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TRANS ACTIVIST SETTLES HUMAN RIGHTS CASE ABOUT GENDER COLLECTION

Count Us In - Just Don't Label Us!

In a landmark settlement of a human rights complaint launched in 2011 by Christin Milloy (“she/her”), a trans activist from Toronto, Employment and Social Development Canada (ESDC) recognizes that personally-identifiable sex and/or gender data can only be collected if there are legitimate purposes.

As a result of Milloy’s complaint to the Canadian Human Rights Commission, ESDC ceased requesting documentation to change sex/gender designations in the Social Insurance Number (SIN) register. ESDC, as part of a government-wide initiative, is conducting a review of the collection of sex/gender data. As an interim measure, pending completion of the government-wide review, ESDC will amend its client-facing documents and its procedures so that:

- A. Providing sex/gender information is optional;
- B. There are at least three options (male/female/3rd option) for completion of any sex/gender question.

Milloy recognizes that ESDC requires anonymous demographic data including sex/gender data for planning and evaluation and other legitimate purposes.

Said Milloy, “This is a revolutionary change in how the government collects data on gender . Finally, we have gotten past the question of how government will recognize changes in gender, or how to collect gender information for people who don’t identify as male or female, to the recognition that sex and gender should simply not be collected in the first place.”

Milloy added, “Count us in, but don’t label us! We certainly want to be included in statistics about gender. But we don’t want to have to out ourselves as trans or gender variant whenever we interact with the Government or show our ID.”

“What it comes down to is the ability for people to choose how they define themselves and under what circumstances. There is nothing more unique or personal than our identity and gender”, said Marie-Claude Landry, Chief Commissioner of the Canadian Human Rights Commission. “The Government should treat a person’s gender with the same degree of privacy and respect as other markers of identity, such as race, religion, or sexual orientation.”

barbara findlay, counsel for Milloy, commented, “The State used to have a need to collect gender of individual citizens – back in the day when women couldn’t vote, or hold property in their own name or marry another woman. But now that most legalized discrimination on the basis of sex has been removed from Canadian laws, collecting personally-identifiable gender information is more likely to perpetuate, not cure, discrimination.”



“This case will provide the principles for other governments and non-government agencies in their human rights reviews of gender collection practices,” said Findlay. “Uncoupling gender collection from individual records enables the collection of gender data without infringing people’s human rights or privacy rights.”

There are already cases challenging gender collection in birth certificates, passports, and (in Saskatchewan) all government documents and data collection practices involving gender. The complainants in those cases are all members of the Gender-Free ID Coalition.

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