The Palgrave Handbook of Gender, Sexuality, and Canadian Politics

Edited by
Manon Tremblay · Joanna Everitt

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"Tremblay and Everitt's collection offers an innovative take on Canadian politics. By employing gender, sexual orientation and intersectional lenses, the volume unsettles conventional understandings of a stable federal state in the Westminster parliamentary mould. Finally, here's the handbook that critical students and teachers have long awaited."

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—François Rocher, Professor of Political Studies, *University of Ottawa, Canada*

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—Jill Vickers, Distinguished Professor of Politics Science and Emeritus Professor, *Carleton University, Canada*

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CHAPTER 1

Introduction: Approaching Canadian Politics Through a Gender Lens

Manon Tremblay and Joanna Everitt

Introduction

In 1929, the Judicial Committee of the Imperial Privy Council (JCPC) located in Great Britain and the highest court of appeal in the British Commonwealth overruled the decision of the Supreme Court of Canada in the landmark *Edwards v. Attorney General for Canada* case (1930). More commonly known as the "Persons Case," this reference case sought to determine whether women were "persons" and therefore eligible to sit in the Senate of Canada. In writing up the court's decision John Sankey, then Lord Chancellor of the JCPC, set out what has become a leading principle of constitutional interpretation in Canada: "The British North America Act planted in Canada a living tree capable of growth and expansion within its natural limits" (p. 136). Thus, despite the intent of its original framers, the values of the day meant the word "persons" used in section 24 of the British North America Act (1867) should be considered as including women—and therefore that they could be appointed to the Senate.

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The Living Tree: Social Transformations and Equality Considerations

While the interpretive metaphor of the living tree had been somewhat forgotten in the five decades following its enunciation, it was reinvigorated with the adoption of the Canadian Charter of Rights and Freedoms which came into existence in 1984. Perhaps most significant has been its impact throughout the 1990s and 2000s in securing of equality rights for those whose sexual orientations, gender identities and gender expressions (SOGIE) did not fit with traditional heterosexual norms. For example, it was mentioned in *Reference re Same-Sex Marriage* (2004) and *Canada (Attorney General) v. Hislop* (2007) cases which sought to secure survivor Canada Pension Plan benefits for same-sex couples. In the former the court argued that: "The 'frozen concepts' reasoning runs contrary to one of the most fundamental principles of Canadian constitutional interpretation: that our Constitution is a living tree which, by way of progressive interpretation, accommodates and addresses the realities of modern life. Read expansively, the word 'marriage' in s. 91(26) does not exclude same-sex marriage." In fact, the opening of civil marriage to same-sex couples "far from violating the Charter, flows from it." (Reference re Same-Sex Marriage 2004)

The idea that the Constitution is a timeless document capable of adapting to the transformations that shape Canadian society is useful in understanding the human rights revolution that has occurred in Canada since (and even before) the adoption of the Charter, but it is also useful in understanding the Canadian political system. Indeed, the principle of constitutional interpretation of the living tree carries a tension between continuity and change. On the one hand, the framework of the political regime established by the British North America Act in 1867 still prevails today. For example, the ideologies that founded Canada (liberalism and conservatism) still hold the upper hand in the Canadian political game, as does nationalism, which has inspired the desire for self-determination of French-speaking people. Few changes have occurred in our political institutions over the past century and a half. Canada is still a constitutional monarchy where debates about the appropriateness of becoming a republic have little influence. Parliament maintains a bicameral structure, and despite various debates over the years, members of the Senate are still not elected by Canadians. The first past the post voting system introduced by the Constitutional Act of 1791 continues to be employed despite numerous attempts by civil society to replace it. The prime minister remains a central actor in the Canadian parliamentary system, although her/his power has evolved over time to make her/him a hegemonic actor (some will say an elected queen/king). Interest groups still enjoy privileged access to policymakers and their influence on the public policy process remains significant. Despite a public discourse that promotes diversity, Canada's political system remains dominated—in terms of its ethos, institutions, actors, processes—by white,

heterosexual and cisgender men. In addition, First Nations peoples continue to suffer from the colonial oppression of the federal state.

Yet despite this remarkable continuity since Confederation, the Canadian political system has also undergone a profound transformation. New political ideologies have emerged and have even been able to access legislative representation, as evidenced by appearance of social democratic parties in the early 1900s and more recently the Green Party of Canada. The Constitution of Canada has been enriched by a Charter of Rights and Freedoms, which has served minorities rather well, including women and lesbian, gay, bisexual, transgendered and queer (LGBTQ) people. The judicial branch of state power emancipated itself from British control when the Supreme Court became the court of last appeal in criminal matters in 1933 and in civil matters in 1949. While Canadians still use the first-the-post-system to designate MPs, the electoral supply has diversified, electoral behaviour has become more complex and the partisan system has shifted from a two-party to a polarised pluralist party system. Legislative bodies are slowly becoming more diverse and political executives have broadened their representative mandates from geographic and linguistic representation to incorporate religious, ethnic/racial, gender and sexual orientation and identity. While the British North America Act of 1867 places a very secondary importance on municipalities, they are now full-edge players in Canadian political governance. Although civil society has always been a breeding ground for citizen activism (as evidenced by the uprisings of 1837–1838 or even resistance to conscription), social movements have grown in importance since the 1970s, have become formalised and have gained legitimacy in the eyes of the population but also of the state apparatus. This is reflected in the reframing of state language on gender, sexual orientation, gender identity and expression (SOGIE).

Indeed, an examination of the Canadian political system in light of gender reveals two observations: one is that it has always been deeply mono-gendered, in the sense that the male principle reigns by default; the other is that the feminist revolution of the 1970s and beyond forced it to undergo certain transformations. The Canadian political system has been, and continues to be, dominated by heterosexual and cisgender men. This is true of its ideologies, its institutional culture and its public policies. For example, liberalism, the ideological background of the Canadian political system, is based on a division between the private (the space of the reproduction of life and family) and the public (the world of production via the economy, society and politics), with women being assigned to the former and men to the latter. State institutions are dominated by men, who occupy the majority of legislative, executive and judicial roles. As far as public policies are concerned, many are still based on the pre-eminence of the male principle, whether in defence, healthcare or taxation.

The feminist revolution of the 1970s and beyond not only uncovered this male pre-eminence of the Canadian political system, but also provided a transformative force for it to become more inclusive of women. For example, in 1967 the Liberal government of Lester B. Pearson established the Royal

Commission on the Status of Women in Canada, whose mandate was to "inquire into and report upon the status of women in Canada, and to recommend what steps might be taken by the Federal Government to ensure for women equal opportunities with men in all aspects of Canadian Society" (Canada 1970: vii). The Commission's 1970 report captures the full scope of second-class citizenship for Canadian women, making 167 recommendations, many of which are still relevant today. In doing so, the Commission was not only in tune with the mobilisations of the feminist movement that were then taking place in Canadian political society, but it also encouraged and legitimised such mobilisations within the state apparatus itself as state-based feminism institutions. Thus, the position of Minister responsible for the Status of Women was created in 1971 in response to the report, and in 1976 a department agency (the Office of the Coordinator, Status of Women) was created, which led to Status of Women Canada. In 1995, the federal government adopted a plan for equality between women and men. One of the objectives was to implement gender-based analysis in all federal departments and agencies. In 2011, the gender-based analysis adopted an intersectional design to become the gender-based analysis plus, and in 2018 the Ministry of Women and Gender Equality, which replaced Status of Women Canada, was given a mandate to work to "the advancement of equality, including social, economic and political equality, with respect to sex, sexual orientation, and gender identity or expression" (Women and Gender Equality Ministry Act, L.C. 2018, c. 27, art. 661, para. 2a), thus clearly incorporating the SOGIE variable.

The feminist revolution of the 1970s and beyond also affected state personnel: more women are sitting in the House of Commons and provincial legislatures, acting as cabinet ministers and holding judicial office. Women are also more present among federal public service executives. Women, albeit only a few, have served as prime minister or premier, including Kathleen Wynne, not only the first woman to be premier of Ontario but the first openly LGBTQ person to hold such an elite office in Canada and across the Commonwealth. However, gender parity in politics is still a long way off.

Furthermore, these findings—that the Canadian political system is male-dominated, and that feminism and the mobilisation of LGBTQ interests have created within it a certain room for women and those with diverse SOGIE backgrounds—are absent from the textbooks on the Canadian political system. The *Palgrave Handbook on Gender, Sexualities and Canadian Politics* is the fruit of an observation: mainstream introductory Canadian politics textbooks are embedded in a narrow vision of Canada in which white Anglo-saxon heterosexual cisgender men are the active citizens and political entrepreneurs, a reading that needs to be challenged by accounts more sensitive to the diversities of Canadian society. Indeed, textbooks on Canadian politics either say nothing about women, mention them in a paragraph or footnote or segregate them to a "special" chapter. As for sexualities, they are conspicuous by their very absence. These silences should not come as a surprise, since women and sexualities have traditionally been associated with the private sphere, a field

conceptualised as antinomic of the public sphere—the political space. And that is not to mention other absences in addition to gender and sexuality, including those related to ethnic/racial origin, social class, capacity and, above all, those that silence Indigenous realities. In fact, the only diversity that seems to be acceptable in Canadian politics is that of language—and, following out of that, that of the regions. It is as if Canada is a country only made up of white, heterosexual and cisgender men, *petit-bourgeois*, fully able-bodied and so on, and that its political system and institutions (e.g., the constitution, the executive, social movements, public policies) do not have gendered, sexualised and intersectional dimensions. It is this vision that the Handbook proposes to challenge by promoting a gendered, sexualised and intersectional reading of Canadian politics.

Employing a Gender Lens on Canadian Politics

The primary objective of the Handbook is to revisit the field of Canadian politics in light of gender—in other words, to examine the study of Canadian politics using "gender" as a category of analysis. First and foremost, our approach to gender does not just involve a focus on women. We understand gender as being inclusive of women; however, we interpret gender more broadly. As a result, in its assessment of Canadian politics this text adopts a focus on sex, sexualities, sexual identities and where possible other intersecting identities constituted by class, race/ethnicity, age, capacity, religion and other categories. The basic premise of the Handbook is that political actors have a gender, are sexual beings and have other intersecting identities that frame how Canadian politics is thought, told and enacted; in turn, Canadian politics, as a set of ideas, state institutions, decision-making processes and civil society mobilisations, does and redoes gender. Ultimately, the goal of the Handbook is to shed light on the gendered, sexualised and intersectional nature of Canadian politics. Put differently, the Handbook is driven by the objective of constituting an introductory textbook to Canadian politics whose privileged approach is that of intersectionality. As a result, it places gender and sexuality at the forefront of its focus and identify how they interweave with other diversities to read the Canadian political system. It seeks to answer questions such as: What happens to the ideologies that form the bedrock of Canadian political society when examined in light of gender, sexuality and other intersectional identities? What do the voting system or municipal political institutions tell us when they are subject to the same scrutiny? And what about interest groups—does this traditional elite bargaining device of liberal societies provide a voice for women and sexual minorities to influence the public decision-making process? Are public policies neutral, that is, without gendered and sexualised assumptions upstream and without gender-specific and sexualised effects downstream?

We would note that the contributors to this volume come from a variety of theoretical, methodological and geographic backgrounds. Contributors also reflect different generations of ideas and streams of thought in Canadian

politics. As a result, the volume and its approach to the study of Canadian politics reflects the diversity of scholarship in this field and the role that sexual orientation and gender identity play in our political institutions, processes and policy approaches.

The Handbook is designed as many other mainstream introductory Canadian politics textbook with four parts (ideologies, institutions, civil society and public policy), each of which contains several chapters. Each chapter reviews the basics of a given topic from the perspective of gendered/sexualised and other intersectional identities. For example, the chapter on the legislative branch provides basics on the topic (the principles that govern the legislative power, a description of the Senate and the House of Commons, their main actors and functions, etc.), but from gendered/sexualised and intersectionalised perspectives.

Part I, on "ideologies," explores the principal political ideologies that have inspired Canadian politics since confederation: liberalism, conservatism, social democracy/socialism and nationalism. This part also discusses philosophies that inform Indigenous governance, which have been eradicated from the Canadian ideological landscape. This examination of the dominant ideological approaches underpinning politics sheds light on a paradox: on the one hand, gender, sexualities and other intersectional identities have been traditionally excluded from mainstream understandings of Canadian politics, but on the other hand they deeply structure political ideologies (for instance, via the taken-for-granted division between the private and the public, the family as a space of moral regulation and racist assumptions about citizenship).

For example, in Chap. 2 Éléna Choquette outlines how liberal ideas both supported the domination and the emancipation of women and LGBTQ communities. By drawing on contemporary critiques of the liberal understanding of the relationship between the private and the public articulated by Black, Franco-Québécois, Indigenous and lesbian feminists, this chapter highlights both the potential and limits of liberal theory and practice to achieve gender and sexual equality. In focusing on the relationship between LGBTQ groups and the conservative movement, Chap. 3 by Frédéric Boily and Brent Epperson highlights the tensions between conservative ideological orientations emphasising law and order and more traditional religious values, and current public pressures, particularly by LGBTQ activists, for inclusion and identity recognition. They conclude that attempts to reconcile the concerns of conservatives with the demands of LGBTQ communities are unlikely to succeed due to the rejection by conservatives of what they see as ill-advised identity politics. Chapter 4, by Roberta Lexier, traces the roots of socialism and social democracy in Canada through the history of the Cooperative Commonwealth Federation and the New Democratic Party. Lexier argues that despite continued struggles around the marginalisation of women and sexual minorities, the centrality of the notion of equality to these philosophies has provided space within them for the recognition and integration of women and LGBTQ persons.

Chapters 5 and 6 take slightly different approaches to ideologies by focusing on nationalism and Indigenous feminist perspectives. Chapter 5 by Sevan Beukian analyses nationalism in Canada through gendered and intersectional lenses by focusing on English (or Anglo-) nationalism, Québécois nationalism and Indigenous nationalism. It draws on the concepts of collective trauma and memory to unpack constructions of the nation as a continuously traumatic event, particularly for racialised and excluded women, LGBTQ and Two-Spirit individuals and highlights the importance of the resistance and resilience of those who challenge barriers to inclusion. Chapter 6 by Elaine Coburn, with Emma LaRocque, offers an important insight into the diversity of Indigenous, and particularly Indigenous women's voices and political positions around issues of gender equity and sexuality. They highlight how these positions vary across time and communities, and are sometimes conflicting, reflecting rich debates within contemporary Indigenous feminist scholarship.

Part II examines the institutional framework of the Canadian political regime—that is, institutions that are responsible for implementing representative democracy: the constitution and the Charter of Rights and Freedoms; federalism and intergovernmental relations; the legislative branch; the executive; the judiciary; public administration and government services; municipal politics, the electoral system; and finally, political parties. Attention is paid to the descriptive and symbolic representation of women, LGBTQ people and, other intersecting identities (e.g., based on class, race/ethnicity or religion) in state institutions. This part also explores the mechanisms that contribute to the underrepresentation of women, LGBTQ people and other intersecting identities within the state apparatus and suggest ways to increase their presence.

Some chapters, such as Chap. 7 on the Constitution and the Charter of Rights and Freedoms by Alexandra Dobrowolsky, take a historical approach and explore different pre- and post-Confederation power struggles and their implications and challenges for various actors' efforts (in particular those of Indigenous women and men, feminists and lesbians and gays) to refine the meanings and mechanisms of equality. Others such as Chap. 8 on federalism and multilevel governance by Linda A. White focus on the ability of these institutions to constrain or facilitate public policymaking that might lead to a more gender equal society in Canada that includes both women/men, femininities/masculinities and differing sexualities.

Chapter 9 on legislatures by Tracey Raney and Chap. 10 on executives by Joanna Everitt and J.P. Lewis both explore two of the critical representative institutions in Canadian politics. Raney considers the degree to which changes that have occurred in the Senate and the House of Commons have been sufficient to keep pace with Canadians' expectations of their governing institutions and how the rules, norms and culture of Canada's federal legislature are gendered in ways that either diminish or enhance women's and LGBTQ voices and perspectives. Everitt and Lewis discuss how Canada's history of interest representation in cabinet, initially geographic and linguistic, then religious and ethnic, opened up opportunities for the representation of gender and sexual

orientation. They also note that the appointed nature of Canada's formal (i.e., the positions of governor general or lieutenant governor) and political (prime minister/premier and cabinet) executives has made it easier to improve the symbolic representation of traditionally excluded identities in ways that do not necessarily further substantive policy representation. Likewise, Chap. 11 by Tammy Findlay on public administration and government services highlights the relationship between gender, sexuality, gender identity and public administration. It demonstrates how a gender lens can be applied to the study of public administration by building on feminist theories of the state, and focusing on gender and employment and representation in the bureaucracy. She concludes by discussing the challenges and the potential impact for gender-based analysis (GBA) and GBA+ approach to public policy development.

Like other chapters that highlight the implications for numeric representation, Chap. 12 on the judiciary written by Erin Crandall demonstrates the impact of judicial selection and gender diversity on the courts on justice public policy. She argues that the use of a gendered and sexualised lens is important for understanding the politics of Canada's judicial branch. Chapter 13 on municipal politics covers a topic not often included in general Canadian politics texts, yet Anne Mévellec, Veika Donatien and Guy Chiasson's work demonstrates how important this topic is to the daily lives of citizens despite low levels of citizen attention and interest during election campaigns. Furthermore, they reveal the limited capacity of municipal councils to function as institutions of descriptive or substantive representation of Canadian diversity.

Chapter 14 on the electoral system and Chap. 15 on political parties provide a bridge to the next part on civil society. Dennis Pilon's chapter focuses on the implications of the rules and institutional arrangements of the electoral system. He demonstrates how they are gendered and often produce gender and sexual inequalities in political contests. Jeanette Ashe builds on these ideas by highlighting how political parties serve as "gatekeepers" who, through their nomination processes and the choices of the party selectors, play a key role in determining why women and LGBTQ people are under-represented in Canada's House of Commons.

Part III is on the civil society. It focuses on electoral activism by women, LGBTQ people and other intersecting identities to access descriptive, symbolic and substantive representation within the state apparatus of democracy. In Chap. 16, Amanda Bittner and Elizabeth Goodyear-Grant demonstrate that the public opinion and political behaviour literature has traditionally treated cis, heterosexual white men as the "default," despite the fact that this does not reflect the experience of most of the population. Furthermore, they argue that research on the role of gender, sexuality, race and ethnicity provide us with important (and more nuanced) insights into the minds of voters. Angelia Wagner, in Chap. 17 on the media, demonstrates how key professional norms prioritise white, heterosexual men's perspectives. She discusses the challenges facing the Canadian news media in general, the implications of the gendered, sexualised and racialised dimensions of news products for the depiction of

different types of politicians and the quality of political journalism in Canada. The role of social movements in Canadian democracy is discussed in Chap. 18 by Manon Tremblay. She argues that not only do social movements participate fully in Canadian politics through their interaction with various parts of the Canadian political regime, but in their role as counterbalances to the power of the state they broaden the representation of diverse interests that are traditionally excluded from decision-making offices. This idea is furthered in Chap. 19 by Francesca Scala where she argues that interest groups provide an important vehicle for organising and representing the collective interests of society to government. In doing so, she explores how gender shapes interest groups politics and the institutional arena(s) where it takes place and highlights how and why women's and LGBTQ groups and their interests are often marginalised in policymaking.

The final part (Part IV) of the book analyses some of the public policy fields of Canadian politics with the objective of shedding light on how they contribute to framing a citizenship that is gendered, heterosexualised and otherwise excludes intersecting identities minorities. Put differently, a gender-based-inspired analysis informs this part. The chapters in this part of the Handbook focus on the following areas: international relations, defence, Indigenous People, fiscal and economic policy, health and, finally, citizenship, multiculturalism and immigration.

In their discussion on Canadian foreign policy found in Chap. 20, Taryn Husband-Ceperkovic and Rebecca Tiessen assess the extent to which the Canadian Government's international development and foreign policy and practice reflect a broader definition of gender equality which includes topics related to sexual orientation and gender identity and expression. They conclude that while space exists to include SOGIE issues, Canada's current policy and practice still does not employ a sufficiently comprehensive definition of gender that is inclusive of transgender and otherwise gender-variant persons. In Chap. 21, Meaghan Shoemaker and Stéfanie von Hlatky concluded that while there has been increased attention to diversity and inclusion within Canadian defence since the 1960s, there remain limitations to the current policy framework and a continued need for work in this field to engage with critical and feminist perspectives, and their histories.

Chapter 22 by Cora Voyageur on policies addressing the needs of Canada's Indigenous Peoples argues that First Nations, and First Nations women in particular, have been placed in a precarious and subordinate position by foreign and domestic governments. She demonstrates that in order to fully understand the current social, political and economic position of First Nations women one must understand the historical foundations of Canadian legislation and public policy. Chapter 23 by Geneviève Tellier on economic policy highlights how Canada's mixed economy promotes both free-market mechanisms and state intervention to allocate resources. She argues that it is necessary to adopt a gender/sexuality lens to understand the impact of these policies on those traditionally ignored in economic analyses. In their assessment of the shifting

politics of health policy in Canada, found in Chap. 24, Jessica Polzer, Laura Cayen and Monica Molinaro use the example of two approaches to cervical cancer prevention to demonstrate how policy decisions can be disproportionately and negatively experienced by marginalised women and LGBTQ populations. Finally, in Chap. 25, Yasmeen Abu-Laban and Nisha Nath highlight how an intersectional approach allows debates and policies around immigration, multiculturalism and citizenship to be more attuned to issues of settler-colonialism, heteropatriarchy and race/ethnicity. They argue that these areas of public policy in Canada are distinct in that they reflect both domestic and global forces, but like other elements of Canadian public policy carry gendered implications.

The Handbook closes with a comprehensive conclusion that highlights some of the major contributions of the text. Jocelyne Praud in Chap. 26 demonstrates how various ideological approaches have become more receptive to the claims of marginalised groups and how governing and electoral institutions have been affected by the changes and innovations promoted by those traditionally excluded from them. This has resulted in these identities becoming more numerically, symbolically and substantively representative in various aspects of Canadian politics. Furthermore she highlights how despite their exclusion from traditional institutions of big "P" politics, women and sexual minorities have been able to pursue their interests though small "p" activities in interest groups and social movements. Yet despite these improvements, she acknowledges the sustained representational challenges still presented by Canada's political institutions and a civil society that may still hold sexist and heteronormative views that continue to exclude women and non-conforming individuals. She argues, as would we, that while the impact of the above noted changes has resulted in improved representation in substantive terms through public policies, attention is still needed to ensure that governments adopt more gender-sensitive approaches to policymaking, particularly under more conservative governments. She concludes by recognising that efforts need to be made by instructors in Canadian politics to integrate a more gender inclusive and intersectional perspective into their courses, particularly given the diverse nature of our student populations. Only by incorporating an expansive understanding of gender (from just women and men) that includes gender orientation, gender identity and expression is possible to achieve real gender equality.

A word before we close. Different acronyms are used in the chapters to refer to sexual and gender minorities: some authors simply use LGBT, while others use the terms LGBTQ, LGBTQ+ or LGBTQ2. We ourselves tend to employ LGBTQ, but rather than having a single acronym for all the chapters, we have opted to let the authors choose the acronym that best suits their argument. We should also note that different acronyms can be used in the same chapter if the author refers to diverse realities that affect different subgroups within the LGBTQ populations (e.g., LGB vs. transpeople) or to other work that employs a different way of describing these individuals.

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PART I

Ideologies

CHAPTER 2

Canadian Liberalism and Gender Equality: Between Oppression and Emancipation

Éléna Choquette

Introduction

For more than 150 years, liberalism has been the backdrop of Canadian politics. In this chapter, we examine liberalism through the lens of gender and, secondarily, sexualities. By tracking the development of liberalism in Canada, it becomes clear that it has supported both the domination and emancipation of women and LGBTQ people. To the extent that liberalism developed the gendered idea that the private and public spheres should be distinct, it has reinforced the privatisation and domination of women and LGBTQ citizens. Concurrently, Canadian liberalism has supported certain forms of emancipation for gendered and sexualised communities. In this sense, liberal feminists and the liberal trend in the LGBTQ movement have made significant gains for women and LGBTQ people, most importantly by advancing equal rights.

The first section draws important distinctions, including between different kinds of feminisms and trends in the LGBTQ movement. Next, we sketch the main tenets of early liberalism and examine the emergence of the private/public divide as constitutive of liberal theory and practice. We consider the consequences for gender and sexual identity of drawing that very distinction.

The second section investigates what can be called the three "waves" of feminism in liberal Canada. If the first wave of Canadian feminism *worked with* the liberal distinction between the private and the public, the second wave *problematised* it. By making the argument that the divide continued their

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