UNITED NATIONS
DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS
STATISTICS DIVISION

Meeting of the Expert Group on
International Statistical Classifications
New York, 6-8 September 2017

Gender – Developing a Statistical Standard

Marc Lachance, Kaveri Mechanda and Alice Born, Statistics Canada

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1. Introduction

In Canada, human rights complaints have been a driving force behind advancing changes for gender-diverse communities, and legislative changes have been enacted to provide explicit protection to transgender and gender-diverse persons from discrimination. In May 2016, the Department of Justice introduced Bill C-16, which added gender identity and gender expression to the prohibited grounds of discrimination to the *Canadian Human Rights Act* and the *Criminal Code*. The Bill was passed in June 2017. Distinguishing the concepts of sex, gender identity and gender expression in legislation recognizes that not everyone's sex assigned at birth aligns with their gender identity and gender expression.

Several provinces have now also recognized gender identity and gender expression as a prohibited ground of discrimination in their respective jurisdictions. Across the country, there are currently court cases brought forward by gender-minority[1] citizens challenging the collection and display of sex markers on government forms (e.g., Social Insurance Number [SIN] registry, passport, birth certificate). For example, in the province of Ontario, the government has recently issued a policy statement for collecting gender information by the provincial government. This policy allows for a third option other than 'M' or 'F' when gender information is displayed on an ID such as a driver's licence.[2] A federal approach to the collection and display of information on gender is also being considered. On the 24th of August 2017, the Government of Canada announced that it will be working to implement an "X" gender designation in Canadian passports, as well as other documents issued by Immigration, Refugee and Citizenship Canada (IRCC).

Statistics Canada is reviewing the existing standard on sex, and preparing to implement new standards for gender. In response to the emerging needs on gender, Statistics Canada allowed respondents the option to leave the question on sex blank on the 2016 Census of Population questionnaire, and to provide their views about this question in the Comment section. Statistics Canada made the commitment to review the comments and analyse the responses from a qualitative perspective. A public report will be made available that would complement the 2021 Census consultation process.

Statistics Canada has also created an internal working group to explore different options for measuring gender identity and expression through its social surveys, including possibly the 2021 Census.

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[1] "Gender minority" is a purposely broad term that allows us to consider groups of individuals whose gender identity may not match their sex assigned at birth but who may use terms other than "transgender" to describe themselves. (Brown, Herman and Park, 2017).
[2] As reported in http://news.ontario.ca.

2. The need for change

The context and need for change comes from a better understanding of the concepts of gender and sex, and that there are data gaps in information about the gender-minority population in Canada.

a. Conceptual context: Gender is different than sex

Sex refers to the classification of a person as male, female or intersex based on biological characteristics, including chromosomes, hormones, external genitalia and reproductive organs. Most often, sex is assigned by a medical professional at birth and is based on a visual assessment of external genitalia. However, gender identity is a person's deeply felt internal and individual experience of gender. This could include an internal sense of being a man, woman, both, neither or anywhere along the gender spectrum. Gender expression refers to the way in which people publicly present their gender through such aspects as dress, hair, body make-up, body language and voice.

Statistics Canada has measured the variable 'sex' according to a binary structure ('male' or 'female'). Sex is considered to be fixed after being established at birth, for example, on a birth certificate. However, focus groups with transgender and non-binary persons[3] held in the fall of 2016 have indicated that answers to the current Statistics Canada sex question would depend on the context. The current question on 'sex' in the 2016 Census of Population, Labour Force Survey and other surveys do not specifically ask for biological sex or sex assigned at birth. The question 'what is your sex?' was tested in the focus group of transgender participants. Most found this question was unclear or too vague. While many said what they felt, others said they interpreted it as asking about the sex conveyed by their current physical appearance, their sex at birth or sex announced at birth ('It's a boy!' or 'It's a girl!').

b. Data needs context: Data gaps on gender-minority population

Government decisions about the appropriate allocation of resources, including public funding, are driven by data. According to the Williams Institute:

> Data allow verifiable, empirical considerations to be incorporated into policy analyses addressing the issues affecting gender minorities and encourage additional data collection and research about gender minorities. Data collection about gender minorities allows for service providers, governments, and other institutions to tailor programs and policies appropriately to address the concerns and needs of gender-minority communities. Government decisions about the appropriate allocation of resources, including public funding, are driven by data. It is important, therefore, that information about gender minorities is included in the data (Brown, Herman and Park, 2017).

Statistics Canada will be consulting Canadians on the 2021 Census of Population content. The 2021 Census consultation will be an opportunity to determine the need for data on the gender-minority population directly from governments, communities and academics.

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[3] Non-binary persons refers to those who do not identify as male or female.

c. Statistical context: very small population

No general population survey has been conducted in Canada to measure the size of the gender-minority population. In the United States, according to the Williams Institute, approximately 0.6% of the adult population would self-identify as transgender (Flores, Herman, Gates and Brown, 2016). This proportion varies from state to state and by age. Only the census and very large household surveys could potentially allow the counts and estimates of the characteristics of such a gender-minority population. At the time of writing of this paper, the 2021 Census questionnaire content has not yet been determined.

The issue of collecting gender information is not unique to Statistics Canada. The first attempt to count three genders in a national population census was done in Nepal in 2011. After testing the census questions on gender, Statistics New Zealand decided not to include gender identity in the 2018 Census test. Statistics New Zealand reported that:

> Testing indicated that response behaviour to this question was variable across transgender respondents. Gender identity can change over time and be expressed in a number of ways and forms. It is difficult to create a question that captures all these aspects. Information collected from a census question on gender identity would not enable us to output any population estimates on the populations of interest. Therefore, we will not include this topic in the 2018 Census. However, we are committed to further investigating this important but complex topic […] (Stats NZ, 2017).

Other national statistical organizations (NSOs), in particular Australia and the United Kingdom, are currently evaluating how their respective censuses could collect information on gender minorities. Statistics Canada has conducted focus group testing and cognitive testing. Statistics Canada will also be consulting and testing questions in preparation for the 2021 Census of Population. The testing will inform on whether the questions and supporting standard variables and classifications are appropriate for the Canadian context.

3. Statistics Canada – Impact of change

Canadian policy and legislation are evolving to reflect the changes in Canadian society for the recognition and acceptance of gender identity and gender expression. Legislation in turn determines and influences government programs. Statistics Canada plays a key role by both (1) providing information to support evidenced-based decision making, and (2) aiding in the implementation of government programs with statistical information. To support the collection and dissemination of information on sex and gender, the current Statistics Canada standard on sex is expected to be revised and a new Statistics Canada standard on gender developed.

Canadian governments are moving towards collecting and displaying information on gender rather than sex. The impact of these changes on Statistics Canada needs to be assessed. Some questions of concern are:
- Should data collection on gender be the norm? Should data collection on sex be done only when needed?
- Can gender be used as a proxy for sex when estimating population growth? Should Statistics Canada be cautious about breaking time series based on sex data until it can be determined whether gender can be used as a proxy for sex?

- What should be the categories in a classification of gender? Will these categories be understood in surveys? If the information gathered from administrative sources (such as educational institutions and health care institutions) categorize gender in different ways, how can this information be combined?
- What should be the categories in a classification of sex? The treatment of intersex is an outstanding issue. Intersex persons are not biologically of male or female sex at birth. An exhaustive classification of sex would include intersex as a category. But, under what context would it be possible to disseminate data on this small population? Do we have sufficient information (for example, from administrative data sources on vital statistics) to allow for reporting on this population?
- Will the categories for sex be understood in surveys? If the information gathered from administrative sources (such as educational institutions and health care institutions) categorize gender in different ways, how can this information be combined?

a. Current Standard and Census 2016

The current standard variable and classification on sex do not distinguish sex from gender. The variable 'Sex of person' is defined as:

> **Sex** refers to whether the person is male or female.

> **Person** refers to an individual and is the unit of analysis for most social statistics programs.

> ### Classification of Sex

> Male
> Female

For the 2016 Census, Statistics Canada allowed respondents the option to skip the sex question by leaving it blank. Respondents could indicate why they had left the question unanswered in the comments section at the end of the questionnaire.

b. Questionnaire Testing and Proposed Changes

Based on expert advice, on the results of the focus groups held in fall 2016, and the cognitive testing in early 2017, it is recommended that a two-step approach be tested for the Census of Population test in 2019. The two steps involve two questions: one on sex as sex assigned at birth, and one on gender with an open-text field as a third response. The rationale for this are many:

- The need to maintain the sex variable for the purpose of continuity in time series, as it is too early to tell if a question on gender could replace a question on sex for gender-based analysis;

- The need to test if the gender-minority population can be identified adequately to address the data gap with the two questions enabling the identification of those whose sex and gender differ; and
- The need to have gender-inclusive questions in the questionnaire.

For surveys other than the Census of Population, the question on sex is expected to be replaced by a question on gender except where the information on sex is needed.

Sex-disaggregated data have been the starting point for producing gender statistics. This is recognized by the United Nations Statistics Program as one of the four requirements for producing gender statistics. Statistics Canada is Canada's major source for gender statistics, which are used by federal departments to fulfill their commitment to conduct gender-based analysis on programs, policies, services and initiatives. In addition, the sex data are needed to produce timely and accurate population estimates for provinces and territories on a yearly basis. Population estimates are used to satisfy over 30 statutory requirements, the most important being the Federal-Provincial Fiscal Arrangements Regulations, which include the Canada Health and Social Transfers, the Equalization Program and the Wait Times Reduction Transfer, as well as the Territorial Formula Financing. Population estimates are also used to allocate federal seats to provinces and territories under the Fair Representation Act and must be used in connection with other legislation such as the Canada Pension Plan Act, the Canada Pension Plan Investment Board Act, the Canada Student Loans Act, and the Canada Student Financial Assistance Act.

During the cognitive and focus group testing, transgender and non-binary participants indicated that they wish to have a gender-inclusive question where they have the option to identify their own gender.

A single-measure approach based on gender only will underestimate the gender-minority population. For example, in the 2016 focus group testing, a minority of transgender participants identified themselves as transgender. In other words, without the two-step approach with the sex-at-birth question, situations where the sex-at-birth differs from gender will not be captured, and the transgender population will be undercounted or underestimated.

The two-step approach has been tested in previous studies. The cognitive testing held in 2017 confirmed that the two-step approach works well with both the cisgender[4] and transgender population. This approach is also recommended by experts in the measurement of gender (Brown, Herman and Park, 2017; and Scheim and Bauer, 2015).

Based on the changes in Canadian society and legislation, and recommendations of the focus group testing, Statistics Canada anticipates that surveys will implement either the two-step approach or a single question on gender, depending on data needs. The Census of Population is potentially large enough to allow for the reporting of statistics on the gender-minority population. A two-step approach in the census would allow for the identification of this population. However, maintaining the question on sex will allow for better comparability of data between Census 2021 and previous censuses. Because gender (as a single question) has not been introduced formally in previous censuses of population in Canada, the two-step approach mitigates the risk of introducing an approach that may impact historical trends.

Starting in 2018, the surveys in the General Social Survey (GSS) program, where 'sex' is mainly used as a descriptive variable, are expected to replace 'sex' with 'gender' in the household roster for all household members. GSS surveys requiring both 'sex' and 'gender' for more in-depth analysis or counts of the transgender population will ask a question on 'sex assigned at birth', followed by a question on

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[4] Cisgender describes persons whose gender matches the sex that they were assigned at birth.

'gender'. Response categories to the gender question in the roster will be 'Male', 'Female' and 'Or please specify'.

Proposed questions

The proposed questions for the two-step approach are:

1) **What was your sex at birth?**

   Sex refers to sex assigned at birth.

   ☐ **Male**

   ☐ **Female**

2) **What is your gender?**

   Gender refers to current gender which may be different from sex assigned at birth and may be different from what is indicated on legal documents.

   ☐ **Male**

   ☐ **Female**

   ☐ **Or please specify**

   ↳ **Specify your gender here**

   [   ]

c. Proposed standard for sex of person

Statistics Canada plans to revise the current variable definition for sex, and introduce a new variable and classification for gender. Guidelines for use of these standards are expected to specify that information on sex be collected only when needed.

The current variable for sex does not explicitly define whether the intent is to measure sex or gender. The standards for sex are expected to be revised to indicate that sex refers to sex assigned at birth. With the possibility of proxy reporting and for consistency with the definition of the gender standard, the definitions of the classification items include the term 'reported as'.

The inclusion of 'intersex' in the classification is being considered. Classification items at any level should be mutually exclusive and exhaustive in accordance with the Statistical Classification Model of the Generic Statistical Information Model. Adding the intersex category to the classification on sex would make it exhaustive. In addition, in the focus group testing, more than half the participants believed that the 'intersex' option should be included. However, it is not evident that there will be sufficient responses to allow for publication of data on intersex, even from as large a survey as the Census of Population. In addition, although there is litigation to change the sex designations on birth certificates, vital statistics

data on intersex is not broadly available from the provincial and territorial agencies in Canada. At the time of writing of this paper, the proposal is that the inclusion of intersex as a category in the classification of sex be reviewed when information on intersex becomes more widely available in vital statistics data in Canada.

Proposed standard definition for sex of person

Sex refers to sex assigned at birth. Sex is typically assigned based on a person's reproductive systems and other physical characteristics and is usually documented on the person's birth certificate.

Person refers to an individual and is the unit of analysis for most social statistics programmes.

Proposed classification of sex

Code   Category

M   Male
        Male includes persons who were reported as being of male sex. Sex refers to sex assigned at birth.

F   Female
        Female includes persons who were reported as being of female sex. Sex refers to sex assigned at birth.

d. Proposed standard for gender

A person's gender identity and gender expression can vary with time. Focus group testing in 2016 indicated that a person's response on gender questions can also vary with the context in which the question is answered (private or public, directly or by proxy). It is proposed that this be reflected in the definition. The proposed standard for gender indicates responses provided whether directly by the person in question or by proxy. To reflect this, the term 'reported as' is used in the definitions.

Two classifications are proposed using the gender variable. The first classification is suitable for the question on gender only. Data on the second classification can be derived from surveys where the two-step question is used. Both classifications can be used for administrative data. With the potential for increased use of administrative data for deriving statistical information and the increasing likelihood of gender being collected in administrative data sources, this is an important consideration.

Proposed standard definition for gender of person:

Gender refers to the gender that a person internally feels ("gender identity" along the gender spectrum) and the gender a person publicly expresses ("gender expression") in their daily life including at work, while shopping or accessing other services, in their housing environment or in the broader community. A person's current gender may differ from the sex a person was assigned at birth (male or female) and may differ from what is indicated on their current legal documents.

Person refers to an individual and is the unit of analysis for most social statistics programs.

Proposed classification of gender:

Code   Category

M   Male gender
        Male gender includes persons whose gender was reported as male. This includes
        cisgender and transgender persons who were reported as being male.

F   Female gender
        Female gender includes persons whose gender was reported as female. This includes
        cisgender and transgender persons who were reported as being female.

X   Gender diverse
        This category includes persons whose gender was reported as being other than male or
        female. It includes persons who were reported as being unsure of their gender, people
        who were reported as both male and female, or neither male nor female.

Proposed classification of cisgender and transgender:
This classification is derived from information on two dimensions: sex and gender.

Code   Category

C   Cisgender
        This category includes persons who have reported that their gender is the same as their
        sex assigned at birth.

CM   Cisgender Male
        This category includes persons whose sex was reported as male and whose
        gender was also reported as male.

CF   Cisgender Female
        This category includes persons whose sex was reported female and whose gender
        was also reported as female.

T   Transgender
        This category includes persons whose sex was reported as female and whose gender was
        reported as other than female or persons whose sex was reported as male and whose
        gender was reported as other than male.

TM   Transman
        This category includes persons whose sex was reported as female and whose
        gender was reported as male. It also includes persons whose gender was
        indicated as transman.

TF   Transwoman
        This category includes persons whose sex was reported as male and whose
        gender was reported as female. It also includes persons whose gender was
        indicated as transwoman.

G   Gender, n.e.c.
This category includes persons who were not classified elsewhere in this classification. .
It also includes persons who were reported as being unsure of their gender or people who
were reported as both male and female, or neither male nor female.

To show the difference between the Statistics Canada definitions of sex and gender, a link referencing the gender variable will be included with the information disseminated on the sex variable.

4. Conclusion

In Canada, gender identity and gender expression have been recognized, and added to the list of prohibited grounds of discrimination in the *Canadian Human Rights Act*. Distinguishing the concepts of sex, gender identity and gender expression in legislation recognizes that not everyone's sex assigned at birth aligns with their gender identity and gender expression. The lack of data on the gender-minority population is considered a data gap that contributes to the lack of knowledge about the existence of this population. Closing this data gap will allow for greater understanding of the experiences of the gender-minority population and promote the formulation of policy to address their concerns.

Surveys where sex is used as a descriptive variable are expected to replace 'sex' with 'gender' in the household roster for all household members in the GSS. In some surveys, the two-step approach may be used as a transition measure before transitioning to only the gender question, to mitigate the risk of introducing an approach that may impact historical trends. Surveys requiring both 'sex' and 'gender' for more in-depth analysis or counts of the transgender population are expected to use a two-step approach with a question on 'sex at birth', followed by a question on 'gender'.

Standards are being developed to support the 2021 Census and other surveys:

- A new variable and classification for gender with three categories (Male, Female, Gender diverse) are expected to be introduced;

- The variable for sex is expected to be amended to clarify the definition of sex as being sex at birth;

- A new classification of Cisgender and Transgender is expected to be introduced.

The last classification will support the publication of data on the gender-minority population (where there are sufficient numbers to allow publication of the data). The inclusion of the intersex category in the classification of sex remains an outstanding question. Further consultation with data users and further testing of the sex and gender questions are expected before finalizing the classifications and recommended questions for surveys.

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