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## **Standing Committee on Transport, Infrastructure and Communities**

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**EVIDENCE**

**Tuesday, February 7, 2012**

**Chair**

**Mr. Merv Tweed**



## Standing Committee on Transport, Infrastructure and Communities

Tuesday, February 7, 2012

• (1030)

[English]

**The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)):** We are now back in session, and we will address Ms. Chow's motion.

**Ms. Olivia Chow (Trinity—Spadina, NDP):** Thank you, Mr. Chair.

I will read the motion in its entirety:

That the Government repeals Section 5.2(1)(c) of the Identity Screening Regulations under the Aeronautics Act which were introduced in August 2011 and which states that “An air carrier shall not transport a passenger: (c) if the passenger does not appear to be of the gender indicated on the identification he or she presents;” as this is a severe discrimination against transgender and transsexual Canadians and a violation of their fundamental right, the freedom of movement, and that this motion be reported back to the House.

Mr. Chair, some of us fly every week, and all we need to have is a driver's licence or an OHIP card that shows who we are. As long as my face looks identical, or close to identical, to the photo on the driver's licence, whether I'm male or female does not really make much of a difference, because I look like the person in the photo. Whether I'm wearing lipstick, whether I'm wearing glasses that day or not, or whether I have short hair or long hair—none of this matters as long as I look like that person in the photo; my gender really is secondary, and it doesn't compromise security.

A lot of people have NEXUS cards now. I happen to have one, and it's retinal: the camera just looks at my eyes. They don't care what my gender identity is. As long as the eye they look at matches, and as long as they can say, “This is the right person”, I go through, if I'm going to the States. Technology is increasingly becoming so much more advanced that we will probably be beyond photo IDs, anyway.

I think this section, which was introduced in August 2011, is unnecessary, it's backward, and it's discriminatory. That's why I have a motion in front of you, Mr. Chair.

**The Chair:** Thank you.

We'll go to Monsieur Coderre.

[Translation]

**Hon. Denis Coderre (Bourassa, Lib.):** Mr. Chair, the Liberal Party of Canada supports this motion. This is clearly a case of discrimination. Transgender and transsexual Canadians are being denied a fundamental right, the freedom of movement. My colleague Justin Trudeau was right to ask the question in the House.

I must also say that I have seen how big of an issue this is in social media.

[English]

A Canadian is a Canadian.

[Translation]

This is not really a matter of security; this is a violation of fundamental rights. Therefore, I invite everyone to vote in favour of this motion.

I call for a recorded division.

• (1035)

[English]

**The Chair:** Go ahead, Mr. Garrison.

**Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP):** Thank you very much. I can say that it's a pleasure to appear at the transport committee instead of the public safety committee.

This matter came forward—and as well as my colleague, Dany Morin, I raised a question in the House—when we were contacted by members of the transgender community who were very concerned, some of whom are afraid to make travel plans for fear of being denied boarding by this regulation.

It's quite clear that other countries—Australia in particular—manage air security just fine without such a provision. In fact, in Australia, their passports, which are the main piece of ID that most people use there, have male, female, and indeterminate categories on the passport, so people can have a designation of neither male nor female. It does not in any way affect the security of air travel internationally or in Australia.

I know that some have argued that international regulations require this. There is no such requirement. The requirement is simply that we identify people. I think my colleague, Ms. Chow, has identified the basic issue, and that is facial recognition.

For transgendered people, it's very difficult to get a change in their identity documents in terms of gender. Some people choose not to have surgery and to live their lives in the gender they feel they were born in, without any physical alterations. Under the current identity documents, they cannot get changes, and therefore they would never be able to do so.

Some have talked about the ability to get a letter from a doctor—as an exception—but in the case of a non-operative transgendered person, there is no doctor who would provide any kind of letter. Plus, most doctors charge about \$100 or more for letters like that, and of course one of the largest problems that transgendered Canadians have is with employment: most transgendered people in Canada live very close to, if not below, the poverty line. They sometimes need to travel for family reasons, but it's not something they do very often. It's very difficult for them to get letters, to pay for letters, and to make these kinds of arrangements.

In addition to that, there is the issue of privacy, which many transgendered people feel quite strongly about, in that other people would not be questioned or challenged on grounds of gender. Therefore, this exposes them to the prejudice against transgendered people, which is very prevalent in our society. With this regulation in place, their worry is that at security screening points, at the gates, there may be people who are not familiar with the issues that transgendered people face and it may become quite difficult for them.

For all those reasons, we believe this regulation is both unnecessary and discriminatory. We have a right to mobility in Canada, which is enshrined in the Charter of Rights and Freedoms. Transgendered people are as entitled to those protections as any other Canadian. I would encourage this committee to pass this resolution and send it back to the House so that we can correct what I see as simply an error, an excessive regulation that is not really needed for air safety and causes a violation of the rights of and discrimination against transgendered people.

Thank you.

**The Chair:** Monsieur Poilievre.

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** I think my colleagues across have argued their case very well and have raised some good points. I'd like to talk about some of the background to the government's decision.

To comply with the identity screening regulations, airlines in Canada must have procedures allowing them to identify all passengers by using their official identification as issued by a recognized government authority. This approach applies to all passengers regardless of their culture, religion, or sexual orientation.

Before the amendment in 2011, the identity screening regulations did not explicitly require air carriers to compare and check passengers' physical appearance against their identification. That is really the principal change here: it does make a requirement for the security officer to compare the physical appearance to the ID in a way that wasn't done before. Transport Canada more clearly defined the requirements in the *Canada Gazette* in 2010 and 2011 after receiving Governor in Council approval—

**The Chair:** I'm just going to interrupt for one moment. We have a phone ringing somewhere. It's being picked up on the mike. It's hard to focus on what's being said.

I'm still hearing it.

**An hon. member:** Show your phones.

**The Chair:** It has stopped. We thank you.

I'm sorry for the interruption.

**Mr. Pierre Poilievre:** It sounds like a trick by the opposition to throw me off.

**Some hon. members:** Oh, oh!

**The Chair:** Please feel free to start again.

● (1040)

**Mr. Pierre Poilievre:** Transport Canada more clearly defined the regulations in the *Gazette* in 2010 and 2011 after the Governor in Council approval for the regulation occurred. No changes have been made to the order since it was first published in August 2010.

This is important, because since that time Transport Canada has not been aware of any case of a transgendered or transsexual individual in possession of a medical document who has not been permitted to board an airplane since the publication of the regulation in 2010.

Now, it's possible that someone might raise a case that we're not aware of, but I would be interested in hearing if there is one. Certainly we'll take a look at any case that might be out there, but at this time I am not aware of any case.

If you read the complete regulations, you'll see that in paragraph 5.2(2)(a) it does not prevent the transgendered or transsexual community from travelling by air. If for medical reasons a passenger's facial features do not correspond to the photo on his or her identification, the air carrier may authorize the passenger to board the plane if he or she provides a medical certificate relating to this.

The identity screening regulations have been in place since 2007. If one goes to....

There's a URL that I can table. It's very extensive, so it's just easier for me to do that rather than read the entire thing. It has about 100 characters in it—with slash this and dot that—so I can just table it. Members can go there if they want to read the regulations in more detail.

They have provisions for passengers who may have had their appearances altered. The identity screening regulations are very clear, though. We believe they can allow the system to operate without discriminating against people based on irrelevant characteristics and avoid discrimination based on sexual orientation and gender.

That's the position of the government. We haven't had an instance of when an individual problem has manifested—or at least not reported to us. Again, we welcome any member to bring to my attention a case that I might not be aware of.

So the system does seem to be working right now. In the absence of any evidence to the contrary, we would like to keep the system functioning the way it is.

**The Chair:** Ms. Morin.

[*Translation*]

**Ms. Isabelle Morin (Notre-Dame-de-Grâce—Lachine, NDP):** I recently heard my colleague Dany Morin ask some questions in the House. The Canadian charter contains provisions on peoples' mobility that enable citizens to move, take the plane and go wherever they like. These regulations completely deny Canadians those rights.

I am in favour of the motion moved by my colleague. Transgender and transsexual Canadians' right to the fundamental freedom of movement is certainly being violated.

I think that we are trying to make Canada open and progressive. I also think that these regulations won't affect only transgender and transsexual people, since the provision states that it must be checked whether the passenger appears to be of the gender indicated on the identification he or she presents. I think that goes beyond transsexual

and transgender individuals. I think that will affect other people who unfortunately do not always have the physical appearance of their gender. That is why I think this motion should be adopted.

We asked some questions in the House, and all that we—

● (1045)

[*English*]

**The Chair:** Ms. Morin, I have to interrupt there. The bells are ringing.

We will continue this debate at the beginning of the next meeting, which is Thursday, before we move into the report.

The meeting is adjourned. We will see everybody Thursday morning.

Thank you.

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