

Legal Rights for Same-Sex Couples

It may well be a decision by Canada's Supreme Court that breaks the ice in granting legal rights to same-sex couples. The ruling, which centered on the case of an Ontario woman seeking financial support from her former female partner, does not address the issue of homosexual marriages. The 8-1 ruling that the heterosexual definition of spouse is unconstitutional may, however, give same-sex partners all the legal benefits of a common-law marriage.

The court gave Ontario six months to amend its laws, noting that dozens of its laws use the heterosexual definition. Because of the decision, the Canadian federal government and other provinces also were required to come into accordance with the ruling or face lawsuits, and several provincial premiers have already said their laws would change.

The Supreme Court decision is the result of an appeal of a 1995 decision that upheld a Toronto lesbian woman's efforts to receive alimony from her ex-partner. Two lower courts agreed with her argument that a spouse is not necessarily someone of the opposite sex. The Supreme Court's ruling backed the lower courts, saying, "It is clear that the human dignity of individuals in same-sex relationships is violated by the definition of 'spouse'." The court's ruling also said "The exclusion of same-sex partners (from the benefits of spousal support) promotes the view that individuals in same-sex relationships generally are less worthy of recognition and protection." (U.S. courts have and continue to consider similar cases.)

Since the ruling does not recognize same-sex marriages, it does not mean same-sex couples in the U.S. could cross the border to get married. It does mean, however, that large parts of Canadian law, including tax code, health care, and insurance benefits, will need to be rewritten.

(It should be noted that the two women involved in the case, who had lived together for more than five years, had settled the dispute out of court, but the high courts review of the law continued.)

Source

Associated Press Release. Newsday.com (May 24, 1999).

Discussion Questions

Former British Columbia's premier, Glen Clark, stated that "it's time that we treated people with equality and dignity regardless of their sexual orientation." Do you agree or disagree? Why or why not?

2) As discussed in your text, opinion polls show that Canadians have become increasingly supportive of gay "equal" marriage. Explain your position on the subject.