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Chair

Mr. Merv Tweed

Standing Committee on Transport, Infrastructure and Communities

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• (0850)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good morning, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities, meeting 21.

Following our orders of the day, we are dealing with committee business. When we left the last meeting, we were debating a motion brought forward by Ms. Chow.

Before I open the floor to comments, I will just advise the committee that I will be leaving early today, and I've asked Mr. Coderre to chair as the vice-chair. So if you see people coming and going and me leaving, you'll know why. I will be leaving at about 10:30.

Ms. Olivia Chow (Trinity—Spadina, NDP): We'll be done by then.

The Chair: Hopefully, if everything works out, we'll all be leaving together.

With that, the motion was being debated and the floor is open. I believe I had Ms. Morin on my list to make her comments.

Go ahead, please.

[Translation]

Ms. Isabelle Morin (Notre-Dame-de-Grâce—Lachine, NDP): To my mind, these regulations are discriminatory. At the end of our last meeting, we heard Mr. Poilievre say that nothing serious had ever happened as a result of these regulations and that they did not need to be applied. But what it boils down to is this: if regulations are discriminatory, even if they have never been applied, even if no one has complained thus far and even if no discrimination has occurred, those regulations should still not be allowed to exist in Canada, as my colleague pointed out. We are an open-minded country that has, in the past, shown its openness to transgendered and transsexual individuals.

I have an interesting story I'd like to share. When I lived in Sherbrooke, I had a gay roommate from Brazil. Sherbrooke has a large Brazilian community, and it doesn't take long to realize that many of them are gay. My roommate told me that gay people in Brazil want to live in Quebec because they know we are an open society, where they will not be discriminated against and where they will be accepted.

I am not sure if these regulations went unnoticed by the government, but they are discriminatory. We should adopt my colleague's motion and change that. It is wrong to say we have

regulations that are discriminatory but we don't use them very much so we'll keep them, and if we ever run into any problems, we'll see what happens at that point. We must be proactive.

There has been recognition that these regulations discriminate against certain individuals, transsexuals and transgendered people. The government has a responsibility to act now, and not wait.

That's all, thank you.

[English]

The Chair: Thank you.

Mr. Garrison.

Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP): Thank you very much.

This is an issue that is very important to many Canadians, not just to those in the transgendered community, but I would like to acknowledge two representatives from transgender organizations who have come here this morning to hear our debate: Sophia Cassivi, from Gender Mosaic, and Amanda Ryan, from Trans Pride.

Yesterday we were asked if we had any examples of the kinds of things that might have happened as a result of this regulation. I want to cite three very simple examples. I believe there are more. We have talked to people who do not wish to go public because of other concerns they have—maybe with family, with work, with community things—but I can give you three examples, one of those very directly.

Two other representatives from Trans Pride who met with me yesterday came from Toronto. They chose to take the train. They said the reason they had done so was that they were worried they would be denied boarding and would miss the meeting in Ottawa. This is an example of the kind of chill it casts over people who do not wish to go through embarrassment, humiliation, and extra screening at an airport, or to possibly be denied boarding. In both these cases, their ID does not match the appearance they present: it does not match their gender identity. They chose not to fly as a result of that.

The second example, which went to the minister, is from an American transgendered person, Bren Breithaupt, who wrote to the minister saying that they—he and his partner, I believe—were planning to go to Vancouver and tour western Canada. With the coverage of this regulation, they've cancelled their trip because they're worried about being denied boarding on planes and having all the arrangements they made ruined. They simply cancelled and said they will be going elsewhere and spending their tourist dollars there.

Probably the most direct example, which I think most people have seen, is the example of Jennifer McCreath from Newfoundland—who was born in Nova Scotia—who was in the process of getting ID changed after gender reassignment surgery and experienced very long delays. Jennifer is a marathon runner. Having waited several months to try to get documents changed, she was going to run a marathon in the United States and experienced difficulties both in the Halifax airport and at Toronto Pearson, and finally, because the U.S. has a similar regulation, with the U.S. authorities at Pearson Airport. She missed her flights and had a total of something like seven hours' delay and additional costs because of missed flights, although she was eventually allowed to fly.

Coming back to what I think is the main point here, what is necessary for security is that appearance—the picture, if you like, on the ID—needs to match the person. The question of gender is irrelevant to the question of security. As I mentioned previously, other countries—Australia being the primary example, but also the U.K.—do not have this kind of regulation and do not have any problem with air security. It's not required by international air security regulations. Part of my suspicion here is that this was done simply to match a U.S. regulation, which is also being challenged in the United States.

It is relatively easy for people to get their pictures changed on their ID. In Canada, it is still virtually impossible for some people to have their gender or sex on the ID form changed. I do have a private member's bill coming forward probably within the next two months, which will be called “Gender Identity and Gender Expression” and will attempt to address some of those other issues.

I know that the Conservatives are always against unnecessary regulation, and this is certainly an unnecessary regulation, so I would urge the members on the other side to support this motion, send this forward to the House of Commons, and try to convince the minister. I know that he's receiving correspondence now about the problems it's causing in the violation of rights: the right of free mobility and also the right of dignity, I think, of Canadians. I urge members to make sure that all of us are treated equally and with dignity, whether we're flying or in any other situation.

Thank you.

• (0855)

The Chair: Monsieur Morin.

Mr. Dany Morin (Chicoutimi—Le Fjord, NDP): I fully agree with everything my colleague Mr. Garrison said, and I would like to complete this by going into details.

I would like to protest the lack of clarity regarding wording in an amended Aeronautics Act, which states:

An air carrier shall not transport a passenger if

- (a) the passenger presents a piece of photo identification and does not resemble the photograph;
- (b) the passenger does not appear to be the age indicated by the date of birth on the identification he or she presents;
- (c) the passenger does not appear to be of the gender indicated on the identification he or she presents; or
- (d) the passenger presents more than one form of identification and there is a major discrepancy between those forms of identification.

I note that items (c) and (d) could expose some transgendered, transsexuals, and gender-nonconforming Canadians to undue scrutiny and hardship in Canadian airports that could result in lack of access to air travel. Trans individuals face numerous barriers to accessing congruent government-issued identification documents with policies, regulations, and laws that are inconsistent between provincial and federal governments, as well as inconsistencies between government departments within the same stratum of government.

At this time no clearly delineated path to obtain congruent documentation exists, and barriers at one stratum—such as obtaining a congruent provincial birth certificate—affect that of another, such as having a congruent provincial birth certificate to be able to obtain a full-term congruent passport for travel outside of Canada.

According to the Charter of Rights and Freedoms, all Canadians have the mobility—

[*Translation*]

Hon. Denis Coderre (Bourassa, Lib.): I see smoke starting to come out of the interpretation booths. Perhaps my colleague could read a bit slower?

[*English*]

The Chair: Thank you.

[*Translation*]

Hon. Denis Coderre: I pity them.

[*English*]

The Chair: I think they're probably asking you to read a little more slowly and give them an opportunity to catch up. Thank you.

[*Translation*]

Mr. Dany Morin: Thank you very much, Mr. Coderre. I am speaking very fast, you're right.

[*English*]

As I said, according to the Charter of Rights and Freedoms, all Canadians have mobility rights, including the right to enter, remain in, and leave Canada, as well as mobility rights regarding residence and pursuing a livelihood—section 6.

Likewise, the charter affirms that every individual is equal before the law and has a right to equal protection and equal benefit without discrimination, and in particular without discrimination based on race, national origin, colour, religion, sex, age, or mental or physical disability—section 15.

I note that the regulatory changes made to the Aeronautics Act in 2011 appear to affect mobility rights and as well place an unequal burden on transgender, transsexual, and gender-nonconforming Canadians on the basis of sex.

Furthermore, according to the Canadian Human Rights Act, section 5, 1985, it is a discriminatory practice in the provision of goods, services, facilities, or accommodation customarily available to the general public to differentiate adversely in relation to any individual on prohibited grounds of discrimination.

I note that access to air travel within or beyond Canadian borders is a service customarily available to the general public, notwithstanding the sex of the person travelling. I also believe that requiring airline personnel to assess whether an individual does or does not appear to be of the gender indicated on the identification he or she presents is subject to substantial latitude, an inconsistent application that presents an unfair burden to airline personnel, as their attempt to comply with the Aeronautics Act may conflict with the sex discrimination provisions in the Canadian Human Rights Act.

I would just like to conclude by saying that since the news broke on Sunday of last week my office has been flooded with calls and e-mails from transgender communities across Canada. As my colleague said, the trans community is very concerned and they feel it isn't right, that it is in fact discriminatory. So I would ask you to please make corrections in these regulations.

Thank you.

● (0900)

The Chair: Is there any further comment? Seeing none, I will call the vote.

An hon. member: Recorded?

The Chair: Oh, yes. We'll have a recorded vote.

(Motion negatived: nays 6; yeas 5) [See *Minutes of Proceedings*]

The Chair: The motion has been defeated.

Now we'll take a two-minute break and I'll ask our guests and anyone not involved in the study we're doing to please leave. We'll have a two-minute recess while we set up for the in camera discussion.

[*Proceedings continue in camera*]

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