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The State Has No Business in the Undies of the Nation!

His dad did it. Saying that the state has no business in the bedrooms of the nation, Pierre Trudeau decriminalized homosexuality, opening the door to equality for lesbians and gay men. And this weekend, Justin Trudeau is marching in the Gay Pride Parade.

When Justin Trudeau recently made the welcome announcement that 'gender identity' and 'gender expression' would be added to the Canadian Human Rights Act, he committed to ending discrimination against trans people and recently he committed to "gender neutral" identification documents.

But his government says one thing and is doing another. Because the federal government continues to insist that identity documents and data bases have to include "gender". If Trudeau is going to walk for justice in Vancouver's Pride Parade, he needs to put his money where his mouth is.

Rory Vandrish has filed a human rights complaint against Canada arguing that the requirement of having a gender marker on birth certificates discriminates against trans people, and that no Canadian's gender should be on their passport.

And Christin Milloy has filed a human rights complaint to end the requirement that applications for a social insurance number include a person's gender.

Rory and Christin say that gender, like race or sexual orientation, is a personal matter.

They are part of the newly-formed Gender-Free I.D. Coalition.

Passports

To require Canadians to specify their gender for passports creates a minefield for trans or intersex people, who may not "look like" the M or F choice they were required to make. It is especially dangerous for trans folk who are transitioning, who are nonbinary, or whose gender doesn't "match" in the eyes of a visa officer what is on their passport.

Governments have agreements about what goes on a passport. One of the fields is 'gender'. But there is already provision for people who do not want to report gender. So Canada is legally able to put "X" for everyone in the gender field. Canada is **not required** to report any person's gender.

So why is the government resisting? They are looking longingly at the changes introduced by some countries to add an 'X' for anyone who is not "M" or "F".

Why doesn't that work?

"A passport is a document issued to Canadian citizens to assist in their safe passage to and through other countries. Imagine if you were a trans person going to a transphobic jurisdiction and had an 'X' on your passport when everyone else has 'M' or 'F.' You would be set up to be discriminated against," said Rory Vandrish.

The government claims that it needs gender on passports to verify identity.



But an identity management system needs to have stable, reliable, unequivocal data elements.

“M” and “F” don’t make the mark. A person’s gender may not be the same as what is on their birth certificate. And their gender identity may change.

“In 2016 there are many other identity verifications that work much better than “M” or “F” in confirming identity. We’ve had photos on passports for more than 100 years. And there is facial recognition software and finger prints and voice recognition technology.

Social Insurance Numbers

To get a social insurance card, you are required to specify your gender. And you are required to produce a birth certificate to confirm it!

So – if you got the wrong gender marker assigned to you when you were born, you are stuck, unless you can meet the requirements of the province or territory you were born in for changing the gender on your birth certificate. And that only works if your current gender is one of the binary M or F. If you have a nonbinary gender identity – pangender, agender, genderfluid, genderqueer, for example – that will never work.

“There is simply no reason why I should have to prove my gender in order to get a social insurance number to work and pay taxes!” said Christin Milloy.

According to an Ontario study, 48% of trans people who are living full time in their affirmed gender have NO government identification. This marginalizes and targets them for mistreatment, and for denial of services.

Gender-Free I.D. Coalition

Fights about gender markers on various kinds of identification are going on across the country.

Vandrish and Milloy have joined with the complainants in the B.C. birth certificate case to launch “Gender-Free I.D. Coalition” (www.gfid.ca)

Unless Trudeau recognizes how gendered documents oppress trans people, and removes those requirements, his promise to end discrimination against trans people is hollow. As Marcella Daye of the Canadian Human Rights Commission put it, “We used to use race and religion to identify people and we don’t anymore,” says Daye. It’s our hope that gender will come under the same scrutiny.”

“The state has no business in the undies of the nation,” added Milloy and Vandrish.