficulties transferring custody after the child is born. If you are considering a surrogacy arrangement, do your research and get legal advice.

# Your Canadian Passport XI

- My comments.
  
- I have an F on my birth certificate.
- I have a F on my passport.
- So my passport matches my birth certificate.
- I don't want complications abroad.
  
- You want an X.
- It's your choice, but accept the consequences.

# Your Canadian Passport XII

- If I am arrested in certain countries, will I end up in a prison for women or in a prison for men?
- What could the Government of Canada do?
- It will send the nearest Canadian consul to visit me in prison, and the consul will tell me: **My dear Hélène**
  - You shouldn't have come to this country, or
  - You shouldn't have broken such and such a law, or
  - You shouldn't have dressed that way, or
  - You shouldn't have held your girlfriend's hand, or
  - You shouldn't have been drinking alcohol in public, or
  - You shouldn't have sunbathed naked on the beach, or
  - You shouldn't have criticized the government in public, or
  - You shouldn't have been in a bikini in the hotel pool, or
  - You shouldn't have been photographed naked on Mount Kinabalu in Malaysia, etc.

# Your Canadian Passport XIII

- The Canadian consul will add that the Government of Canada will exert diplomatic pressure to get me out of the unfortunate situation in which I have put myself, maybe in a few years.
- Think of Raouf Badawi, accused of apostasy and insulting Islam!
- He has been imprisoned at Dahaban Central Prison in Saudi Arabia since June 2012. It's a maximum security prison,
- He was sentenced to 1,000 lashes and 10 years in prison.
- His lawyer Waleed Abu al-Khair is also in jail.
- SO . . . I don't want an X on my passport.
- I don't want to break foreign laws!
- I do not want to end up in jail!
- I have an advantage over the majority of other women: I can dress up as a man and it won't be too obvious.

# Your Canadian Passport XIV

- Another example of foreign laws, in Cuba.
- In December 2018, the Cuban provincial court in Ciego de Avila confirmed a four-year custodial sentence for reckless homicide for a Quebecer implicated in a boating accident that occurred in July 2017.
- While on vacation in Cuba with his family, the man piloted a boat and collided with another boat, killing a tourist from Ontario.
- The federal government stated that consular assistance is offered to Quebecers and that they cannot intervene in the legal process of another country. He must remain in prison in Cuba.
- Does that appeal to you?
- Not to me.

# Your Canadian Passport XV

- A last example, to finish, taken from the website of Le Parisien on June 11, 2015
- Malaysia: tourists detained for posing nude on sacred mountain
- A Malaysian tribe accuses Western tourists of having triggered the wrath of spirits by posing naked in a sacred place and causing a violent earthquake in the region.
- Three Canadian tourists, one Briton and one Dutchman are in police custody in Malaysia after posing nude on May 30, 2015, in front of Mount Kinabalu, a sacred place, police said on Wednesday.
- Photos of 10 naked tourists have been distributed on social media, angering locals.
- According to a local tribe, the act allegedly angered the spirits and caused a deadly earthquake that killed 18 people in the region on June 5, 2015.

# Your Canadian Passport XVI

- Mount Kinabalu, a Unesco World Heritage Site and highly prized by trekking enthusiasts, is sacred to the Kadazan Dusun tribe who live there and believe it is a place of rest for the spirits.
- The five Western tourists in custody were arrested on Tuesday, and police are still looking for five more. The suspects could be charged with public nuisance, according to Jalaluddin Abdul Rahman, police commissioner for the state of Sabah, on the island of Borneo, where the mountain is located.
- According to several media outlets, such as "The Independent" and "The Telegraph", based on the Malaysian penal code, they face three months in prison.
- Do you want to experience the comforts of a prison in Malaysia?

# In Rome, do as the Romans do

- In medieval Latin, the maxim "**Si fueris Rōmae, Rōmānō vīvitō mōre; si fueris alibī, vīvitō sicut ibi**" means : "If you are in Rome, live like the Romans; if you are somewhere else, live like they do."
- This quotation refers to St. Augustine's journey to Rome, where, as he describes in letter 54 to Januarius, he became accustomed to the customs. This maxim is repeated in several languages:
- German: Wenn du in Rom bist, verhalte dich wie die Römer - In Rome, act like the Romans
- English: When in Rome, do as the Romans do - In Rome, do as the Romans do
- Arabic: **عندما تكون في روما اتصرف كما يتصروف الروم** - In Rome, act like the Romans
- Chinese: 入乡随俗 - **Faites comme les locaux ou 入鄉隨俗** - Follow local customs
- Spanish: a donde fueres haz lo que vieres - Where you go, do what you see
- Esperanto: alia lando, aliaj moroj - Another country, other customs
- French: In Rome, do as the Romans do
- Japanese: **郷に入れば郷に従え** - In Rome, do as the Romans do
- Portuguese: em Roma, sê romano - In Rome, be Roman
- Turkish: Roma'dayken Romalılar gibi davran - When in Rome, act like the Romans
- Therefore, when an LGBT person is abroad,
- Act like the locals!

# The Ejusdem Generis maxim

- You all know the Latin maxim "**Ejusdem Generis**" which is used in the legal field, in particular in Common Law to indicate that an open-ended list only applies to things of the same kind.
- For example, a list referring to "**cars, motorcycles and other motor vehicles**", although not limiting, could not apply to anything other than **land motor vehicles**, which therefore excludes airplanes and boats, even if they were equipped with motors.
- In bills of rights and in laws, the word "**sex**" appears everywhere as a ground of discrimination.
- Use it to cover all cases of **LGBTIQQ2SAA**.
- Judges are generally open to this idea to protect a person from discrimination.

## **My personal comments and as counsel I**

- **Generally, in Western countries, human rights and freedoms have a similar meaning and application, but not the same as ours.**
- **In the former countries of Eastern Europe, the Middle East, Asia, Africa, South America and the Caribbean, human rights and freedoms have a meaning and application which can be very different from ours because the cultures of these countries, their history, their evolution, their society, their religion, their way of life, the color of their skin and their government are different.**
- **Being an LGBT person adds an extra element of difference and as in my case I am a very visible person and I talk to everyone I realize this difference very easily but people remain polite.**

## **My personal comments and as counsel II**

- However, as LGBT laws have greatly evolved over the past sixty years, I see that the problem is no longer so legal but rather social; it's a mentality issue.
- Mentalities are changing, but slowly; we will need at least two generations for an LGBT person to be no longer just tolerated, but accepted as a full person.
- The law can do little or nothing to change mentalities, but changes in the law can convince people to change their opinion. However, this change will take time, at least two generations.
- Case law can help resolve different issues one by one.
- Do you want examples?

## My personal comments and as counsel III

- In one case that I pleaded, the judge kept calling me "Sir", not even "Master", while the lawyer representing the other party called me at least "chère consoeur" or "ma consoeur". What do you think?
- In a competition for a position in the public service, the manager who interviewed me told me that I was the best candidate but that he would not hire me because he feared the reaction of his employees to him if he hired me.
- In another competition for a public service position, the manager's administrative assistant called me privately to tell me that the manager had preferred to close the position rather than hire me because he did not want a transgender person on his team. The assistant added that I was the only qualified candidate and she thought it was unfair that I was not hired.
- I will not describe all the cases of discrimination I have faced, as there are hundreds of them, but you can well imagine.
- Being transgender is not politically correct; it's not preppy.

## My personal comments and as counsel IV

- When I began my transition in 1997, I received several hurtful comments from male lawyers, usually older, such as:
  - You are a disgrace to the Bar.
  - The Bar should disbar you.
  - You will never work for us as a lawyer, etc.
- Women lawyers have been kinder and more understanding towards me. To my recollection, none of them ever made a derogatory remark to me. A woman probably understands my situation better.
- As I said, there are attitudes that need to change, but it will take time.
- My motto is "Fluctuat nec mergitur" and it means:
- She is defeated by the waves, but does not sink.
- To use a popular term, I am very resilient.

# My personal comments and as counsel V

- I have a general comment to make. Of all Western countries and having traveled extensively, I am convinced that Canada is the country where the rights of LGBT people are best guaranteed by law and the courts and where LGBT people are the best treated and have opportunities to develop in human and professional terms.
- The main problem arises from the presence in positions of authority of people who are prejudiced, who are homophones and transphobes or who are extremely religious and who, because of their religious beliefs, constitute a significant obstacle to the recognition of rights of a person who happens to be an LGBT person.
- A judge or a registrar of civil status or a director of human resources or a department head can put obstacles in the way of the recognition of a name, a change of the designation of sex, a marriage, a job, promotion, leave, etc. because of his prejudices.
- These people should be fired and that is why they need to be reported, privately to begin with, in public if necessary, and finally through court proceedings if it comes to this point.
- **Discrimination must stop here and now.**

# **Lyrics of the song La Vérité by Guy Béart I**

- The first one that tells is always sacrificed
  - First, they kill them
  - Then, we get used to it
  - We cut their tongue and call them crazy
  - Then, without issues
  - The second one talks
  - The first one that tells the truth
  - Must be executed.
- 
- I say that I was offered a lot of money
  - To sell my chances
  - In the Tour de France
  - The Tour is a show and a lot of people like it
  - In the show
  - There is no miracle
  - The runner tells the truth
  - They must be executed.

# **Lyrics of the song La Vérité by Guy Béart II**

- In Chicago a journalist dies in the streets
  - There will be silence
  - On all that they think
  - Poor President all the witnesses have disappeared
  - In chorus, they stay silent
  - The thirteen are dead
  - The witness said the truth
  - They must be executed.
- 
- The world must get drunk on words, not on wine
  - Stay in the line
  - Follow the rules
  - In Moscow a poet in the Writers Union
  - Blows on their soup
  - Where eats the group.
  - The poet has told the truth
  - They must be executed.

## Lyrics of the song La Vérité by Guy Béart III

- A young man with long hair climbed Golgotha
- The crowd without a head
- Was partying
- Pilate is right to not target in the mass
- It is more fair
- To only target one man.
- This young man has told the truth
- He must be executed.
  
- Please bring me some joy and listen to this song on YouTube :
- <https://www.youtube.com/watch?v=jA3hNz5KQ34>
  
- Enjoy.

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  - <http://www.maitremontreuil.ca/conference.html>

# Any questions?



THANK  
YOU