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**Chair**

**Ms. Marie-Claude Morin**



## Standing Committee on the Status of Women

Tuesday, October 23, 2012

• (0850)

[Translation]

**The Chair (Ms. Marie-Claude Morin (Saint-Hyacinthe—Bagot, NDP)):** Good morning, everyone. I welcome you to this 45th hearing of the Standing Committee on the Status of Women.

Today, we are going to continue our study on sexual harassment in the federal workplace.

During the first hour, we shall hear from Ms. Caroline Cyr and Ms. Judith Buchanan, from the Department of Human Resources and Skills Development. We also welcome Ms. Elizabeth MacPherson, from the Canadian Industrial Relations Board. Ms. MacPherson is in contact with us by videoconference, since she is in Toronto.

Each organization will have 10 minutes at their disposal. Afterwards, we will have a question period.

We will begin with the representatives of the Department of Human Resources and Skills Development.

You have 10 minutes.

[English]

**Mrs. Caroline Cyr (Director General, Workplace Directorate, Labour Program, Department of Human Resources and Skills Development):** Thank you for the opportunity to come and speak to you today on behalf of HRSDC and the labour program.

The labour program administers the Canada Labour Code, which covers labour relations, which is part I, occupational health and safety, which is part II, and labour standards, which is part III, for federally regulated, private sector employers. For part II, it's important to note that we have extended jurisdiction and we also cover the federal public sector, while for parts I and III we do not.

Today I want to focus my opening remarks on how occupational health and safety regulations and labour standards obligations address sexual harassment concerns in the workplace. Both occupational health and safety and labour standard obligations are a shared responsibility between the labour program and employers. That's an important point.

The labour program sets the legislative and regulatory framework for employer policies. We educate workplace parties, and we enforce the Canada Labour Code requirements via inspections and handling of complaints. Employers are responsible for complying with the requirements of the code and for administering workplace policy. In this case it's the policies that address violence in the workplace and sexual harassment. This includes investigating and responding to

incidents of violence in the workplace, as well as allegations of sexual harassment.

With regard to occupational health and safety, the Canada occupational health and safety regulations, which were introduced in 2008, establish a regulatory framework for violence prevention in the workplace. They apply to federally regulated workplaces, including the federal public sector. In the case of the federal public service, the Treasury Board policy on harassment prevention and resolution incorporates these regulations by reference. I understand that Treasury Board witnesses were in front of the committee last week, so I know you've heard from them about their policy.

Workplace violence is defined as “any action, conduct, threat or gesture of a person towards an employee in their workplace that can reasonably be expected to cause harm, injury or illness to that employee”. While this policy requirement has a broader application to address bullying and other types of aggressive behaviour in the workplace, it can also be applied to sexual harassment toward an employee.

In establishing a violence prevention program, an employer must consult with its workplace health and safety committee, which comprises employee representatives, and assess the workplace to determine the potential workplace violence issues. The workplace violence program does not need to address sexual harassment specifically and focuses more broadly on all forms of workplace violence.

In addition, each employer must develop and post a workplace violence prevention policy. This should include a commitment to providing a violence-free workplace and a statement that bullying, teasing, and abuse and other aggressive behaviour will not be tolerated; an indication that the employer will share any information concerning the factors that contribute to workplace violence; assistance for employees who've been exposed to workplace violence; and finally, procedures to follow should an employee be subject to workplace violence.

Employees also have a responsibility in creating and sustaining a violence-free workplace. They're to report cases of violence to the employer, who's responsible for recording and investigating the act of violence. It goes without saying that they must abstain from violence or be subject to disciplinary actions.

It's important to know that part II of the code does not require employers to inform the labour program of any employee complaints of violence in the workplace, including sexual harassment. They're responsible for dealing with any such complaint, and should employees not be satisfied with the results of the employer's investigation, then they can file a complaint with the Canadian Human Rights Commission, which I understand also presented in front of the committee last week.

I'll now turn to part III of the code, which establishes an employee's right to employment free of sexual harassment and requires employers to prevent sexual harassment in the workplace. This applies to federally regulated workplaces, but does not cover the public sector.

● (0855)

In comparison with the federal public service, federally regulated workplaces are required to have a policy that addresses sexual harassment specifically, while the Treasury Board policy on harassment prevention and resolution addresses all types of harassment.

**The code defines “sexual harassment” as:** any conduct, comment, gesture or contact of a sexual nature

(a) that is likely to cause offence or humiliation to any employee; or

(b) that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.

Every employer, after consulting with employees and their representatives, must issue and post a policy on sexual harassment. The policy must contain the definition of “sexual harassment”, a statement entitling employees to employment free of sexual harassment, a statement specifying the employee will make every reasonable effort to prevent sexual harassment, a statement confirming that the employee will take appropriate disciplinary measures against any person who subjects any employee to sexual harassment, a statement explaining how complaints of sexual harassment may be brought to the employer's attention, a confidentiality statement, and a statement informing employees of their rights to seek redress under the discriminatory practices provisions of the Canadian Human Rights Act.

The compliance activities under the code with respect to both sexual harassment and violence prevention in the workplace range from proactive counselling and inspections to reactive investigations of employees' complaints, and finally, as a last recourse, to prosecutions.

The labour program utilizes inspections as one of the program activities to ensure employers' compliance. In cases where violations are noted by the inspector, employees are encouraged to voluntarily comply through education and counselling.

Under part II of the code, a labour program officer may direct an employer to comply with the regulatory requirements for a violence prevention program. In accordance with provisions of part II of the code, an employee may submit a complaint to their employer using the internal complaint resolution process, which promotes the internal resolution of complaints by the workplace parties. Only unresolved issues with respect to the implementation of the violence

prevention program would be reported to the labour program for investigation.

Under part III of the code, an employee may file a complaint with the labour program alleging that the employer has not developed or posted a sexual harassment policy in the workplace. The complaint would be investigated and all attempts would be made to educate and counsel the employer with the goal of obtaining voluntary compliance.

Under both parts II and III of the code, individual complaints of sexual harassment are referred to the Canadian Human Rights Commission to be addressed under the discriminatory practices provisions of the Canadian Human Rights Act, as they are the primary authority to address discrimination in the workplace.

The labour program has received some complaints where employers were not compliant with the violence prevention regulations and sexual harassment provisions of the code. These mostly related to the lack of policies, and in all cases, employers were able to correct the situation and comply with the code.

Over the last five years, from 2007 to 2012, the labour program received only two complaints with respect to sexual harassment provisions under part III of the code, and both complaints were unfounded.

In conclusion, the labour program strives to create Canadian workplaces where trust and respect for everyone are the norm. We're committed to protecting the fundamental right of workers and employers to work in an environment that is safe and free of violence and sexual harassment.

● (0900)

[*Translation*]

**The Chair:** Thank you very much.

We shall now give the floor to Ms. MacPherson.

You have 10 minutes to make your presentation.

[*English*]

**Ms. Elizabeth MacPherson (Chairperson, Canada Industrial Relations Board):** Thank you very much.

I'd first like to thank the committee for allowing me to appear by video conference. It's much appreciated.

I am the chair of the Canada Industrial Relations Board, which is responsible for the administration, interpretation, and enforcement of part I of the Canada Labour Code. Part I governs the relationship between unions and employers in the federally regulated private sector.

Ms. Cyr has already given you an indication of what that federally regulated private sector encompasses.

Under part I, the board hears applications related to the acquisition and termination of bargaining rights, unfair labour practice complaints, and the maintenance of activities that are essential to public health and safety in the event of a work stoppage.

We very rarely hear any cases directly related to harassment of any kind, let alone sexual harassment. The only way in which those cases tend to come before the board is in respect to an obligation that unions have under the code to fairly represent all of the employees in a bargaining unit. The union is obliged to act in a manner that is not discriminatory, in bad faith, or arbitrary.

I had a survey done of the cases since the amendments to the Canada Labour Code—

[Translation]

**The Chair:** I apologize, Ms. MacPherson, but I have just been told that there is no sound in the room. I think that we have a minor technical problem. I am going to ask you to wait a bit.

We are going to suspend the hearing, just for the time it takes us to resolve this technical problem.

● (0900) \_\_\_\_\_ (Pause) \_\_\_\_\_

● (0900)

**The Chair:** We shall resume our meeting, Ms. MacPherson. It seems that the earphones are working, even though we don't have sound in the room.

Would the committee like Ms. MacPherson to start over again? I see that the answer is yes.

And so Ms. MacPherson, we are going to ask you to start over again. We do apologize for this inconvenience. I am going to set the clock back to zero again, and so once again you have 10 minutes at your disposal.

[English]

**Ms. Elizabeth MacPherson:** Thank you, Madame Morin.

Again, thank you to the committee for allowing me to appear by video conference, but I regret the difficulties that have occasioned for the committee.

To reiterate, I'm the chair of the Canada Industrial Relations Board, which is the body responsible for the interpretation and enforcement of part I of the Canada Labour Code. Part I deals with such matters as the acquisition and termination of bargaining rights, unfair labour practices, and the maintenance of activities that are essential for public health and safety in the event of a work stoppage.

Our duties mainly revolve around the relationships between unions and employers. It's very rare that we would have a case involving harassment or sexual harassment coming in front of the board. Those kinds of complaints may, and very rarely do, come to us peripherally, as part of a complaint against a union that would be filed under the duty of fair representation provision of the code. That section of the code requires unions to act in a manner that is not arbitrary, discriminatory, or in bad faith with respect to their representation of the employees vis-à-vis their rights under a collective agreement.

I caused a study to be done of the jurisprudence of the board over the last dozen years or so. We were only able to find about 30 cases where an individual had complained about the way their union behaved with respect to allegations of sexual harassment. Interestingly enough, the majority of those complaints were from the

harasser, who was complaining that the union didn't do enough to defend him or her against the allegations of harassment.

There are some cases where an individual who was harassed complained that the union wasn't doing enough to represent them, and of course those are the kinds of cases that the board would hear and determine.

As I said, though, it's very rare that we have any involvement whatsoever in the subject matter of your inquiry.

I'm quite prepared to take any questions you may have.

● (0905)

[Translation]

**The Chair:** Thank you very much, Ms. MacPherson.

We will now move on to our question period. We'll begin with the government side.

Ms. Truppe, you have seven minutes.

[English]

**Mrs. Susan Truppe (London North Centre, CPC):** Thank you for your time in coming today for this important study. We really appreciate learning more about each individual area.

My questions are for HRSDC and the labour officials.

Caroline, in your opening remarks, you indicated that there's an education component on the occupational health and safety and labour standards as they pertain to workplace violence, and that includes sexual harassment. Could you elaborate on that, and explain to the committee the types of training and education provided on these standards and who's responsible for that training? Are employers primarily responsible for ensuring that employees receive training and are properly educated, or who does that?

**Mrs. Caroline Cyr:** It is a shared responsibility. The best way to define how to divide those responsibilities, and how we use the training and how we define, educate, and do counselling is when it comes to the actual training component. The training of the employees falls within the responsibility of the employers, whereas the educational piece falls within the labour program.

I'll go a little bit more into more detail for each of those elements.

**Mrs. Susan Truppe:** Sure.

**Mrs. Caroline Cyr:** The employer has the responsibility to educate their employees on acceptable behaviour in the workplace. The responsibilities are a little bit different under part II than under part III, so I'll present them separately.

Under part II, the occupational health and safety component, in accordance with the violence prevention regulations, all employees in a workplace unit must receive training from their employer in any skills that would allow them to identify, prevent, or avoid any workplace violence. That can include sexual harassment, as I mentioned earlier.

The employer must provide employees with the information, the guidelines, and the training at least every three years, as a minimum. That's in the legislation.

Training and education are essential when we strive to have a workplace that is free from violence and sexual harassment.

Under part III, the employer is responsible for providing a workplace that's free from sexual harassment. I defined that earlier in my presentation. The employer has to make every reasonable effort to maintain a workplace that is free of sexual harassment, and that often involves ensuring through their policy that they can provide the right information and the right training to their employees.

With respect to what the labour program's responsibilities are, we provide education and counselling to the federally regulated employers, either upon an employee's request to do so or as part of our duty to inspect the workplaces. During our inspections, the officers will explain the requirements of the regulations, and will share the available tools, such as pamphlets, which can provide an overview of the provisions in question. In some instances, we have what we call IPGs, interpretation, policies and guidelines documents. If we have them, these are brought to the attention of the employer to comply with.

As an example, under violence prevention, the labour program has created a guide, which is on our website and which I'll be happy to provide a link to, that is meant to assist employers, members of a policy or workplace committee, and health and safety representatives in preventing violence in the workplace. The guide outlines very practical procedures, almost like a step-by-step of how to comply with the requirements of the code, so that they can follow those instructions in implementing the prescribed steps for the prevention of violence. It includes the step of providing employee training and education.

● (0910)

**Mrs. Susan Truppe:** Thank you, Caroline.

My next question is on a couple of things you said. One of them was that they have to train, I think, every three years.

**Mrs. Caroline Cyr:** To refresh, yes.

**Mrs. Susan Truppe:** To refresh, so there's no training whatsoever for an entire three years. If you're new, you get trained, and then nothing else happens for three years?

**Mrs. Caroline Cyr:** The policies always have to be posted and visible. It doesn't mean there is no training. The minimum requirement set by the code is every three years.

**Mrs. Susan Truppe:** Okay.

**Mrs. Caroline Cyr:** It's up to employers to decide if they want to increase the frequency. Of course, when you have new employees who come into the workforce, they would either go through an orientation program or they would be informed of what's available.

**Mrs. Susan Truppe:** When you were speaking earlier, you mentioned that the employers develop and publicly post their violence prevention strategies. How do we ensure that these strategies in the workplace are working? If they're developed by an employer and posted, how do we know for sure that the employees are aware? Is there some type of follow-up done to ensure that the rules under the code are being followed by the employers with respect to the policies? Is there some type of accountability?

**Mrs. Caroline Cyr:** We do follow up. That is part of our compliance activities. We'll follow up either through proactive

measures, like inspections, or through a reactive measure. If we receive a complaint from an employee, then we'll do an investigation. We will verify, during inspections or investigations, whether the provisions of the code were adhered to.

Since 2008, when the provisions under the violence prevention regs were introduced, the labour program has conducted about 700 inspections, with the goal of ensuring that the employer's violence prevention programs are developed and functional. I believe there are now 9,300 employers in the federal jurisdiction, so we can't visit them all in one year.

**Mrs. Susan Truppe:** Sure.

**Mrs. Caroline Cyr:** We have what we call an intervention model, which enables us to target high-risk industries such as the road transport sector. We target our inspections in those areas first and foremost to ensure that the policies are adhered to.

**Mrs. Susan Truppe:** Is the inspection system complaint-based?

Oh, we're done. Thanks.

[*Translation*]

**The Chair:** Ms. Truppe, unfortunately your speaking time has expired.

I now give the floor to the NDP side.

Ms. Ashton, you have seven minutes.

[*English*]

**Ms. Niki Ashton (Churchill, NDP):** Thank you very much.

I wanted to follow up on your last comment, Ms. Cyr. You mentioned that the rail industry was a high-risk industry. Is that in a context of harassment in general?

**Mrs. Caroline Cyr:** No, it's in an overall context. When we look at our data, if it's under part II, it's how many hazardous occurrences, fatalities, and investigations there are. Under part III, it's how many investigations we do. We then determine which ones are the high-risk industries.

● (0915)

**Ms. Niki Ashton:** Okay. Thank you for that.

I'm wondering if you have an idea of which sectors or workplaces might be high-risk for sexual harassment.

**Mrs. Caroline Cyr:** Because we don't collect data specifically about sexual harassment, we're not able to provide you with that information. The data collection we have is specific to what our intervention activities are. If we go into a business or workplace to do an inspection or an investigation, we'll record that. With respect to violence prevention, we don't record the type of violence. We don't keep data on that.

What we can tell you is how many inspections we've done, how many complaints there were for violations under violence prevention. Beyond that, we don't have any breakdown.

**Ms. Niki Ashton:** That follows from the presentation from Treasury Board last week. They don't have data on how much sexual harassment occurs in the federal workplace. While a figure of 29% was made for general harassment complaints, there's actually no information on how much of that is sexual harassment.

When we're talking about something as serious as sexual harassment, one would hope that the information would be available at anyone's fingertips. Is HRSDC working at asking that question? Recognition exists for hazardous occurrences. Is there an interest in finding out exactly what kind of harassment takes place in certain workplaces, specifically sexual harassment?

**Mrs. Caroline Cyr:** Our mandate under both part II and part III is very specific. We keep data that is in line with what we're mandated to do under the legislation. We have data on the number of occurrences where we've been pulled in.

An important point of clarification is that we provide the legislative and regulatory framework, and we provide the education and counselling, but it's up to the employers to ensure that they adhere to the code.

As part of that division of responsibilities, there's nothing in the code that mandates the employers to report to us when there is violence in the workplace or where there are complaints of sexual harassment. That information never comes back to us. So even if we had data, it wouldn't be indicative of the whole universe, because the employers don't have to tell us what's happening in their workplace.

**Ms. Niki Ashton:** Thank you for that. That seems to be a gap. Certainly our committee's in a position to recommend how we could deal with such gaps.

I want to move to the question of the times we're in, specifically in terms of Human Resources and Skills Development Canada.

In September, 1,700 more jobs were lost in HRSDC alone across the country. We've talked a lot in this committee about prevailing cultures in the federal workplace and how they might assist in harassment taking place and also in people choosing not to report harassment.

I'm wondering, in the context of job stress and workplace adjustment, if you have a sense of not just sexual harassment but of perhaps greater stress on workers and maybe a sense that they don't want to come forward on any harassment that might be taking place.

**Mrs. Caroline Cyr:** Unfortunately, as the labour program, we are the regulator. That information falls within the purview of the employers.

You mentioned specifically the public service cuts. Treasury Board Secretariat, as the employer of all public servants, would be in a better position to answer that question. It falls outside the purview of the labour program.

**Ms. Niki Ashton:** Sure.

How about in terms of applying the kind of work you do with respect to HRSDC employees working on the ground in Service Canada offices? There are potentially some challenging situations, particularly in the times we're in, with respect to the cuts to EI, pension changes, and that kind of thing.

I happen to know people who work for Service Canada. I'm wondering about the kinds of situations they're facing and how, in fact, HRSDC might be responding to perhaps increased stress and the potential for harassment.

● (0920)

**Mrs. Caroline Cyr:** Right.

Again, even though we are HRSDC, the labour program also regulates HRSDC, the same way it would regulate any other federal department. In that respect, we would take the same role vis-à-vis our own department.

The department is responsible for ensuring that they comply with the elements of the code, which means that they have to have a policy with respect to violence in the workplace. As part of their responsibility, they have to be able to identify any factors that may come into play in increasing the risk of workplace violence. That would be work done by each of the employers, whether that's HRSDC or a trucking company that crosses borders. It's up to the employers to do that. That certainly falls within their roles and responsibilities. Ours is to ensure, when we do inspections, that they have those policies in place, that they're posted, and that the training has taken place, for instance. If we receive complaints, we can make sure that they were indeed in compliance with the elements of the code.

If we receive complaints about sexual harassment, we don't actually—

[*Translation*]

**The Chair:** Unfortunately, Ms. Cyr, I am going to have to stop you here. Thank you very much.

Ms. James now has the floor and has seven minutes at her disposal.

[*English*]

**Ms. Roxanne James (Scarborough Centre, CPC):** Thank you, Madam Chair.

Thank you to our guests for being here today.

I listened to your speeches. Part of the speech is in printed form, and I'm going to read from it. It says, "Every employer, after consulting with employees or their representatives, must issue and post a policy on sexual harassment. The policy must contain"—and the first one is—"a definition of sexual harassment". There's a series of points thereafter.

I'm a little concerned, because the way this is worded seems to imply that employers can actually have different types of policies posted. When I think of the definition of "sexual harassment", I'm a bit concerned that one definition from one employer may be different from another definition from a different employer.

Is sexual harassment not sexual harassment? That's the first part of the question. Also, who actually monitors the actual policy that's posted to make sure that it is in compliance and that one employer's policy is not way out of line compared to those of other employers that are also monitored or governed by this code?

It's a two-part question. Thank you.

**Mrs. Caroline Cyr:** We provide a definition of "sexual harassment" under part III of the code. The employer's policy has to be aligned with that. Although there might be some nuances from employer to employer, they have to be aligned with what's in the code. That's the safeguard, if you will, in that respect.

Part two of your question is about how we ensure that they have it and how we ensure that they don't do something other than what they're required to do. Is that a fair summary of what you're asking?

**Ms. Roxanne James:** Yes, it is.

**Mrs. Caroline Cyr:** That's part of the follow-up we do, as I mentioned earlier. We will do a proactive follow-up. It's what we call the inspections. We go into the workplace and ensure that the employers are compliant with the requirements of the code.

We can go into the workplace and look at a variety of things. It doesn't necessarily mean that our visits are targeted only to violence prevention. We might be going there for something else and would look at the violence prevention at the same time.

We have those follow-ups, and we ensure that, indeed, the policy statements and the definitions, all of these things, are aligned with the provisions of the code, either part III for sexual harassment, or violence prevention in part II. If they're not, this is where we play our education and counselling role. We work with employers.

Generally speaking, we are successful through what we call an assurance of voluntary compliance, AVCs, where they voluntarily agree to comply with that. After that agreement, we will do a follow-up, or they will be asked to send us whatever is lacking or whatever needs to be redressed.

• (0925)

**Ms. Roxanne James:** Thank you. That actually leads to another set of questions, but I want to come back to this policy the employers actually create.

You've indicated that you actually give them some parameters. You provide the definition of "sexual harassment". That's good, but what would be the variations you would see in certain policies among different employers?

It looks as though the employer needs to consult with employees and their representatives to come up with a tailor-made policy that fits their organization. I'm just wondering, if they have to include all of these different points, what would you see as a variance between one employer and another, and just the Canada Labour Code providing what's required?

**Mrs. Caroline Cyr:** I can't answer the question right now, because we don't actually have a repository of all of the employers' policies and policy statements. There are almost 10,000 employers, so you can imagine the nightmare this would create for us to keep those, and this is one regulation.

We don't have that information in terms of being able to offer a comparator.

**Ms. Roxanne James:** I was just curious to know where you would see the variations, but if you can't answer, that's fine.

Going back to your statement regarding the inspections, and I know that Ms. Truppe asked some questions regarding that, as well, you indicated that you had made 700 inspections.

**Mrs. Caroline Cyr:** Under part II, yes.

**Ms. Roxanne James:** You also mentioned that when there's a complaint, you initiate an inspection. Are they random inspections? Are they annual inspections or are they done every two years? Do you hit the 10,000 different organizations? How do you pick and choose?

**Mrs. Caroline Cyr:** We have this intervention model. This is under part II, occupational health and safety, the violence prevention regulations. We identify which ones are our high-risk industries. We identify those through an analysis of data in terms of which sector, rather than employer-specific, has the most hazardous occurrences or the most fatalities, in that sort of scope. Based on that, we identify the top five sectors and we target our interventions to those sectors.

I don't have all of them, but I could come back to the committee with a written response. We have road transport. We have longshoring. We have rail. I think there are two more. I could—

**Ms. Roxanne James:** Is it safe to say that if you were not one of the top five sectors, this particular organization or department would never have an inspection?

**Mrs. Caroline Cyr:** I don't think that's safe to say. You may not have an inspection this year—

**Ms. Roxanne James:** —or regularly.

You've also mentioned high-risk industries based on different sectors. Why are those sectors, and you named a few, considered high risk with regard to sexual harassment and not necessarily deaths or injuries in the workplace? What would define a high-risk sector?

**Mrs. Caroline Cyr:** Those sectors are defined as high risk not specifically to sexual harassment. We don't have an identification of high risk based on sexual harassment because we don't collect data on that.

[Translation]

**The Chair:** Unfortunately, Ms. Cyr, I am going to have to interrupt you because Ms. James' speaking time has expired.

[English]

**Ms. Roxanne James:** It was mentioned that something could be provided to the committee thereafter. If we could have that as well, perhaps you could make a note. Thank you very much.

**Mrs. Caroline Cyr:** For the high-risk industries?

**Ms. Roxanne James:** Yes.

[Translation]

**The Chair:** There is no problem. Thank you.

It is now Ms. Sgro's turn.

You have seven minutes.

[English]

**Hon. Judy Sgro (York West, Lib.):** Thank you to our witnesses for coming this morning.

You can read all of these wonderful words and policies, and so on that get set up, which is what you're doing as far as the labour side of it, and then it's up to employers to come to you if they're having an issue, if there's been a complaint made to them that they can't resolve. You said that in five years you've only received two complaints. The employer has no time obligation to bring those complaints to you. Do I understand that?

**Mrs. Caroline Cyr:** It's actually the employees who can complain to us. If the employees are complaining to their employer, the employer, in setting up the policy, must provide an explicit explanation to employees of what to do if they encounter sexual harassment in the workplace. They would go to their employers. You're correct. The employees don't have to report back to us.

• (0930)

**Hon. Judy Sgro:** In the last five years, have there only been two?

**Mrs. Caroline Cyr:** There were two complaints, and both were with respect to whether or not the employer had created a policy or posted a policy. When we went in to investigate, we found that in fact that wasn't the case, that there was a policy, or that the policy was posted. That's what we mean by the complaints having been unfounded.

**Hon. Judy Sgro:** Does that not concern you, given the fact that Treasury Board had told us it was about 29% for complaints, and when we look at the statistics, the number of complaints of harassment, only two got to the labour board? Does that not raise a concern that there may be a bigger problem, that somehow there's a disconnect between the labour board in your program and various federal departments?

**Mrs. Caroline Cyr:** We make sure that we deliver our mandate appropriately and efficiently. In doing so, we live within the constraints of that mandate.

**Hon. Judy Sgro:** When was that mandate last reviewed?

**Mrs. Caroline Cyr:** For part II, under occupational health and safety, the last review was in 2000. For part III, I believe it was in the mid-1980s. I don't have the specific date. I can come back to the committee with that specific date.

**Hon. Judy Sgro:** It has been quite a while.

**Mrs. Caroline Cyr:** For part III.

**Hon. Judy Sgro:** For part III, which is the area we're very concerned about.

**Mrs. Caroline Cyr:** That speaks specifically to sexual harassment.

**Hon. Judy Sgro:** Is the Canada Labour Code and the work that you've put together for all federally regulated employees?

**Mrs. Caroline Cyr:** Indeed. All federally regulated employers and employees.

**Hon. Judy Sgro:** Exactly.

Has the RCMP or employees of the RCMP ever been in contact with you or your department?

**Mrs. Caroline Cyr:** I would have to look into that. Specifically, they are covered under part II, occupational health and safety. They are not covered under part III of the code.

**Hon. Judy Sgro:** You indicated that you've only had two complaints in the last five years, from 2007 to 2012. I assume then that you must not have received anything directly from the RCMP or it would have been reflected.

**Mrs. Caroline Cyr:** I can assure you that for the two complaints under part III, they could not have been made by the RCMP because they're not covered under part III.

**Hon. Judy Sgro:** They're not covered under part III.

**Mrs. Caroline Cyr:** They're not covered under part III, only under part II, occupational health and safety. For that, that's the violence prevention that encompasses sexual harassment but isn't specific to it.

**Hon. Judy Sgro:** Yes, because I would find it difficult, when you talk about violence in the workplace and then you try to tie that in to sexual harassment, to see how people would view that.

It seems to me that your mandate really needs a very serious update to better reflect some of the challenges we're facing out there today, specifically for women, and the whole bullying and intimidation issues that aren't violence, as you would call violence in the workplace, but are intimidation and so on. A recommendation that I think the committee might want to make is that you update that. Certainly, it doesn't gel with the numbers we heard from Treasury Board as to what's really happening in various departments and agencies.

One of the smaller agencies we heard about had a 51% complaint ratio, yet none of them got to you. I guess that's not your role, unless the employers are going to come to you, and you've only had two complaints. I find it alarming. I mean, I don't want you to have a whole lot of complaints. I like to think of the federal service as being terrific, which it is, but any huge employer will have lots of challenges, and there are those that are unwarranted complaints. We all know about them, but there are lots of other complaints out there that are clearly warranted. I think if 5% come forward with complaints, it's probable there are 8% or 9% more that could. However, people do not jump into filing complaints against their employer easily. I think there has to be a very serious issue because, right off the bat, you know there is going to be an issue to do with your job future, no matter how much protection we might put down.

Everything sounds wonderful and reassuring in your policies. All the right words are there. We heard all the right words from Treasury Board last week, and yet there is still an alarming number of people coming forward. If 29% come forward, then there's another significant amount that aren't coming forward. It's a bit concerning as we move forward on this in trying to create that culture where people feel comfortable in an environment, because they would be more successful in their jobs if they felt more comfortable. You really don't cover that off when you talk about violence in the workplace.

●(0935)

**Mrs. Caroline Cyr:** I would say it's hard to draw a comparison with the stats that were provided last week since our data is not a reflection of the whole universe, because the employers maintain the responsibility of recording, reporting, and investigating these complaints and do not have to report those to us.

I understand your concern about the fact that we have two complaints under part III, and it looks disjuncted with—  
[Translation]

**The Chair:** I am going to have to interrupt you, because Ms. Sgro's allotted time has expired.

I now give the floor to Ms. Bateman, who has five minutes.

**Ms. Joyce Bateman (Winnipeg South Centre, CPC):** Thank you, Madam Chair.

I would like to share my time between the two witnesses, beginning with Ms. MacPherson.

[English]

Ms. MacPherson, thank you for putting up with our little technical glitches at the start.

I always like to understand the big picture. When you have your employees, you are the chairperson of the Canada Industrial Relations Board. The workplace of the Canada Industrial Relations Board is governed by the values and ethics of the public service and also the rules coming out of Treasury Board as the key employer. Is that correct?

**Ms. Elizabeth MacPherson:** Correct. As an employer in the public service, we are subject to the same rules as Ms. Cyr has described for any government department.

**Ms. Joyce Bateman:** Is your employer Treasury Board?

**Ms. Elizabeth MacPherson:** The employer of the staff of the Canada Industrial Relations Board is Treasury Board, yes.

**Ms. Joyce Bateman:** Yes, so you're governed by that.

You made reference to the fact that over a period of time—and I'm very curious about finding out what period of time that is—there were 30-some complaints, and they weren't from the harasser, but rather from the harasser. Is that what you said?

**Ms. Elizabeth MacPherson:** Let me be more clear.

The board has to interpret and enforce the provisions of part I of the code. One of the provisions of part I is what we call the duty of fair representation. It imposes on unions the obligation to fairly represent every employee in the bargaining unit that the board has

certified them for. They're obliged not to act in a manner that is arbitrary, discriminatory, or in bad faith, with respect to their representation of those employees vis-à-vis their rights under a collective agreement.

I think one piece that has been missing this morning is that in many collective agreements the union and the employer have agreed to non-discrimination and non-harassment policies. An employee who feels they've been subjected to some kind of harassment could also file a grievance. The union has to take that grievance seriously and make a determination as to whether or not it should be brought forward to arbitration.

The employees themselves are entitled to make a complaint to the board if they don't feel that the union has represented them properly, in accordance with the union's obligations under the Canada Labour Code—

**Ms. Joyce Bateman:** That's the 30—

**Ms. Elizabeth MacPherson:** —and those are the kinds of complaints that we would hear.

**Ms. Joyce Bateman:** Is that the 30 cases that you have? Over how many years did those complaints come in, where somebody thought they weren't being represented appropriately by their union?

**Ms. Elizabeth MacPherson:** It was over a 12-year period. I looked at the board's jurisprudence. I was able to identify 30 cases, where sexual harassment was a basis for the complaint and—

**Ms. Joyce Bateman:** Over 12 years you had 30 complaints? Thank goodness you're there so that people on both sides of the complaint have recourse, as it were, and sober second thought.

Over 12 years, you had 30 complaints. Of those 30 complaints, which ones were frivolous and which ones were true complaints that you felt you had to take action on, that they were justified?

●(0940)

**Ms. Elizabeth MacPherson:** On the test that we apply in this case, we're not looking at the merits of the grievance, at whether or not there was sexual harassment. That's not our job. Our role is to tell whether the union—

**Ms. Joyce Bateman:** Gave support—

**Ms. Elizabeth MacPherson:** —fairly represented the employee with respect to whatever that grievance was.

**Ms. Joyce Bateman:** Yes.

**Ms. Elizabeth MacPherson:** We don't look at the merits of the grievance. We look at the union's conduct.

**Ms. Joyce Bateman:** How many of those 30 cases over 12 years were found to be legitimate complaints against the union?

**Ms. Elizabeth MacPherson:** I'd have to go back and look at the results. The—

**Ms. Joyce Bateman:** Could you go back and look at that?

**Ms. Elizabeth MacPherson:** In a sense, that's an under-reporting, because when we get a complaint, our labour relations officers will often try to mediate, and certainly, if there are complaints—

**Ms. Joyce Bateman:** We'd appreciate it, Ms. MacPherson, if you could provide that response in writing.

Meanwhile, I have just a few minutes left, and I want to make sure that I ask the other lady something as well. Thank you very much.

Ms. Cyr—

**The Chair:** You have about 50 seconds.

**Ms. Joyce Bateman:** I have 50 seconds? Then here's what I would very much appreciate.

You mentioned, Ms. Cyr, that you had certain percentages of work done. You made reference to education. You made reference to compliance. You made reference to counselling. I suspect that there are other pieces.

If you would be good enough to let this committee know in writing exactly how your time is spent, it would be interesting to us as we go forward, and it may be a determination as to whether or not we need you to come back for further questions.

[*Translation*]

Is it already over, Madam Chair?

**The Chair:** Your time has expired, Ms. Bateman. You can send in your request in writing. We will make a note of it and Madam Clerk will follow up.

**Ms. Joyce Bateman:** If that is possible, I would appreciate it.

**The Chair:** Thank you.

I now give the floor to Ms. Ashton.

You have five minutes.

[*English*]

**Ms. Niki Ashton:** My question is again for HRSDC. We heard from the Human Rights Commission last week that one of the things we need to see is a culture change, and that it's not enough to have recourse when people come forward with complaints. What's also important is to make sure that we create work environments where these complaints don't take place because sexual harassment doesn't take place.

There was reference to the need for equitable distribution of power within the workplace and to recognize that women in particular have to be in positions of decision-making and power as well.

Are you involved with that kind of work? Do you see a place for that kind of work in what you do?

**Mrs. Caroline Cyr:** I would tell you that we strive, through our role as legislator and regulator, to create workplaces that are respectful, where trust exists, and that are safe, fair, and equitable in that respect. Everything we do is aligned with that mandate.

**Ms. Niki Ashton:** As a follow-up to that, is there any specific reference to ensuring that women are in positions of decision-making in the workplace?

**Mrs. Caroline Cyr:** That falls outside the purview of the labour program, so I'm unable to answer specifically.

The Employment Equity Act looks at the fair representation and distribution of the four employment equity groups. I'm sure you're familiar with the act and what it does and doesn't do. That would be something that's covered by the Minister of Labour.

**Ms. Niki Ashton:** Thank you for that.

Wasn't the act for private employers seeking a federal contract, and it was actually repealed in the last number of months? I know you're referencing the general act for public employers, but also in terms of employers who are seeking federal contracts, was that act gotten rid of?

• (0945)

**Mrs. Caroline Cyr:** Do you mean the Fair Wages and Hours of Labour Act?

**Ms. Judith Buchanan (Manager, Labour Standards, Labour Program, Department of Human Resources and Skills Development):** Are you speaking to the federal contractors program?

**Ms. Niki Ashton:** Yes.

**Ms. Judith Buchanan:** Yes. There will be amendments to that under the Employment Equity Act, but that would be a different set of witnesses that you'd need to speak with because we're not responsible for that legislation.

**Ms. Niki Ashton:** I understand.

Thank you.

[*Translation*]

**Mrs. Sana Hassainia (Verchères—Les Patriotes, NDP):** Thank you.

My first question is for Ms. Cyr or Ms. Buchanan.

What human and financial resources are currently allocated to processing sexual harassment complaints? Do you have any idea? And have these resources changed over the years?

**Mrs. Caroline Cyr:** Are you talking about the amounts of money allocated to that?

**Mrs. Sana Hassainia:** Yes.

**Mrs. Caroline Cyr:** Normally, the word "allocated" has another meaning in the public service. I wanted to make sure that I understood your question.

I will be able to provide specific data for each year later. I would say that there are approximately 80 or 90 inspectors, both for part II, which deals with health and safety in the workplace, and for part III, which deals with labour standards. There are between 80 and 90. I will make sure to follow up on the question concerning the changes over the past five years.

**Mrs. Sana Hassainia:** Are you going to send me that information?

**Mrs. Caroline Cyr:** Yes.

**Mrs. Sana Hassainia:** Perfect.

My second question is for Ms. MacPherson.

Good morning, Ms. MacPherson.

What would you say are the current trends within your organization? Given the cuts that various departments are dealing with, do you see a difference in your workplace?

[English]

**Ms. Elizabeth MacPherson:** The cutbacks in the public service really don't affect the work of our board because our board is responsible for the federal private sector. In terms of the nature of cases coming before the board, they tend to be relatively stable. Applications for certification and our duty of fair representation complaints run typically at about 25% of our workload, and that seems to be consistent. I haven't seen any change in that trend.

[Translation]

**Mrs. Sana Hassainia:** Thank you.

**The Chair:** This concludes our discussion with the first group of witnesses.

Ms. MacPherson, Ms. Cyr and Ms. Buchanan, thank you very much. It was a pleasure to have this discussion with you.

[English]

**Ms. Elizabeth MacPherson:** Thank you.

[Translation]

**The Chair:** Ms. Ambler, did you have a question?

[English]

**Mrs. Stella Ambler (Mississauga South, CPC):** I have a short point of order, Madam Chair.

Through you, Madam Chair, I would like to ask Madam MacPherson a question.

When you're providing the follow-up information that you talked about earlier, perhaps you could give us a bit more information. I felt that after Ms. Bateman was talking about the under-reporting, you had a little more to say. That's something we might want to hear a bit more about. When you're providing us the other data, would you mind—

[Translation]

**The Chair:** That is not really a point of order, Ms. Ambler.

[English]

**Mrs. Stella Ambler:** Sorry, I just wanted clarification.

**The Chair:** It's not a point of order.

If I understand correctly, you want more information.

**Mrs. Stella Ambler:** Yes, a little more information on the under-reporting, as well as the other information if possible. It sounded as though she had more to say about that. We want to hear more about that, if you don't mind.

[Translation]

**The Chair:** Is that possible, Ms. MacPherson?

[English]

**Ms. Elizabeth MacPherson:** Certainly. I would be happy to do that, Madam Chair.

[Translation]

**The Chair:** Fine.

[English]

**Mrs. Stella Ambler:** Thank you.

[Translation]

**The Chair:** Thank you very much.

We are going to suspend the hearing while we change witnesses.

● (0945)

\_\_\_\_\_ (Pause) \_\_\_\_\_

● (0950)

**The Chair:** We shall resume our hearing with our second group of witnesses.

First I would like to welcome our two witnesses, Mr. Christopher Rootham, Partner and Director of Research Labour Law and Employment Law Groups. We also welcome Mr. Steven Gaon, who will be presenting as an individual.

Welcome to everyone. You will each have 10 minutes at your disposal and afterwards we will have a question period.

We will begin with Mr. Rootham.

Mr. Rootham, you have 10 minutes.

[English]

**Mr. Christopher Rootham (Partner and Director of Research, Labour Law and Employment Law Groups, Nelligan O'Brien Payne):** Thank you very much.

By way of introduction, my name is Christopher Rootham. I've been practising labour and employment law in the private sector for approximately 10 years. I'm also a lecturer and professor of labour law at Queen's and the University of Ottawa. I've written extensively about human rights, labour and employment law, particularly with an emphasis on the federal public service. I would like to confine my introductory remarks to dealing with the question of recourse available to the victims of sexual harassment within the public service.

In my view, there are five essential characteristics of an effective system of recourse. It must be expeditious, because justice delayed is justice denied. It must be procedurally fair, including the opportunity to be heard by an impartial decision-maker. There must be expertise by the decision-maker. There should be broad acceptance of that decision-maker within the community. There should be effective redress at the end of that recourse mechanism—can the system right the wrong?

In the federal public service there are at least five different systems of recourse that could be used by a victim of sexual harassment, depending on the circumstances of that harassment. A victim could file a sexual harassment complaint by policy, either Treasury Board's policy or a policy in place at a separate agency or separate employer. The victim could file a grievance under the Public Service Labour Relations Act. The victim could file a complaint with the Public Service Staffing Tribunal or the Public Service Commission, if the complaint refers to sexual harassment in an appointment process in the core public administration. A victim could file a complaint with the Public Sector Integrity Commissioner or with the Canadian Human Rights Commission.

The first difficulty with this system is the sheer number of different recourse mechanisms available. This leads to confusion, overlap of functions, and inefficiencies because of duplication, or alternatively, passing the buck, as victims are passed from jurisdiction to jurisdiction in an effort to find someone who will take control or take jurisdiction over their matter.

There are also difficulties within or about each of the particular systems. With respect to a sexual harassment complaint, there are three difficulties I'd like to bring to your attention. First, a sexual harassment complaint is not available to the victims of harassment if they have already grieved or attempted to use some other method of recourse. Second, there's no requirement under the policy to provide redress to the victim. The policy talks about corrective measures to address what to do with the perpetrators of the harassment, but not to talk about what to do for the victims. Third and finally, there's no requirement that the deputy head or the deputy minister agree with or implement the recommendations of the investigator.

With respect to the grievance system, there are two categories of grievances in the federal public service: grievances that can be referred to adjudication, which is independent third party resolution; and grievances that cannot be referred to adjudication, which are finally decided by the deputy head or his or her delegate.

Grievances can be referred to adjudication if they are about discipline or if they are about collective agreement violations. For those employees who are represented by a bargaining agent who has successfully negotiated a sexual harassment clause into their collective agreement, the grievance may be referred to adjudication. The grievances of unrepresented employees or employees whose bargaining agents have not negotiated sexual harassment clauses are finally decided by the deputy minister alone.

If the matter is not referred to adjudication, this is not a truly impartial hearing for unrepresented employees or for certain represented employees, particularly with respect to the remedy. Is a deputy head expected to award damages to the victims of sexual harassment or career assistance that costs money, or other remedies with a financial consequence when this money is going to be taken out of their budget for other priorities? Further, deputy heads have no expertise in assessing damages. They have no expertise in adjudicating. Their expertise is in management, in program administration; it's not in remedying the effects of sexual harassment.

• (0955)

Another category of recourse is to the Public Service Staffing Tribunal or the Public Service Commission. This deals with only a limited number of cases, if the harassment occurred in the context of an appointment process to the core public administration, to Treasury Board. There are limited remedies in that case, because the complaint is only about that staffing action.

A victim could file a complaint with the Public Sector Integrity Commissioner. However, the Public Servants Disclosure Protection Act permits the commissioner to refuse to investigate a complaint of sexual harassment on the grounds that there is another method of recourse available. Frankly, we're in early days with the Public Sector Integrity Commissioner in terms of learning how they're going to deal with complaints of sexual harassment. We simply don't know if that is going to be an effective recourse.

Finally, a federal public servant could file a complaint with the Canadian Human Rights Commission. The Canadian Human Rights Commission, as you're aware, is a gateway to get to a tribunal. The commission does not make decisions. The commission screens complaints. Only approximately 9% of cases or complaints filed with the commission make their way to a tribunal.

The commission can refuse to refer a complaint of sexual harassment to the tribunal for a number of reasons. One of them is that paragraph 41(1)(a) of the Canadian Human Rights Act permits the commission to refuse to investigate a complaint on the grounds that it should be dealt with in another method of recourse. Both legally and experientially, I can tell you that the commission routinely refuses to investigate complaints of sexual harassment in the federal public service because those victims should be going to grievance or through Treasury Board's harassment policy.

Also, the commission can refuse to refer a complaint to the tribunal if, in its opinion, an offer to settle has been made to the victim and the victim should have accepted it. This is a valid complaint where the commission concludes there is merit to the complaint, and yet the commission refuses to allow it to proceed to the tribunal. This instead forces the complainant to accept a settlement.

The Canadian Human Rights Commission can be slow in many cases. It takes an average of nine months for the commission to investigate its complaints. That does not include the complaints that are dismissed expeditiously because they're in the wrong forum or wrong jurisdiction, or they should go to another forum. The complaints that are valid often take longer than nine months to investigate. That does not take into account the fact that if the result of the investigation by the Canadian Human Rights Commission is that the matter is referred to a tribunal, you're looking at another nine to ten months in order to complete a hearing in front of the tribunal.

Finally, the human rights system has the authority to grant substantial remedies for the victims of harassment, but there is one hole in that legislation; namely, that the Canadian Human Rights Tribunal has no jurisdiction to award legal costs to a victim of harassment. That was set out in the Supreme Court of Canada decision in *Mowat*, which involved an employee who was sexually harassed in the workplace. The tribunal awarded her \$4,000 in damages, but that did not go anywhere near to meeting the legal expenses she incurred, because she retained private counsel.

The concern is that victims are not accessing these particular forms of recourse because of the flaws in them, because there's no true remedy at the end of the day, and because the expenses of pursuing the matter would outweigh any possible recovery.

In conclusion, I suggest that one way to protect the victims of sexual harassment would be to carefully examine the systems of recourse to ensure that there is expeditious, effective, and fair recourse available to the victims of sexual harassment.

• (1000)

[*Translation*]

**The Chair:** Thank you very much, Mr. Rootham.

I will now give the floor to Mr. Gaon, who will have 10 minutes, but first I'd like to say that I have Mr. Gaon's speaking notes here, but they are in English only. They are currently being translated. Once they have been translated, they will be distributed to the members of the committee.

**Ms. Joyce Bateman:** Madam Chair, will these speaking notes be distributed after they have been translated?

**The Chair:** Yes, after they have been translated.

**Ms. Joyce Bateman:** Thank you. I am asking because this is a very important witness.

**The Chair:** Yes, quite so. Thank you, Ms. Bateman.

Mr. Gaon, you may begin. You have 10 minutes.

[English]

**Mr. Steven Gaon (As an Individual):** Thank you.

In the time allotted what I would like to do is confine my remarks to three general areas. First, I'd like to speak about where I fit into this process of sexual harassment prevention and resolution. Second, I'd like to speak very briefly about the Treasury Board of Canada's new harassment policy and highlight some differences I see in comparison with the old policy. Third, I have some practical experience and some issues I'd like to bring to your attention and perhaps provide some advice for the future by way of concluding remarks.

First of all, I will start with a brief description of who I am and how I fit in. I am a lawyer by training and experience. I was called to the Bar of Ontario in 1989. I had a traditional law practice in the past, but I no longer have a traditional law practice. It now consists almost exclusively of alternative dispute resolution, or what we call ADR. This consists of mediation, arbitration, workplace facilitation, and investigation work.

I am regularly called upon to investigate harassment complaints within federal government departments, agencies, boards, and tribunals. I have investigated wrongdoing, including sexual harassment, by lower level employees, all the way up to some of the highest levels in the public service and its related organizations. In other words, I fit in near the end of the process. Once the complaint has been submitted and vetted by human resources officials, once the parties have been notified, once there is a level of dysfunction already in the workplace, and once informal resolution has failed, that's when I come in. My perspective is somewhat narrow. It is not that of a theorist or academic; it's that of a practitioner.

My investigation work is typically carried out pursuant to organizational harassment policies, most often the Treasury Board policy. As the committee now knows from hearing from Treasury Board officials, the Treasury Board just released its new harassment policy, "Policy on Harassment Prevention and Resolution", which was made effective October 1, 2012. This replaces the old policy, which had not been revised since 2001. They are similar, but there are some notable differences. As you will see, the name change reflects one of the key features of this new policy.

The formation of this new policy was no doubt a major undertaking and a positive development, in my view, to deal with harassment in the workplace. There are a number of documents and

guides which I understand are still under development. I think we all need to see how the policy is applied in practice before we pass judgment on its effectiveness.

Let's start with the new policy versus the old policy. Like most of you, I have not had a chance to do an extensive review, but I have looked at it as carefully as I could have within the last few days. A number of related documents, as I said earlier, still have yet to be released. I will highlight a couple of key features.

One item is scope. The new policy specifically includes harassment outside the workplace, including travel locations, conferences, training, and informational sessions. As long as these outside locations are related to the workplace, a harassment complaint can be made.

Another is the harassment definition. The difference between the old and new definition is the idea that harassment can take place outside the traditional workplace. Finally and importantly, with respect to the new harassment definition, there used to be guides contained right in the definition itself with respect to what may or may not constitute harassment. Those are no longer there. Those may come out with some of these guides and other documents, as I indicated that Treasury Board is currently working on, but I don't see them in the current harassment definition. I don't think that's a critical problem. However, it was certainly useful to enable investigators and the parties to a harassment complaint to get a better understanding of what is inside and outside the lines of harassment.

Manager's obligations is the third key feature that I see as a difference between the old and new policy. Again, this may show up in some of the further documents that Treasury Board is developing.

The old policy had a section entitled "Expectations". It discussed the expectations placed upon employees, parties to the harassment complaint, and managers. This, as I said, apparently no longer exists. One of the main features of this, which I had relied on a number of times in doing my work, was an obligation on the part of the manager to independently authorize an investigation where the manager becomes aware of alleged harassment in the absence of a formal complaint.

By way of example, I have investigated a matter involving sexual harassment where the manager was accused of failing to intervene even though there was no complaint filed. I determined in that case that there had been a failure by the manager to sufficiently act upon the allegations. I hope and expect there will be a way to authorize investigations independently in the absence of a harassment complaint, and that obligation or that capacity will be given to the manager or the delegated manager.

● (1005)

Currently, the new policy seems more focused on the responsibilities of the deputy head, as I read it, rather than those of the individual manager. Again, we do need to suspend judgment until some of these other documents are released.

I can bring some practical concerns and issues to your attention. As I said, I'm not a theorist or an academic. I do quite a bit of teaching, and I've certainly spoken on harassment a number of times. I don't bring to you statistics; I bring practical experience. The vast majority of investigations that I've performed have involved harassment in the form of misconduct or abuse of authority, but not sexual harassment. There have only been a handful of those. Why is this? Are there simply fewer cases of sexual harassment than we imagine? Are we now in an improved society where people better understand what sexual harassment is and how to better comport themselves in the workplace, or is sexual harassment under-reported? My answer is it's a bit of both.

I cannot give you statistics, as I said, but I can tell you that based on the cases that I've investigated, incidents of sexual harassment in my view are probably under-reported. I can think of two major investigations that I undertook that provided me with some insight into this problem.

One case involved the alleged failure of a senior manager to intervene—I mentioned this earlier—when the manager became aware of potential harassment in the workplace. A number of women were subjected to alleged sexual harassment by an employee who was under that manager's direction. None of the women filed complaints. What surprised me, frankly, was that based on the evidence that I gathered, it was obvious to me that each was fearful of the employee's close relationship with that senior manager. No one wanted to make waves. None of the women, in my view, wanted to be ostracized or have their careers adversely affected.

Another case involved sexually inappropriate remarks and physical touching alleged against a senior male official by a female colleague who was essentially at the same seniority level. She, too, would not file a complaint. Instead, she reported her concerns to management, which appropriately authorized an investigation. I did that investigation. She was adamantly opposed, and this surprised me. I was surprised to learn how fearful she was to come forward even though this colleague was effectively at the same level. What also astounded me was that during the course of my interviews, including interviews with some senior women who also worked in the same office, they too experienced unwanted sexual advances and touching by the same individual. There were others I found out about through hearsay evidence who also experienced this. None of these people came forward. Every one of them was reluctant to come forward.

I said at the beginning of this process that I come in near the end. What this tells me about sexual harassment, just from anecdotal experience, is that it often goes unreported and unchecked, notwithstanding the existence of good policy, and notwithstanding the existence of good managers. At the very end of the process, management has to decide what to do once there is a sexual harassment complaint that has been founded. As I alluded to earlier, there are cases where the manager has inadequately dealt with the situation. I believe that too often there is an ineffectual follow-up once the investigation is completed.

I know this committee is concerned with recent allegations of sexual harassment within the RCMP. I've looked at the RCMP policy. I undertook an investigation, which did not involve sexual harassment but involved alleged harassment against some RCMP

officers. I think they have a good policy. The policy that I have with me today is from 2008. It's actually much more specific and broader than the Treasury Board policy. It creates some really compelling obligations on management, on the employees, and on the parties to an investigation. Yet apparently we still have problems. As I said earlier, you can have good policy, good managers, and still have problems.

• (1010)

[*Translation*]

**The Chair:** I want to advise you that you have one minute left.

[*English*]

**Mr. Steven Gaon:** I could make some concluding remarks if you like.

I'd like to leave you with three main points.

First, there needs to be better education and training in federal workplaces on the issue of harassment in general and sexual harassment in particular. In general, people need to better understand that unsolicited and unwanted sexual advances are not acceptable. People also need to know that they can safely bring forward their complaints without fear of retaliation or adverse impact on their careers.

Second, we need to make sure that managers can and should independently authorize investigations where the situations warrant it in the absence of formal complaint.

Third, where serious allegations of sexual harassment are proven to be founded, there needs to be an effective follow-up by way of action in restoring the workplace and consequences for those who have breached the policy.

[*Translation*]

**The Chair:** Thank you very much. That was very interesting.

Before we have our question period, I would like to make a clarification. Some members of the committee feel the need—and I find this very relevant—to share with the public the fact that sexual harassment does not always involve a situation where a man harasses a woman. A woman can also harass a man. We wanted to make that clarification for the general public. There you go, now that has been said.

We will now have our question period.

Ms. O'Neill Gordon, you have seven minutes.

[*English*]

**Mrs. Tilly O'Neill Gordon (Miramichi, CPC):** Thank you, Madam Chair, and my thanks to the witnesses for being with us today. You certainly gave us lots of interesting facts that we are glad to have for our study.

What can you tell us about how the federal workplace fares in comparison with the broader Canadian workplace? You have lots of practical experience in different areas beyond the federal workplace. I'm wondering how this compares with the broader workplace in regard to frequency of sexual harassment and how complaints are addressed within and beyond the federal area.

**Mr. Steven Gaon:** I'm not sure who that question is for, but I could jump in.

**Mrs. Tilly O'Neill Gordon:** Okay.

**Mr. Steven Gaon:** I can tell you that I think the federal and provincial governments have been incredibly progressive in bringing in harassment policies and legislation. It's almost as though it doesn't exist in the private sector. You rarely see sexual harassment complaints. In fact, you rarely see harassment complaints of any kind, and when you do see them my experience is they're not generally dealt with adequately.

**Mr. Christopher Rootham:** Certainly, in respect of internal mechanisms to deal with harassment complaints, the federal public service is significantly better than the broader public sector or the private sector. One of the main differences is that in the federal public sector there are a number of internal mechanisms. You can file a grievance, and there are other administrative methods of recourse.

In the private sector, you're stuck with either a human rights complaint, in which you can only hope for the best, or in some cases a civil action if the sexual harassment has other components to it, aside from just being sexual harassment.

In a federally regulated workplace, you cannot sue for sexual harassment alone, but you could sue for constructive dismissal on the basis of having been sexually harassed.

•(1015)

**Mrs. Tilly O'Neill Gordon:** I am hearing you say that both the provincial and the federal governments are taking active steps toward preventing this and having more of a study, so that people feel they can look into anything they need to complain about and bring forth their complaints.

We've already heard from Treasury Board, and I'm glad to hear you say that this new policy is a step in the right direction. But an informal approach to addressing complaints is often taken. Can this be effective?

**Mr. Steven Gaon:** In my experience as a mediator, informal resolution is often very effective. It depends on the nature of the complaints. I know that on the surface it sounds as though all sexual harassment complaints are the same. That's not the case. There are degrees and there are different cases.

I would suggest that informal resolution, including workplace facilitation and one-on-one mediation, can be very effective. It can usually resolve the problem if it's handled properly.

**Mr. Christopher Rootham:** That's all true. I want to say that there are benefits to resolution outside of the informal resolution. Informal resolution has both the benefit and the detriment of being confidential. There's no publicity around promoting people coming forward with sexual harassment complaints if it's done informally.

There's no broader sense of deterrence and adverse publicity if it's dealt with through an informal mechanism, and so there are a large number of benefits to resolving sexual harassment complaints informally and as soon as possible. But I would not like to see a system where there is no access to a more formal complaints mechanism. There are real benefits to having a decision that's made public.

**Mr. Steven Gaon:** I can give you a quick example of a case that I'm working on right now, actually, where I offered up mediation to the parties. It's not a sexual harassment case; it's simply allegations of harassment. One of the responses you often get from the respondent is that they want to be vindicated. Sometimes people need that closure. The same applies to complainants. Sometimes they need a definitive decision at the end of the day. That varies from case to case.

**Mrs. Tilly O'Neill Gordon:** How do you see the private sector becoming more educated and more ready to take part, file complaints, and be more upfront than they are now? Do you see any way they can be trained and made to feel comfortable with this?

**Mr. Steven Gaon:** It's difficult to see how that can happen until we as a society become better educated. For example, we can see organizations and companies taking more of a progressive stand in trying to prevent harassment in the workplace. I've seen that. However, we cannot compel the private sector to put on, for example, mandatory sessions to train them as to what does or does not constitute harassment.

Often, it's a financial issue. They don't want to put the resources into it. I'm glad to see that the federal government is putting the resources into trying to prevent it in the workplace. Hopefully, there will be some trickle down to the private sector. I expect there will be.

**Mr. Christopher Rootham:** To follow up on that, we can mandate—

**Mrs. Tilly O'Neill Gordon:** No, I know we can't mandate, but I'm just wondering—

**Mr. Christopher Rootham:** No, I'm saying we can. We can mandate training on sexual harassment. We do it in Ontario for workplace violence. There are requirements that employers over a certain size—and the size is pretty small—have to train their employees in workplace violence and workplace harassment. As an employee in the firm in which I work, I recently attended the government of Ontario's webinar that we all had to sign off having attended, and it was fantastic. There are things that governments can do to require better education in the private sector.

•(1020)

**Mrs. Tilly O'Neill Gordon:** Thank you.

[Translation]

**The Chair:** I now give the floor to the official opposition.

Ms. Hassainia, you have seven minutes.

**Mrs. Sana Hassainia:** Thank you, Madam Chair. I want to share my time with my colleague Mr. Caron.

My question is addressed to Mr. Gaon.

Workplace cultures have a direct impact on the occurrence of sexual harassment. In light of the cases you have dealt with, could you determine what factors might contribute to preventing sexual harassment in workplaces?

[English]

**Mr. Steven Gaon:** It would be a little difficult to do, but I would say that often when you have a hierarchical system where there are more men at the top of the chain rather than women, you can have that kind of thing exist. In one case that I handled, there were a number of senior women in the office, but the most senior person was a male, and he was the manager who was accused of not dealing appropriately with allegations against a colleague.

I would say to you very simply that there does need to be a cultural change. There's no question about it. The movements we've made toward a more equitable workplace, such as more women in senior positions, will be helpful.

[Translation]

**Mrs. Sana Hassainia:** I understand that you feel that if more women were given positions of power, there would be fewer cases of sexual harassment.

[English]

**Mr. Steven Gaon:** That's probably true.

I will tell you this, though. For whatever reason, perhaps even in the majority of cases that I've investigated that involve harassment, there have been allegations of one woman making a harassment complaint against another. It's really just through anecdotal experience that I can tell you that. There are no statistics to back it up. You may be right. You may see fewer cases of sexual harassment. I'm not sure that you would see fewer allegations of harassment in general.

[Translation]

**Mrs. Sana Hassainia:** Mr. Rootham, do you have something to add to that?

[English]

**Mr. Christopher Rootham:** No.

[Translation]

**Mrs. Sana Hassainia:** Thank you.

**Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP):** Mr. Rootham, during the previous meeting of this committee, we heard the testimony of a representative from the Canadian Human Rights Commission who mentioned that there was a lack of direction and policies for a victim who wants to leave her workplace when a complaint has been filed.

According to you, aside from the possibility of taking sick leave, for instance, which is far from ideal, how can victims of sexual harassment withdraw from a workplace that has become toxic for them?

[English]

**Mr. Christopher Rootham:** The legal mechanism is very sparse for that sort of thing. In the core public administration—this is the Treasury Board employees—they are governed by the Public Service Employment Act, which does permit the deployment of a manager who has been found to have harassed his or her subordinates. Aside from that deployment, which takes place at the end of an investigation, there is no legal way to deal with it unless you are going to administratively suspend someone, probably with pay, during that process.

Anecdotally and from my experience, I can tell you that with sick leave the victims of harassment are either left to fend for themselves, or there is some informal mechanism put in place that moves them to a different position, or they are at home on sick leave. None of those things is a best solution.

[Translation]

**Mr. Guy Caron:** Are you aware of mechanisms that could improve the work atmosphere in a toxic situation? Indeed, when a victim files a sexual harassment complaint, she is in a difficult situation. Do you have any recommendations concerning mechanisms that could be put in place to make the victim's life easier in harassment cases, among other, while the complaint is being dealt with, aside from having to take sick leave?

[English]

**Mr. Christopher Rootham:** That's right. There are a number of things that can be done, but each of them would have to be contextual. There is no one solution that's going to fit every single circumstance. Some of the things that can be done are to change the reporting relationship between the victim and the alleged perpetrator of sexual harassment. Another thing would be to move one or the other of them, but there would have to be some voluntary element to that move. It's not fair to force the victim of sexual harassment to change jobs simply because she—usually she—came forward with a complaint. Likewise, it's not fair to the alleged perpetrator to damage his—usually his—career by forcing him to move into a different role or a different managerial position. There would be a stigma attached to that. I don't think there's one answer that would fit for all situations on that point.

You have to look at the context. You have to look at the nature of the workplace. You have to look at how serious the complaint of sexual harassment was, and you have to look at whether an attempt at an immediate informal resolution of the problem was already made and failed.

•(1025)

**Mr. Guy Caron:** The question that perhaps should be asked in that sense is whether we should have a set of options available rather than what we have right now, which seems to be a kind of void in that regard, and once again, taking sick leave. As the tribunal said, there doesn't seem to be any policy or guidance regarding this, so should we develop, as a recommendation, a set of options that would be available in cases where there is an ongoing complaint?

**Mr. Christopher Rootham:** Yes, I believe a set of options would certainly be helpful. Whether that's done by legislative change or requires legislative change depends on the type of options you are looking at. A lot of them would be simply changes in policies or practices within the workplace.

[Translation]

**Mr. Guy Caron:** Fine.

Mr. Gaon, do you have something to add on that matter?

[English]

**Mr. Steven Gaon:** I don't think so. I would simply echo my colleague's comments and say that there are certain things you try to do when you have very serious allegations, whether it's sexual harassment or another type of harassment, one of which is separating the parties. If that's feasible, that's usually a good idea, and that doesn't always happen.

I agree that a set of options certainly would be helpful and that needs to be decided on a case-by-case basis.

[Translation]

**Mr. Guy Caron:** Thank you.

**The Chair:** Thank you.

I will now give the floor again to the government side.

Mr. Aspin, you have seven minutes.

[English]

**Mr. Jay Aspin (Nipissing—Timiskaming, CPC):** Thank you, Chair.

Welcome, gentlemen, to our meeting this morning and thank you for your contributions.

Mr. Rootham, you mentioned there were many options available, perhaps too many options available, and that this would be confusing to complainants. Do you have any recommendations as to how that process can be improved in that area?

**Mr. Christopher Rootham:** I have one recommendation, at least. It is to make sure that there is a forum where complaints will be accepted and addressed and where the victims of sexual harassment will receive the necessary or appropriate redress.

There are a number of different ways that could happen. One way it could happen would be to clarify the jurisdiction of adjudicators under the Public Service Labour Relations Act.

Remember I said that some grievances end up with a deputy head. Other grievances can be referred to adjudication. A guarantee that a grievance alleging a breach of the Canadian Human Rights Act, including sexual harassment, would be dealt with by adjudication instead of solely by the deputy head would certainly help resolve a lot of that confusion. It would ensure that there was a forum for redress for the victims.

**Mr. Jay Aspin:** Would you mind submitting that recommendation in writing to us?

**Mr. Christopher Rootham:** I can do that.

**Mr. Jay Aspin:** Mr. Gaon, you had three, what you termed, significant points or recommendations. The third one was adequate follow-up. I wonder if you could elaborate on that for us.

• (1030)

**Mr. Steven Gaon:** It is essentially a human resources issue. The policy, as it's currently drafted, speaks in generalities, as did the old policy, with regard to what should happen after an investigation is completed. In my experience, from what I have found out after speaking with HR managers after an investigation is completed, very often very little is done. I'm not speaking specifically of sexual

harassment cases, although in one particular case where there was a failing on the part of the manager, there wasn't a whole lot done.

What can be done? Well, this is, as I said, a human resources issue. I think the federal public service needs to take strong steps to make sure that their HR managers are properly trained and to make sure that where situations warrant it, there's progressive discipline, for example, which doesn't always happen.

**Mr. Jay Aspin:** Okay.

This may be to either one of you gentlemen. How would the Canadian approach in this situation compare to approaches taken in other countries? Do either of you two gentlemen have experience with the situation in other countries?

**Mr. Steven Gaon:** I'm going to pass this over to my colleague and see if he has some information.

**Mr. Christopher Rootham:** No, I haven't looked carefully enough at how this is dealt with in other countries.

**Mr. Jay Aspin:** Okay, those are my questions, Madam Chair. Thank you.

[Translation]

**The Chair:** You are finished? Very well.

I now give the floor to Ms. Sgro, for seven minutes.

[English]

**Hon. Judy Sgro:** Thank you very much.

To both Mr. Gaon and Mr. Rootham, thank you so much for your information today. It helps to give us a handle on it to hear from people from the outside who deal with this. We can hear from all kinds of departments, but we're hearing the real stuff from both of you as far as the kind of work you do and what you've actually seen.

I have to say that I have great faith in our country and in our public service at all levels, because I think we're way ahead of a lot of countries. But even though we may be ahead, we still have significant issues.

If you don't change the culture of the environment people are working in, it's impossible, no matter how many rules there are. The RCMP's 2008 policy you referred to was a great policy. They've had huge problems, and so have many others, with acts that are under-reported. It's for a lot of reasons, and I'm not sure that the policies are going to change that. It's more to do with the culture and training.

I think the federal public service is an example of putting all kinds of things in place but still having the problems. Until we change the culture of organizations, I'm not sure we're going to be able to solve some of these issues. I'd like your comments.

**Mr. Steven Gaon:** I'll start by saying that I agree with you. I think training is very important. I don't believe mandatory instruction is currently available or that employees are compelled to take mandatory training to understand harassment in the workplace. I'm not sure that the solution is that it be made mandatory, but I think it certainly should be strongly encouraged. In other words, seminars should be available to employees from inside or outside providers to understand how the new Treasury Board policy works, for example. If they are in another organization that has its own policy, they should be taught to understand how those policies work. They should understand generally what does or does not constitute harassment. They should certainly be made aware of what is acceptable and what is not acceptable in the context of sexual harassment.

I think those efforts could be made, and they could be made more strongly. A point I'd also like to add is that we have to be careful that these policies are not used as a sword instead of a shield. You see that happen in sexual harassment cases, and you see it in regular harassment cases. We need to be conscious of the fact that if we're overpromoting the policy, sometimes it encourages bad faith or frivolous complaints.

**Mr. Christopher Rootham:** I agree with you that a cultural improvement in the public service would be helpful, but echoing comments made by Mr. Gaon earlier, the federal public service is generally seen to be good at this. There is broad acceptance that sexual harassment is inappropriate in the workplace, particularly in the federal public service, so I don't think we need that big a culture change.

The culture change, if we can call it this, that would need to happen is the culture of how complaints are dealt with, or whether complainants are marginalized for bringing complaints, and frankly whether it's worth their while to bring a complaint. If a complainant is bringing a sexual harassment complaint, it takes four months to do an investigation properly—

•(1035)

**Mr. Steven Gaon:** At least.

**Mr. Christopher Rootham:** —at least, so let's say that six months after the complaint is filed, there's an investigation report. The deputy head gets the investigation report. The delegation goes to the ADM of HR. The ADM of HR decides we're going to take some appropriate action. It's nine months later. The victim of sexual harassment has just been through nine months of investigation while they've been on sick leave, or moved out of their unit.

Great, there's been a finding of sexual harassment. The perpetrator's been reprimanded. Why did you do that as a complainant? The complainant is thinking, "Why would I have gone through all of this just to receive some element of vindication?" That's enough for some people, but it's not enough for everyone. It's part of why these types of complaints are under-reported. If you're going to change the culture, the culture can't be that sexual harassment is bad. The culture has to be that complaining about wrongdoing is good.

**Hon. Judy Sgro:** You don't want to open the door to frivolous complaints.

**Mr. Christopher Rootham:** No.

**Hon. Judy Sgro:** I can suggest to you that for someone to come forward and complain of sexual harassment, I'd like to think that 99% of the time it took a tremendous amount for that individual to get to that point. I don't think, and I don't want to think, there would be frivolous complaints, but we all know there would be, and I'll say it's 1%.

It's getting women to be empowered enough. I say women, but I'm not sure it's only women we're talking about, not in the new world we live in. It's the whole issue of empowering those individuals to push back literally to the manager, to take things more into their own hands rather than to feel they're victims. There should be a mechanism for a much more upright, straight-on complaint, and that complaint gets resolved. Either the manager is moved or instructed in a better way of handling these issues rather than a woman having to feel as though she's a victim for this long period of time. It's the empowerment of women as well to be able to come forth with these things in a much more straightforward manner.

I know they're under-reported; we know that. As women who have worked in the workplace all our lives, we know it's under-reported because nobody wants to get into that. It's not something I think women want to start reporting. It takes a minimum of nine months, so it's not done lightly. Yet many of them would just prefer to quit their jobs and find another job where they're not going to have these kinds of difficulties. That happens a lot. You must hear it in your work.

**Mr. Steven Gaon:** Yes, I tend to agree with you. At the risk of reducing my own workload, I will tell you that investigations are an unhappy and unsatisfactory process. They're usually, and they ought to be, the last resort. I think you can probably accomplish a lot by involving the parties at an early stage where, let's say, if you're speaking about women, they feel comfortable enough to come forward and know that it could be resolved informally, perhaps.

Very often, at least in the cases I've encountered, these women simply want the actions to stop. They're not looking for blood. They're not looking for vindication per se. They're not looking for anyone to get fired. They're simply looking for the wrongful acts to stop, and it can often be resolved at an informal level.

**Mr. Christopher Rootham:** I agree. They're not looking for vindication but for recognition that there has been something wrong, that they have been a victim of sexual harassment, and that somebody in power recognizes that.

**Hon. Judy Sgro:** Would you both make...

[Translation]

**The Chair:** Forgive me for interrupting you, Ms. Sgro, but unfortunately your time is up.

[English]

**Hon. Judy Sgro:** Madam Chair, would you please ask the two witnesses if they could supply some recommendations following today's meeting to the committee on the kinds of actions that could be taken to improve the situation?

[Translation]

**The Chair:** Do our two witnesses agree to comply with Ms. Sgro's request?

[English]

**Mr. Steven Gaon:** Certainly. I've got some very general recommendations in the material that I've provided to you already, but perhaps Mr. Rootham and I can coordinate our efforts. I'd be happy to discuss it with him.

**Mr. Christopher Rootham:** That would be fine.

[Translation]

**The Chair:** Madam Clerk will follow up with you.

We are now going to have our last five-minute turn. Once again, I give the floor to the government side.

Ms. Young, you have five minutes.

• (1040)

[English]

**Ms. Wai Young (Vancouver South, CPC):** Again, I'd like to say thank you so much for coming today and providing us with the information, which is very startling and interesting.

Following up on what Ms. Sgro was asking, are there any immediate recommendations that you feel, given your extensive expertise and experience in this area, the government can do or put into place that would have some very positive impacts?

Mr. Gaon, you said that maybe an earlier informal mediation process would be highly effective in terms of giving an intervention opportunity before things got too unbearable at work in those circumstances.

**Mr. Steven Gaon:** That's correct, but I will tell you this: those provisions are already there in the policy. They were already in the old policy. I'm sure you will find those provisions that require early intervention and early informal resolution in virtually every government harassment policy.

Really it's a question of educating people and making sure that they understand, particularly HR directors or those responsible for managing the process. They need to understand that those options need to be pursued vigorously at the outset.

**Ms. Wai Young:** Is this an education or training aspect for those senior managers who are in positions of authority or positions of decision-making, where they can pull the members in and tell them that if it continues, their job is at risk, or those kinds of things to informally set the tone and correct these incidents in the workplace?

**Mr. Steven Gaon:** I absolutely agree with that. In fact, where I've found that there's been—"failing" is probably too strong a word—a lack of adequate action on the part of a manager, it's usually because they have not intervened promptly at the outset. I agree that is a training issue. I think that managers need to be trained in this area and understand that early intervention will generally be effective.

**Ms. Wai Young:** Is it correct to say—Mr. Rootham, please feel free to jump in here—that in our deliberations about changing the culture, whether it's the RCMP, the federal workplace, or even the dribble-down effect in the business community, because we heard earlier that there are private businesses that aren't covered by federal policies, etc.... You are probably aware that our federal government launched a women on boards initiative in our last budget, with \$5

million to put more women on boards. There is another aspect for this dribble-down effect in the private sector.

Getting back to my question, if the managers who are in these positions of decision-making were held more accountable or were better educated and trained about this aspect, would that have a huge impact—given that we already have these policies and programs and processes in place—for at least a high percentage of these incidents to be addressed in this kind of informal way?

**Mr. Christopher Rootham:** Obviously I can't speak to a number of the initiatives that you've mentioned because they're so new. We don't have any data yet about whether they're working or not.

You mentioned better education for managers. Some of the education needs to happen to allow managers to better recognize sexual harassment when it's happening in front of them. This isn't just about training people not to sexually harass. Quite frankly, a small number of people, but a number of people, are just never going to get it.

The training that would be most effective would be to train the managers to recognize that this is happening and act proactively instead of waiting for a complaint to materialize, and when a complaint does materialize, to deal with it quickly and effectively, not necessarily to punish the perpetrator, but to deal with it in whatever way is appropriate. If we can't do that, then sexual harassment is going to keep happening, in which case we have to find a way to create a proper remedy for the victims of sexual harassment, to make sure that they're willing to come forward and to make sure that their careers are put back on track.

**Ms. Wai Young:** May I ask you to go a step further, though, and put out there the fact that it's not only the manager's role to recognize sexual harassment. Sometimes it's behind the scenes or on coffee breaks or lunch; it's not in the workplace. Perhaps it's up to them to create a work environment where people feel comfortable approaching them about this kind of thing, because they're not always going to be in a situation where they see it. The fact that the employee feels comfortable reporting that is something that's—

• (1045)

[Translation]

**The Chair:** Ms. Young, your speaking time is up.

The reply will really have to be very quick.

[English]

**Mr. Steven Gaon:** I don't think I have anything further to add, other than to say that your suggestions are certainly valid.

**Ms. Wai Young:** Thank you.

**Mr. Christopher Rootham:** It's the same for me.

[Translation]

**The Chair:** Thank you.

This concludes today's meeting.

I want to thank the witnesses, and I wish everyone an excellent day.

The meeting is adjourned.







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