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Chair

Mr. Bryan May

Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

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● (1600)

[*English*]

The Chair (Mr. Bryan May (Cambridge, Lib.)): Good afternoon, everybody.

Pursuant to the order of reference of Monday, January 29, 2018, the committee is resuming its consideration of Bill C-65, An Act to amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1.

Today the committee will hear from witnesses on the subject of human resources practices and organizations dedicated to addressing sexual misconduct. I apologize in advance if I butcher any of your names. I've been practising for the first couple of minutes here, and I'm not confident I'm going to get them all right.

From the Confédération des syndicats nationaux, we have Caroline Senneville, vice-president, and Jason Godin, union representative. Jason I believe is coming to us via video conference. Can you hear me okay, Jason?

Mr. Jason Godin (Union Representative, Confédération des syndicats nationaux): Yes, I can.

The Chair: Excellent.

Also appearing here in Ottawa as an individual we have Sandy Hershcovis, associate professor at the University of Calgary. Thank you for joining us. How did I do with your name?

Dr. Sandy Hershcovis (Associate Professor, University of Calgary, As an Individual): Awesome.

The Chair: Excellent.

From the Chartered Professionals in Human Resources Canada, we have Manon Poirier, director general, Ordre des conseillers en ressources humaines agréés. Welcome. I know I butchered that entirely.

Ms. Manon Poirier (Director General, Ordre des conseillers en ressources humaines agréés, Chartered Professionals in Human Resources Canada): You did fantastic.

The Chair: Thank you. You're so kind.

From the Federal Public Sector Labour Relations and Employment Board, we have Catherine Ebbs, chairperson, and Virginia Adamson, executive director and general counsel. I'm pretty sure I nailed both those names.

Thank you very much to all of you for being here.

Each organization will receive seven minutes for opening remarks, and then there will be a series of questions to round out the afternoon.

To start us off, we have the Confédération des syndicats nationaux. The next seven minutes are yours.

[*Translation*]

Ms. Caroline Senneville (Vice-President, Confédération des syndicats nationaux): Good afternoon.

Thank you for receiving us. We are the only union to be heard today.

The CSN represents 300,000 members, including 10,000 who are subject to federal legislation, such as Mr. Godin, who represents Canada's correctional officers.

First, we want to commend this bill, which fills a significant gap in the Canada Labour Code by finally including provisions on the prevention of harassment in its broadest sense and violence at work. The purpose of the bill is the protection of both psychological and physical health by including preventive measures, but the purpose of the act, as amended, only refers to accidents, injuries or illnesses.

We are concerned that, when the bill refers to harassment and violence, the legislation will refer only to occurrences. The fact that the vocabulary is not the same is problematic, and this is the purpose of our first recommendation: we want the concept of occurrence to be added to the purpose of the legislation.

The bill also provides that the definition of harassment and violence in the workplace will be included in a regulation, which is also a problem for us. As you know, the definition of those terms is the foundation for the legislation. Defining those words later in a regulation, which may be changed depending on the political vagaries of the lives we lead, is problematic. We believe that the definition of harassment, including sexual harassment, should really be included in the legislation, because the regulations will be based on that definition. It therefore makes more sense to include it in the legislation itself.

Furthermore, the bill removes the definition of sexual harassment because it will be included in the broader definition of harassment and violence. That's great, except that the definition will be in a regulation only later. If the legislation is repealed before the regulations or the other act are in place, there may be a legal vacuum. We think it's very important to point it out. In the current context, a legal vacuum with respect to sexual harassment in Canadian labour laws is a misstep that must be avoided at all costs. That's why we wanted to mention it.

We also have remarks to make about the internal complaint resolution. I will let Mr. Godin tell you about it.

● (1605)

[*English*]

Jason, it's up to you now. I will come back to conclude.

Mr. Jason Godin: Thank you.

One of the major concerns we have from our perspective as well is around the internal complaints resolution issue. Internal complaint resolution is favoured in the bill; however, if a complaint related to occurrences of harassment or violence cannot be resolved between the employee and supervisor, it will be sent directly to the minister, who alone will be tasked with investigating the complaint.

The bill prohibits policy committees, workplace committees, and health and safety representatives from participating in investigations of occurrences of harassment and violence. Neither the minister nor the employer can provide these committees and representatives with information likely to reveal the identity of a person involved in the complaint. Furthermore, the minister can decide not to investigate if it is the minister's opinion that the complaint is “trivial, frivolous or vexatious”. The minister may also combine ongoing investigations of harassment or violence that relate to the same employer and involve essentially the same issues and then issue a single decision.

We have noticed that there is no mechanism provided to denounce a situation of violence or harassment that involves a supervisor. Parity committees are excluded from all investigations related to occurrences of harassment and violence and may not obtain information likely to reveal the identity of a person involved in the complaint. Therefore, employees are not called on to become involved in investigations or potential solutions after a harassment or violence complaint is made. This sends the message that violence and harassment are not matters that involve all stakeholders in a workplace.

We understand that this exclusion aims to allow employees who are victims of such behaviour to file complaints with confidence that their complaint will be handled with the strictest confidentiality. In our opinion, if parity committees, including health and safety representatives, are regulated in a better manner by a code of ethics, rules of practice, and training, which can be part of a subsequent body of regulations, this goal could also be achieved.

With regard to the possibility of combining investigations, we have our reservations. Risks of contamination of evidence from one complaint to another must be eliminated. Maintaining confidentiality may be more difficult when combining complaints.

We offer the following recommendations.

First, provide a manner for employees to make complaints denouncing the occurrence of violence and harassment related to their supervisors based on the concept of “competent person”, as found in the regulation. Policy committees, workplace committees, or health and safety representatives could have an additional duty to name a competent person to handle complaints of this nature.

Second, maintain the contributions of policy committees, workplace committees, and health and safety representatives to the investigation process. These parity committees should receive information on the investigation from the competent person and participate in the investigations based on the current manner set out in the code when the complaint involves the regular process, that is, when the complaint is first made directly to the supervisor.

Third, as was the case for complaints made about supervisors, a manner must be provided for employees to make complaints about members of policy committees and workplace committees, as well as health and safety representatives. Complaints must be made directly to the competent person who would carry out the investigation.

Fourth, policy committees, workplace committees, and health and safety representatives should be regulated in a better manner through training on violence and harassment and by the rules of practice and a code of ethics that would guarantee confidentiality with regard to the information received during the investigations.

Fifth, the minister should continue to hold separate investigations for each complaint received.

Last, I would add from a correctional officer's perspective that often in the workplace we are harassed by inmates as well, and it's another issue that needs to be addressed. It has been addressed in some other committees.

Thank you.

● (1610)

[*Translation*]

Ms. Caroline Senneville: The last part of the bill deals with pilot projects. Although the pilot projects are not uninteresting or bad as such, this is problematic in this context. As we said at the beginning, the Canada Labour Code is lagging behind other labour codes and the situation prevailing everywhere in terms of preventing all forms of harassment and violence. Having pilot projects could delay the adoption of regulations that would put in place protection measures. Since we are already behind schedule, we should ensure that the pilot projects do not prevent us from moving forward on the legislative and regulatory front. So we should not have pilot projects, because we urgently need a bill.

In conclusion, we would like to say that the bill is welcome in that it is aimed at integrating provisions into Part II of the code that would prevent and allow for intervention in situations of violence or harassment. However, we must insist on the importance of including provisions that define rights and obligations with regard to harassment and violence in the code, instead of in the body of regulations. As I said earlier, this is all the more true for the definitions of these concepts.

Moreover—of course, we are a union—we believe that preventing and protecting against violence and harassment in the workplace cannot be done effectively without employee participation through policy committees, workplace committees, and health and safety representatives. This is a workplace issue.

[*English*]

The Chair: Now we have Sandy Hershcovis, associate professor, University of Calgary. The next seven minutes are yours.

Dr. Sandy Hershcovis: Thank you.

Good afternoon. It's an honour to be here today to speak to you about Bill C-65. I've specialized in the scientific study of workplace harassment, including workplace bullying, incivility, and sexual harassment, since 2004. My specific expertise lies in the consequences of these forms of harassment for employees and organizations as well as coping strategies that employees use. Most recently, I have begun to focus on witness reactions to these forms of harassment.

I commend this committee for working to introduce a bill that will help victims and employers create a more respectful work environment.

In my comments, I will focus on four main points: definitions, language in the Canada Labour Code, reporting processes, and mandated training. I have also submitted a brief that provides specific recommendations for this committee to consider.

Bill C-65 aims to cover all forms of workplace harassment, including sexual and non-sexual harassment.

In the February 12 meeting in which Minister Hajdu answered questions about Bill C-65, there were a number of questions pertaining to the definition. I agree with the minister that the definition needs to be broad enough to capture workplace harassment in all its forms. I also agree with the concerns that without a clear definition that explains what constitutes workplace harassment, it will be difficult for organizations to develop policies and properly train employees.

As my first point, I will begin with sexual harassment. In the social sciences, sexual harassment is defined in three categories: sexual coercion, unwanted sexual attention, and gender harassment. The current definition in the Canada Labour Code, which is being repealed, covers only the first two categories. I would like to encourage the committee to develop a definition that covers all three.

Sexual coercion is defined as actions that make the victim's employment or advancement contingent on sexual favours. Unwanted sexual attention includes expressions of unwanted sexual interest. Gender harassment includes verbal and non-verbal behaviours that convey insulting, hostile, or degrading attitudes toward one's gender.

A recent example reported in *Science* magazine described women on a geological expedition to Antarctica who reported that they were pelted with rocks by male colleagues, called names, had volcanic ash blown in their eyes, and were told that women should not be field geologists.

Sexual coercion and unwanted sexual attention are traditional sexual behaviours or come-ons, while gender harassment is not sexual. It's a put-down that focuses on gender.

Research shows that 89% of harassed women report gender harassment with no unwanted sexual attention or sexual coercion, and that gender harassment has similar negative consequences for victims as the other two forms of sexual harassment, so exclusion of this form of harassment from the sexual harassment definition misses the majority of cases of sexual harassment.

In non-sexual workplace harassment, researchers found that all forms of psychological harassment, from minor slights to threats and physical abuse, have significant negative effects on the well-being of employees as well as their job attitudes and work performance. I agree with the minister that the language needs to be broad enough to encompass all harassment, including those that span traditional workplace space and time boundaries. In my brief I suggest working definitions for both sexual and non-sexual workplace harassment for you to consider.

My second point focuses on language in the Canada Labour Code. Bill C-65 attempts to inject harassment and violence into an existing health and safety labour code. From a layperson's perspective, reading through the code it appears to focus mostly on physical safety, which of course is very important, but I think workplace respect is equally important. More fully integrating harassment and violence language into the Canada Labour Code would send a message to federal organizations and employees that harassment prevention is a Canadian priority. To that end, I suggest the committee replace the term “health and safety” with something like “health, safety, and respectful treatment” wherever it makes sense to do so.

My third point pertains to reporting. Minister Hajdu correctly explained that a key driver of workplace harassment is power. Harassment in all its forms is much more likely to come from a person in a position of power. When harassment comes from someone in a position of power, it has significantly stronger negative effects on victims than when it comes from a co-worker. Also, witnesses are less likely to intervene on harassment from a powerful perpetrator. Because of the power differential, reporting harassment is a big problem. Victims fear reprisal, disbelief, and inaction. This bill addresses perceptions of disbelief and inaction by requiring an investigation, but I'm concerned that fear of reprisal may still prevent reporting.

Research shows that those who voice complaints of workplace harassment experience considerable counter-retaliation, and that retaliation is more likely from a powerful perpetrator. Proposed subsection 127.1 requires that employees make a complaint to the supervisor as a first course of action. Since harassment often comes from the supervisor, I think the bill needs to clearly state that where the supervisor is the source of the complaint, employees may take their complaint directly to the labour board.

● (1615)

Finally, I want to briefly mention that for repeat offences, it would help if the Canada Labour Code were to mandate respectful workplace training. Since workplace harassment is often driven by cultural norms, organizations that are found to be in violation of the Canada Labour Code on more than one occasion would benefit from civility training. I think the Canada Labour Code should specify mandated training in these circumstances.

I'll stop there and welcome any questions from the committee. Thank you once again for your important work.

The Chair: Thank you very much.

Coming to us from the Chartered Professionals in Human Resources Canada, Manon Poirier, the next seven minutes are yours.

[*Translation*]

Mrs. Manon Poirier: Thank you, Mr. Chair.

We at CPHR Canada are honoured to appear before your committee for the study of Bill C-65. CPHR Canada is a group of human resources associations across Canada. CPHR Canada is the national voice on the enhancement and promotion of the human resources profession. With an established and credible designation, CPHR Canada works on national issues related to the profession and is proactively positioning the national human resources agenda on the international stage.

In October 2016, the Canadian Council of Human Resources Associations, its nine provincial associations and three affiliated territorial associations chose a new name and introduced a new Canadian designation, Chartered Professionals in Human Resources, or CPHR. Only one designation—CPHR—is used for the standard of quality, in line with the model adopted by many other professions and professional designations in human resources around the world.

Our 27,000 members ensure the integration, development and well-being of workers, and help employers of all sizes meet the challenges of today's and tomorrow's labour market, challenges such as an aging workforce and the need to attract skilled workers, significant technological changes and an increasing regulatory burden. We are on the front lines of dealing with complaints of harassment and violence in the workplace. As such, we are ideally placed to assist parliamentarians on many strategic issues, including employment insurance reform, access to high-quality job training for all Canadian workers, pay equity, and of course, the features of Bill C-65.

[*English*]

Bullying, harassment, and sexual violence have no place in today's workplace, yet according to a survey conducted for the federal government, 10% of respondents said that harassment is common in the workplace, and 44% said that while it is not frequent, it happens. Most respondents agreed that incidents are under-reported and often dealt with ineffectively. According to our own data collected in my own province of Quebec, 60% of organizations surveyed reported receiving complaints related to harassment.

Obviously, this cannot continue. The issues underlying bullying, harassment, and violence in the workplace, including challenges faced by victims in the complaint process, have a direct impact on mental health, absenteeism, and loss of productivity. Bill C-65 is long overdue. In our submission, we will address three main issues: definition and implications for performance management, investigation of complaints, and prevention of harassment and violence through culture change.

We would like first to address the definition of bullying, harassment, and violence. We also believe that Bill C-65 should define workplace bullying, harassment, and violence, and we are pleased to learn that the minister is open to amendments in this respect. Definitions would provide clarity and direction to employers, employees, and the courts in understanding the legislator's intent. There are examples in provincial legislation that could guide the legislators for the federal sector. Recommendations from the standing committee would be invaluable in this respect, and we would be pleased to review them prior to their adoption.

One aspect that is of concern to members of CPHR Canada relates to issues surrounding performance management. Any definition must recognize that reasonable performance management is not harassment. An employee may feel anxious and stressed when receiving performance feedback or a written warning, a performance improvement plan, or progressive discipline. Anxiety and stress can obviously lead to illness, but it would be a tremendous burden on employers should they face harassment and bullying claims because they are properly managing performance. In that respect, we recommend that reasonable performance management be explicitly recognized in defining harassment, and that reference to illness be more clearly linked with events related to harassment, violence, and workplace safety.

Other key aspects of the bill of particular interest to HR professionals are the provisions relating to the investigation.

● (1620)

[*Translation*]

We are particularly concerned about the complaint process when complaints are filed against supervisors. Right now, the bill does not clearly set out whether an alternative will be available to someone who would like to make a complaint when the alleged harasser is their supervisor. This mechanism must absolutely be included if the intent of the legislation is to make reporting easier. When someone wants to make a complaint, if the first step is to go to their supervisor when the supervisor or the supervisor's supervisor is the subject of the complaint, it is highly likely that the complaint mechanism will not be effective. This is especially true for small organizations.

We urge you to clarify this aspect and provide an alternative for cases where the complaint is directed to the supervisor or the employer. Any disclosure process must be clear, simple and impartial, and include people working for small organizations.

[*English*]

We strongly support that any investigation relating to a complaint of harassment or violence must be assigned to an individual who is competent to do so. It is our recommendation that regulations need to be prescriptive in defining who is authorized to conduct investigations. Issues such as fairness, impartiality, and privacy are crucial components. Done badly, investigations can cause even greater damage to workplace relations.

Investigations must be performed by trained professionals who are subject to a code of ethics and rules of professional conduct and, in some instances, bound by professional secrecy.

A final word on investigations is that we strongly urge that regulations provide for what might be included in an investigator's report. Beyond a finding of whether there was bullying, harassment, or violence in the workplace, the investigator could, or actually should, make recommendations on practices that need to change or be initiated within the organization. The report should also create an obligation to abide by the recommendations within a set time frame. This approach would send a very clear signal that the federal government is serious about addressing bullying, harassment, and violence in the workplace.

I would like to turn to our third and final point, which is the issue of prevention.

The #MeToo movement has created a widespread public conversation on bullying, harassment, and violence. The movement has created an environment where individuals feel safer to lodge complaints and expect these complaints to be dealt with, but each time this happens, high personal and business costs result and productivity suffers. We need to do better.

Culture change is required in Canadian workplaces to prevent bullying, harassment, and violence. The government has committed to put in place supports such as awareness-building on harassment and violence, education and training tools for employees and employers, and direct support to help employees navigate the process and support employers in putting in place policies and processes. We look forward to hearing further details. We submit that support for training, especially in small and medium-sized organizations, is necessary.

Our members, the professionals who are responsible for policies, training, and prevention of bullying, harassment, and violence in the workplace, are keenly aware that culture change is required. The following key aspects, we believe, are necessary in every workplace to drive a change of culture: communicating regularly with employees; ensuring supervisors and managers apply policy; disciplinary management, if necessary, to correct wrongdoing; education and training workshops to facilitate changing attitudes and behaviour; and finally, support and training for managers.

In closing, we would like to reiterate our appreciation for the opportunity to participate in these hearings. We look forward to working with you on the next steps.

● (1625)

[*Translation*]

Thank you, Mr. Chair.

The Chair: Thank you very much.

[*English*]

From the Federal Public Sector Labour Relations and Employment Board, we have Catherine Ebbs and Virginia Adamson. You have seven minutes, please.

Ms. Catherine Ebbs (Chairperson, Federal Public Sector Labour Relations and Employment Board): Thank you very much, Mr. Chair.

The Federal Public Sector Labour Relations and Employment Board is an independent quasi-judicial statutory tribunal with the unique expertise required to deliver on its two key services, adjudication and mediation.

The FPSLREB was created on November 1, 2014, from the merger of the former Public Service Labour Relations Board and the Public Service Staffing Tribunal, bringing staffing and labour relations under one umbrella. The board and its predecessors have been responsible for administering public sector labour relations for 50 years, and for resolving public sector staffing questions for over 10 years. With public service modernization in 2005, the board gained jurisdiction in the human rights area, both in staffing and labour relations.

At its foundation, the board's purpose is bringing the highest values of Canadian justice to bear on labour relations, grievance adjudication, and employment and staffing issues in the federal public sector. It is committed to resolving those issues impartially and fairly. This contributes to a productive and efficient workplace and helps to achieve harmonious labour relations and a fair employment environment for public sector employers, employees and their bargaining agents.

The FPSLREB operates with neutral and impartial board members. Most board members come with deep expertise and experience gained by working either on the management or the bargaining agent side of labour relations and staffing. As prescribed by the Federal Public Sector Labour Relations and Employment Board Act, their appointment is made in recognition of that expertise with, to the extent possible, an equal number appointed from among persons recommended by the employer and from among persons recommended by the bargaining agents. However, despite being recommended by the employer or the bargaining agents, they do not sit on the board as representatives of the viewpoints or interests of either side.

At present, the FPSLREB's composition consists of one chairperson, two vice-chairpersons, and seven full-time members, as well as one part-time member. The board is currently working with the government to fill board member vacancies. A selection process is under way to appoint full-time and part-time members.

The FPSLREB has jurisdiction over several areas of federal public sector labour relations and staffing matters. Specifically, the board administers the public sector collective bargaining and grievance adjudication systems for the federal public service as well as for the institutions of Parliament. It resolves complaints related to internal appointments, appointment revocations, and layoffs in the federal public service. It resolves human rights issues in grievances and complaints that are already within its jurisdiction, as well as pay equity complaints in the federal public service. It also administers reprisal complaints of public servants under the Canada Labour Code.

Through the board's dispute resolution services, expert mediators and panels of the board help parties resolve a variety of labour relations and staffing disputes and complaints coherently and consistently and reach collective agreements often without resorting to a hearing.

Through the board's adjudication services and via fair and impartial hearings, it ensures that well-reasoned decisions are produced by an expert board for the federal sector.

The decisions made by panels of the board add to its growing case law in both staffing and labour relations, which is accessible to anyone.

During a continued period of legislative change affecting its work, the board has revisited how best to ensure uninterrupted service excellence while looking toward the integration of its additional mandates. This holistic approach to the formulation and implementation of a renewed vision in the efficient delivery of its mandate encompasses the values of fairness and transparency in its proceedings and includes one-stop shopping for mediation, adjudication, arbitration, and conciliation for the federal public sector.

The board has set a clear direction on providing a fair hearing and rendering well-reasoned decisions with a dedicated focus on dispute resolution.

Now I'd like to talk about the current mandate of the board under the Parliamentary Employment and Staff Relations Act.

● (1630)

While the bulk of the board's caseload comes from its stakeholders who fall under the Federal Public Sector Labour Relations Act, the board also has significant experience with the issues of parliamentary employers and employees. It has been the board responsible for this area since parliamentary employees first attained the right to bargain collectively in 1986. The FPSLREB is the expert board with respect to parliamentary labour relations. Part I of PESRA is administered and applied by the board, which hears various kinds of labour relations disputes, including such things as applications for certification, unfair labour practice complaints, and designations of persons employed in managerial and confidential capacities. The board also adjudicates grievances referred by parliamentary employees.

Now I'd like to talk about the impact of Bill C-65 on the work of the board. The FPSLREB has significant hands-on experience and expertise with labour relations and employment matters in the federal public service and for parliamentary institutions. From 1986 to 2000, public sector employees had recourse to the board, which was called the Public Service Staff Relations Board at the time, to challenge work refusal “absence of danger” decisions. These were not called appeals at the time, but they served the same function. During this time, parliamentary employees had no recourse with respect to occupational health and safety matters under part II of the Canada Labour Code.

In 2000, recourse for both private and public sector employees was transferred to appeal officers of the Occupational Health and Safety Tribunal of Canada. Beginning in 1986, public service reprisal cases were heard by the board. This continues to the present. Reprisal complaints were not included in the transfer to the Occupational Health and Safety Tribunal that took place in 2000.

The FPSLREB also has a great deal of experience with issues of harassment. It has dealt with these issues for many years. Harassment matters have come before the board through various legislative routes, such as grievances for violation of a collective agreement, grievances against disciplinary sanctions, matters pertaining to duty of fair representation and unfair labour practices, and staffing complaints.

Under Bill C-44, which received royal assent in June 2017, parliamentary employees will have their ministerial appeals and their reprisal complaints heard by the FPSLREB. Most political staffers will be added to the parliamentary employees and will also have their appeals and reprisal complaints heard by the FPSLREB.

To summarize, the board has extensive expertise and experience with occupational health and safety reprisal claims under the Canada Labour Code. It will retain its current mandate for reprisal claims from federal public service employees, and will acquire a new mandate for parliamentary employees, including most political staffers, for appeals of ministerial work refusal decisions regarding absence of danger, appeals of ministerial directions regarding contravention complaints, and reprisal complaints.

Given the board's substantial experience with the matters I've just described, I would like to conclude by saying that the FPSLREB has the adjudication and dispute resolution expertise to deal with appeals under part II of the Canada Labour Code, as it did before 2000, and to extend its current public sector mandate for reprisal claims for the federal public service to include parliamentary employees.

Thank you very much.

● (1635)

The Chair: Thank you very much.

That completes the introductions. Up first we have MP Blaney for six minutes.

[*Translation*]

Hon. Steven Blaney (Bellechasse—Les Etchemins—Lévis, CPC): Thank you very much, Mr. Chair.

[*English*]

I learned an expression in English. I used to say "*appeler un chat un chat*", but in English it's "call a spade a spade".

[*Translation*]

We want to give the bill some teeth. We supported it at second reading and we are studying it in committee. Compared to other pieces of legislation, the bill seems to be full of good intentions, but it looks like a declawed cat.

My first question is for you, Mrs. Poirier. You mentioned small businesses. I'm bringing it up because we're going to propose an amendment. In the case you raised, the supervisor is the subject of the complaint. The employee may not want to tell their supervisor that they feel they are being assaulted and harassed and that things are not right. Who could they turn to? That is the question we are asking ourselves, and we would like to clarify it in our amendment. Will they have to turn, for example, to the Ministry of Labour or the Federal Public Sector Labour Relations and Employment Board, as they can, at the provincial level, in non-unionized environments, where the employees turn to the Commission des normes, de l'équité, de la santé et de la sécurité du travail?

I would like to hear what you have to say about that, please.

Ms. Manon Poirier: I am sure you know which is the best organization to direct the employee to. I do not know all the mechanisms at federal level. But it is important to direct the person to an organization that is impartial. The process also has to be simple.

As I understand the situation in Quebec, the Commission des normes de l'équité, de la santé et de la sécurité du travail deals with some cases. The commission hears about 4,000 complaints of psychological harassment per year. There are also mechanisms within organizations to deal with the same complaints. People subjected to psychological harassment can therefore choose the channels provided by their own organizations, or they can turn to the commission.

At federal level, I cannot tell you the best equivalent to the commission because I do not know all the organizations. However, is it possible, in those very organizations, to find an impartial process and neutral people who will listen to the employees? Employees do not want to go to their boss if the boss is doing the harassing.

The experience in Quebec is good, but more time for processing complaints is needed, so the situation persists. We have to find quicker ways to respond than through a more bureaucratic process.

Hon. Steven Blaney: Thank you.

Let me turn to the vice-president of the CSN.

We are comrades in arms, Ms. Senneville. I would like to have seen confirmation in the federal budget of the plan to refit four ice-breakers. Let us hope we will see it soon. It was a commitment by the Prime Minister. I can assure you that we are expecting him to keep his word on it, because it is important both for the Coast Guard and for the workers in the Davie shipyard.

Let us now turn to the employees in the Correctional Service. I would like to discuss one of your recommendations further. Still with the objective of giving this bill a little substance, you mention setting out the employers' obligations in the body of the bill.

Once again, an independent investigator can issue recommendations, but what are the employers' obligations? Could you expand on your idea here a little?

Ms. Caroline Senneville: Certainly.

You have to understand that Part II of the Canada Labour Code deals with prevention. Should employers or companies have a policy against harassment? Usually, it is one of the obligations that the legislation could require.

It could indicate in part whom to turn to if our problem comes from our superior or—I like this idea too—from our superior's superior. For us, in situations where it is possible, you can go to a parity committee. Again, Part II deals with prevention. Once a complaint has been made, it is often too late. The workplace is already affected. The person making the complaint is affected, as is the person complained about. So the workplace needs to come to grips with it.

Often, in cases of harassment, violence or difficulty, people start to psychologize, to say that the person is bad and behaves badly. However, any reasonable person placed in an unhealthy climate, in a company where there is too much pressure, has the potential to develop unwelcome behaviour. So who is in a position to say so? The people in the situation, and they have to have a voice. Even in small companies, you know, there can be union-management committees, and, where there is no union, there can be employer-employee committees, company committees. That is our proposal.

We believe that they should also be dealing with any problems. The more prevention, the fewer complaints, the less clogged-up the process and, most importantly in my view, the fewer undesirable effects on the workplace.

This is perhaps less a prevention issue, but there is also the whole matter of dealing with complaints. Once the superiors have received a complaint, or the parity committee, if that is where they go, their obligations could also be specified in the legislation to an extent.

We talked about reprisals. It should be clearly indicated that one of the duties of an employer is to not issue reprisals against people exercising their rights, even, I would add, if the complaint is not necessarily well-founded.

● (1640)

Hon. Steven Blaney: Thank you very much.

[*English*]

The Chair: MP Fortier, please.

[*Translation*]

Mrs. Mona Fortier (Ottawa—Vanier, Lib.): Thank you, Mr. Chair. I am going to share my time with my colleague Ms. Dabrusin.

First, I want to thank you for being here. We are all trying to improve this bill, because it is time to do so and to highlight the culture change in workplaces. I feel that we are all on the same wavelength.

Mrs. Poirier, you mentioned the definitions in provincial legislation. Can you specify the provinces you were talking about?

Ms. Manon Poirier: I was talking about Ontario and Quebec, actually. I have not looked at all the rest of the country; perhaps you can tell me that these things exist in all provinces.

Mrs. Mona Fortier: You were talking about Ontario and Quebec.

Ms. Manon Poirier: Yes.

In Quebec, the concept of psychological harassment is defined in the legislation and includes sexual harassment. The concept is clearly set out. It is vexatious behaviour. Since the legislation came into effect in 2004, it has been very important for employers and employees to understand what harassment is. Hence our comments on management rights.

Mrs. Mona Fortier: Okay.

Ms. Manon Poirier: It is important to preserve the right to manage and to make it clear that, especially with respect to psychological harassment, employers must retain the right to manage the performance of their employees and deadlines and to follow up. It is important to keep this notion of the employer's right to manage.

Mrs. Mona Fortier: If you had some text to propose, perhaps you could present it to the committee. It would be nice to have that wording.

Ms. Manon Poirier: I have included it in our brief.

Mrs. Mona Fortier: That's perfect. Thank you.

My next question is for Ms. Senneville or Mr. Godin.

What role does your union currently play when incidents in the workplace are reported? Could you please tell us your process, as briefly as possible?

Ms. Caroline Senneville: I will give you a few words about the definitions.

There are many Canadian laws that also contain definitions. Part XX of the Canada Occupational Health and Safety Regulations deals with violence. There are also definitions in the Charter.

Mrs. Mona Fortier: Yes. We have heard a lot about it.

Ms. Caroline Senneville: There are other examples elsewhere in Canada.

Mrs. Mona Fortier: Tell us about your process.

Ms. Caroline Senneville: Our role is to do as much prevention as possible. The CSN has 300,000 members represented by more than 1,600 unions. Some are subject to federal regulation and others to provincial regulations. Most of these unions are in Quebec, but there are also some in Ontario and New Brunswick.

Mrs. Mona Fortier: So you are doing prevention instead. Do you deal with—

● (1645)

Ms. Caroline Senneville: We say that, usually, the union must be involved in drafting the policy and be consulted. If the policy is to work, the union must be consulted. The policy must also be promoted. It's a union commitment. Obviously, the parity committee must be aware of the complaints, participate in their processing and find solutions.

I handled complaints. I remember one file in particular where eight people from one department had filed a complaint against someone else. We realized that this service had no mandatory breaks. There, the union had to intervene to suggest that if all employees had a 15-minute break when they worked for several hours, they would not heckle a colleague who would take a break to go to the bathroom, for example. The goal is to find solutions that will improve the workplace.

Often, we will focus on the person alleged to be doing the harassing, but it is important to go further. The union's role is to ask itself what aspects make employees feel uncomfortable in their workplace. For example, is there too much noise? If I have trouble communicating with my colleague and I work as a team—

Mrs. Mona Fortier: I greatly appreciate your answer, but I must interrupt you so that my colleague has time to speak.

Ms. Caroline Senneville: Okay.

[*English*]

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): My question is for Ms. Poirier.

I am interested, because you specifically said when you're defining harassment that you're defining it to exclude workplace harassment. I think it was only a week ago that we heard from Monsieur Girouard from Canada Post, who spent his entire time using workplace situations and assessments of overtime as a description of what he included in harassment as harassing behaviour. I'm wondering, as you're asking us to do this, can you perhaps help us as to how we would do that?

How can we exclude workplace performance in a clear way, if in some situations some people may be perceiving it as a lever for harassment?

Ms. Manon Poirier: What's important is that an employer still has the right to manage employees.

[*Translation*]

The right to manage remains important. For example, as an employer, I have the right to manage deadlines, and if the deadlines I manage are reasonable, no one can say that I'm harassing my employee. It is all in how things are done. If someone does not meet the job requirements and is suspended for a day, is this harassment?

Since 2004, when the act came into force in Quebec, there have been several complaints like this. Complaints were filed by an dissatisfied employee, an employee who had a conflict with his boss, or an employee who felt that his boss was giving him too much work, for example.

You have to really manage the performance, to do it in a good way and to make sure you respect the working conditions and the rest. We must therefore be able to do it without being told that we are harassing someone.

I don't know if I am clarifying my point. Certainly if, in a certain environment, an employer suspends his employee for a day and informs him by shouting it, that would be unacceptable. However, suspending the employee for a day is perfectly fine, if the gradation of penalties has been followed.

Often the sound management of resources is adequate, but it is the behaviours that can constitute harassment.

[*English*]

The Chair: Thank you very much.

Now we'll have MP Trudel for six minutes, please.

[*Translation*]

Ms. Karine Trudel (Jonquière, NDP): Thank you very much for being here and for your testimony, which is very important for the committee members.

My first question is for you, Ms. Ebbs and Ms. Adamson. You touched on this a little bit earlier, but I would like to hear more about Parliament Hill, which is a special place to work because of its strong politicization and its high proportion of non-union employees. During several testimonies, we heard about the risk of unfair dismissal. This risk is all the greater here.

In your opinion, does Bill C-65 sufficiently protect employees on Parliament Hill from unfair dismissal? They are the ones who are likely to be when the identity of the victims or the employer is disclosed. Do they even file a complaint about harassment or workplace violence? I would like to know what you think.

● (1650)

[*English*]

Ms. Catherine Ebbs: Our experience, as I said, goes back quite a few years with parliamentary employees. We receive grievances from them that deal with harassment, and the process we follow with these grievances is identical, really, to the process we follow for federal public servants. In that respect, what's in place for the parliamentary employees provides the same protections as there are for federal public servants.

I'm not sure if that's an answer to your question, or if there's something else I can respond to.

[*Translation*]

Ms. Karine Trudel: You may continue if you like. This is still the round. I have several questions to ask, but they relate to the protection of parliamentary employees.

I would like to know if you have ever had such cases and what remedies are available to non-unionized employees. We always talk about the “Ottawa bubble”, but it is a risk for orphan employees, that is, employees who aren't unionized.

Mrs. Virginia Adamson (Executive Director and General Counsel, Federal Public Sector Labour Relations and Employment Board): I would just like to mention that all of our decisions are published on our website.

I don't have on hand any specific cases of harassment of parliamentary employees. Harassment may also be involved, even though the grievance doesn't mention harassment. This happens often too. That said, I can't give you concrete examples right now. However, we will be able to send you the Internet links for these cases because they are on the website.

Ms. Karine Trudel: My next question is for Dr. Hershcovis.

In your studies, have you compared Bill C-65 to situations in the world? Can you give us some examples?

Are there any amendments you would like to see in the bill? You talked about it earlier in your presentation, but I would like you to tell us more about it?

[*English*]

Dr. Sandy Hershcovis: My research doesn't focus on legislation, so I haven't really compared what other countries are doing. I know there are good examples out of Sweden and Norway, those countries that tend to be more liberal minded and more forward thinking with their policies. I would recommend that the committee look at some of those policies and at how they've implemented them. They would have done this a long, long time ago, so they would probably have more evidence. But in terms of specifically what they do in those countries, I don't do the legislation, so I don't know.

[*Translation*]

Ms. Karine Trudel: Could you please tell us about the definition, and Ms. Senneville could address this issue later. My colleague talked about it. I think we need a framework, and it should be included in the act. I know you mentioned it a bit, but I would like us to go further. The minister said that the definition should be broad, but to be able to provide training and prevention, there has to be a definition. I would like to hear your point of view on that.

[*English*]

Dr. Sandy Hershcovis: In my brief I did give some specific examples of what you could use. I do agree that it should be broad. Manon spoke briefly about the performance management issues, and how some employees can perceive performance management as harassment. I do agree with her that it needs to be clear. At the same time, as someone already pointed out, some of those behaviours themselves, when they're done over and over, when they're done inappropriately, are in fact harassment. There's a fine line between those, which is why I think the definition needs to be brief.

I think including within the definition the idea that it can occur beyond organizational space and time boundaries is really important. We see a lot of online social media bullying that happens between employees. We see it happening on research sites, so it's often not within the organization, and it's not even necessarily about work. It could be between employees, if someone has a personal problem with another employee. It's not work-related, but it's still considered to be bullying. I definitely think it needs to be broad.

Including the term “ought reasonably be known to be unwelcome” or “to cause harm”, something like that, where the reasonable person test is included in the definition I think can give it that breadth that you need.

In terms of sexual harassment, as I mentioned, I would like to see in the definition those three different behaviours: “unwanted and unreciprocated” or “offensive romantic expressions or unwanted attention”, “bribes or threats that make circumstances of a worker's employment or advancement contingent on sexual co-operation”. That third component, which isn't currently in the Canada Labour Code, “insulting or hostile or degrading attitudes about a worker's gender” is something that I think needs to be added because it's so frequent and so common. I think it may be somewhat covered in the discrimination part of the law, but I think also incorporating it as part of sexual harassment, because it's so prevalent, would be helpful.

● (1655)

The Chair: Thank you very much.

MP Morrissey, go ahead for six minutes.

Mr. Robert Morrissey (Egmont, Lib.): Thank you, Chair.

One of the issues on which there seems to be a growing consensus, regardless of who has been appearing before the committee, is having a clear definition of harassment. Then there's a bit of a difference of opinion about whether that clear definition should be enshrined in the legislation or in the regulation, the difference being a general definition in legislation and a more detailed one in regulation.

I would like a brief comment from each of you on what your opinion is on that.

[*Translation*]

Ms. Caroline Senneville: It is clear to me that it absolutely must be in the act. Indeed, everything in the act will stem from the definition. For us, this cornerstone must really be in the act. Since regulations are easily modifiable, if the political will changes, we could play with the definition and lose much of the meaning that the act had at the beginning.

If the legislator's objective is to forcefully express that there should be no harassment or violence in the workplace, we must start by including a clear and broad definition in the act.

[*English*]

Mr. Robert Morrissey: Would anybody else like to comment?

Dr. Sandy Hershcovis: I would agree with Caroline that regulations can change, and depending on who's in government, that can change quite quickly. I think it has to be in the act.

Ms. Manon Poirier: I would also support that.

Mr. Robert Morrissey: Madam Ebbs.

Ms. Catherine Ebbs: As neutral decision-makers, our position would be that this is a decision for the government to make. Whatever it is, our job will be to interpret and apply it.

Mr. Robert Morrissey: That's fair.

Mr. Godin.

Mr. Jason Godin: I would echo the comments of my colleague to ensure that it's enshrined in the act itself. As she pointed out earlier, a change in government could mean a change to the regulations. It has to be enshrined there, and it has to be very, very clear. That's laid out in our recommendations.

Mr. Robert Morrissey: My second question is for each of the witnesses.

Would the bill as it's currently written, and you've all reviewed it, be an improvement for employees currently facing harassment in the workplace?

[*Translation*]

Ms. Caroline Senneville: Absolutely.

[*English*]

Mr. Robert Morrissey: Good.

Dr. Sandy Hershcovis: Yes, I agree.

Because there's this provision that an investigation has to happen, it makes it so that employees may be more likely to report, who wouldn't have reported because they feared they wouldn't be listened to, that nothing would be done about it, and they wouldn't be believed. Now they have to be believed, and I think that makes it more likely that they'll report.

● (1700)

[*Translation*]

Ms. Manon Poirier: This is clearly an improvement. An investigation must be conducted when a complaint has been filed, but if no complaint has been filed, it is useless. In a small environment, sometimes the relationship with the supervisor is involved. Until it is clarified, if the harasser is the supervisor or boss, it will be ineffective. If it's clarified, it will be an improvement.

There is a desire in the bill to empower the entire workplace. The intention is that a person who has seen someone behave in a way that constitutes harassment must report it. This practice is healthy if the intention behind it is to empower the community. However, it can become dangerous. In fact, if the employer must systematically investigate a complaint, a culture of denunciation may develop. The number of investigations could be very cumbersome to manage. In short, if the intention is to empower witnesses in the workplace, that's fine, but things should not not be pushed to the extreme.

These are the only two reservations I have with respect to the bill as worded.

[*English*]

Ms. Catherine Ebbs: I believe yes, because it offers recourse to certain employees who didn't have it before.

Mr. Robert Morrissey: Thank you.

I have a question for Jason. I believe it was you who referenced that there's a major issue with internal complaint investigations. That was something we have heard a lot from witnesses over the last number of days. The smaller the workplace, the more difficult it is to ensure that an investigation is fair and transparent.

Could you elaborate a bit more on how we could address this more, to ensure that the individual making the complaint feels that the complaint was dealt with fairly internally?

The Chair: Please respond in under 30 seconds, please.

Mr. Jason Godin: The problem we have is that nobody has any confidence in the system. They don't feel there's any impartiality when we're talking about the internal complaints. That's why we're talking about having committee involvement and making sure we're involved in who's hearing these complaints.

In our system, the complaint is put in and it doesn't go anywhere. It goes to the supervisor, and then from there it gets lost in the wash and it's not impartial.

Again, it's going back to the internal mechanisms and ensuring that we're a part of that process and we're engaged in it. We're hoping that the individual will feel a lot more confident to come forward and put in the complaint and have it resolved. Many of our complaints go in and we don't hear anything and we don't know what the resolution is. Again, it's about making sure that the individuals have confidence in the system, that it's fair and impartial, and that their complaints will actually be heard.

The Chair: Thank you very much.

Next, for six minutes, is MP Damoff, please.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Jason, it's wonderful to see you again in a different committee.

My first question is probably for all of you.

I had a conversation with someone who has a fair bit of knowledge on harassment legislation and was talking about the fact that Saskatchewan has had legislation for quite some time, and its unfounded rate is about 55%. One of the issues is that the definition is too broad. It goes to what you were talking about, Ms. Poirier, in terms of what harassment is, so that definition is actually too broad. It's resulted that the majority of cases coming forward are determined unfounded.

I think if we're going to include a definition in our legislation, we need to make sure that we get it right, that it's not too descriptive but also not too broad. Do you have any examples of where we could look to a good definition that sort of accomplishes all of those?

[*Translation*]

Ms. Caroline Senneville: I said during my presentation that Canada was a bit late. Sometimes there are advantages to being a bit late, because we can build on what has been done elsewhere. Quebec's Act Respecting Labour Standards contains elements concerning the definition. Federal legislation also contains elements. For example, the Charter contains prohibited grounds of discrimination such as race, sex, and so on.

It is important to look at what's in the labour laws. A sentence saying what is not harassment can even be included. For example, the exercise of the right to manage, when done well, is not harassment.

I would like to add that if, in Saskatchewan, it was found that half of the complaints were unfounded, that does not mean there is no problem.

● (1705)

[*English*]

Ms. Pam Damoff: No, no, I'm not saying that.

[*Translation*]

Ms. Caroline Senneville: That's why you need a working committee where the employees and the employer are present. The work does not just involve saying that there is harassment, a little, a lot, or passionately. It involves saying that we have a problem and that, even if the complaint is unfounded, we must work to solve the problem. In this way, we are working much more on prevention, which may mean that there will be fewer complaints.

There is also the fact that it is relatively new, even in the other provinces. It may be around ten years ago. The workplace needs to take ownership of these definitions and learn how to navigate them. When there were the first laws against sexual harassment, people said it was the end, and you couldn't flirt at work. Yet we continued to reproduce, there was no problem. So it's important to get used to these ideas, which takes a while too. People have to be able to live their lives.

[*English*]

Ms. Pam Damoff: I only have about three minutes left, and I did have a question for you, Jason, because you touched on the fact that issues go to supervisors.

I want to thank you for providing James to accompany me when we went through Edmonton max—

Mr. Jason Godin: A pleasure.

Ms. Pam Damoff: —which I've brought up a few times, because you are working with the other unions and with management to try to resolve the situation there.

How do you see the unions fitting into the process? If it's the health and safety committee, how do we incorporate that into our legislation to ensure that there is involvement from the health and safety committee? Also, do you see a role for someone independent in that as well? I've heard that in particular with the situation you're involved with, there's some desire for some independents outside of Corrections Canada to be involved in resolving those situations.

Mr. Jason Godin: I'll answer your question about the involvement of the health and safety committees. First of all, sometimes we'll see a complaint go in, and it could even be a violent harassment complaint. What's the plan if the individual ends up coming back to the institution? This is why we have to be involved. The complaint goes in. Nobody hears anything. All of a sudden, somebody disappears for a while, and then they end up coming back, but nobody's talked to. This is pretty damning for the victim who may still be at that particular site. This is why we have to have some involvement.

I know my colleague also referred to sifting through what constitutes harassment as well. If a supervisor tells me to do something, that's not necessarily harassment. This is why we need to have some engagement from a health and safety perspective for a safety issue. We had, as an example, one supervisor actually push her chest up against an individual and nothing was really done. It was clearly harassment, and all of a sudden a month later the manager disappeared, and then ended up coming back with no explanation to the victim. We need to know, as a health and safety committee, if this manager comes back, if it is safe for our member. I just use that as a particular example.

I think the second part of your question was around impartiality. Part of the problem we have with the organization is that obviously the independent firms that come in and investigate are paid by the department, by the government, so how do we get around ensuring that it's really impartial? Sometimes we feel, as correctional officers, when a harassment complaint is put in, that it can be swayed one way or the other.

Also, the investigations take way too long. That's another issue we're faced with.

Ms. Pam Damoff: Yes. We've heard that a lot in terms of paid leave and the length of time investigations take.

I don't have any time left, do I?

The Chair: You have about 10 seconds.

Ms. Pam Damoff: Okay, thank you.

The Chair: MP Warawa, you have six minutes, please.

Mr. Mark Warawa (Langley—Aldergrove, CPC): Jason Godin, you're in Abbotsford, so you're working at Matsqui Institution or near there.

Mr. Jason Godin: I'm from Ontario, Millhaven, but I'm the national union president for the Union of Canadian Correctional Officers.

Mr. Mark Warawa: Okay.

During your presentation, you had talked about the environment that some of the employees are working at dealing with inmates. At Monday's meeting, I asked a question of, I don't know if they worked at Matsqui or where, but you work in a different environment than what most federal environments look like. I think it was yourself or Caroline had mentioned that if there's a complaint, that the workplace environment is already damaged and you need to deal with that. But workplace is a very different type of environment than what we would expect where there's an adversarial climate between your clients and your employees and the management overseeing that. Could you elaborate on some of the unique challenges that you would face? Harassment is still harassment. Your employees that you're representing are probably facing harassment on a regular basis as a norm. Does that affect how they may respond to one another or how they would respond to inmates in a form of showing strength?

● (1710)

Mr. Jason Godin: Certainly I know we've testified in previous committees about harassment from our clients or the inmates we're in charge of in care in custody. That presents a different element of harassment within the workplace. Aside from harassment occurring with supervisors or even among colleagues where we try to intervene in various ways through mediation, we're faced with harassment from the very people we're managing. This definitely has an immediate impact on the workplace. You're right that often, sexual harassment by inmates particularly is often overlooked, and it's not dealt with very swiftly.

We've testified in other committees, as an example, the status of women committee, where we've raised this issue time and time again that it's not necessarily harassment from colleagues, that it's harassment from the inmates. That's where the environment becomes poisonous. It becomes stressful. It becomes all those things for the people working inside. It's a completely different form of harassment, and it's very difficult to manage. How do we manage that inside? Swift action has to be taken with the inmates who choose to sexually harass or make sexual comments. Often I'm referring mostly to sexual harassment because often our female officers get harassed by inmates in a male facility, and equally, male officers often get harassed by female inmates.

You're right that our work environment is so challenging and that presents a whole different situation. As a union, we try to intervene and say that this is not acceptable. Especially if the comments coming from an inmate are very violent, we try to push on the administration and say they have to do something. Sometimes we'll try to have these particular harassers transferred out of the facilities, certainly for protection and certainly to try to ease the psychological stress. We talked about how it's important to have psychological harassment very much recognized and defined. This is another form of psychological harassment that is very present in our workplace, and unfortunately, it is one of those things that we're expected to do. However, when we know the very serious cases, we take the administration to task, and we have to look very carefully at different alternatives to manage those situations.

Mr. Mark Warawa: I cannot imagine how you manage that, particularly in maximum security institutions where people have nothing to lose.

Do I have any time left?

The Chair: You have about a minute.

Mr. Mark Warawa: Sandy, you touched on the three broad definitions of harassment: gender, sexual coercion, and non-workplace sexual harassment.

Harassment is harassment. How would you see that being handled? Sexual harassment and harassment are quite different, but gender-based as opposed to regular harassment, how would you see that being handled differently?

Dr. Sandy Hershcovis: I don't think it would be handled differently, I just think that the definition needs to include it, so it's clear that it's a type of harassment. Also, it highlights that often, not always, but often, women are more likely to be on the receiving end of it. It highlights in the definition that it's a bigger problem for women.

● (1715)

The Chair: Thank you very much.

Next is MP Ruimy for six minutes.

Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.): Thank you very much.

I will likely share some time with Ms. Dabrusin.

A lot of the questions I had have actually been repeated over and over again, so I want to stick to two things that have stood out to me.

With organizations such as yours, you have manpower, resources, and you have policies in place. You have a lot of these things there, yet we still have a problem.

My first question is, where is the breakdown? Is it all just because we don't have it enshrined in law? I'm struggling with that, because if you have the policies in place and you are training—and I know that organizations like yours will do the training—where is the breakdown? Is it management that is saying no? I'm just curious about that. Anybody can jump in on that.

Madame Senneville.

Ms. Caroline Senneville: I used to be a teacher, so I think the answer lies in....

Am I speaking in English?

[*Translation*]

Mr. Dan Ruimy: You may answer in French.

[*English*]

Ms. Caroline Senneville: I've been speaking both languages all day.

Part of the answer lies in education. These kinds of things are never done for always. You have to repeat them as people come in. As I said, some situations are really hard, and they impact people, and sometimes we don't have good answers for them. It's an ongoing battle, and we need to be armed for it.

For example, look at the #MeToo campaign. I'm pushing 50. I never thought it would come out as strong. I never thought that women would feel that way. We're in 2018, and it's still so hard for women, especially when they're in a male environment, where their co-workers are mostly male. It's so hard. I would have thought...I would have hoped it would have been better, but we still have to battle this.

[*Translation*]

Mr. Dan Ruimy: What do you think, Mrs. Poirier?

Ms. Manon Poirier: There is no doubt that this kind of behavioural change takes place over. We know that when we work on human behaviour, it takes a lot of time. It's true that we had policies, and we offered training. In terms of results, compared to the situation 15 years ago, I daresay there has been an improvement.

Often, policies and frameworks existed, but what was clearly evident with the #MeToo movement was that the whistleblowing process did not have the desired quality, rigour, impartiality or neutrality. We had a policy, and we were told to share it with someone in an organization, but I do not think we made sure that these processes were rigorous and hermetic. The fear of complaint and reprisal in an environment is not always easy to overcome. This is evident in small settings, but this can also be the case in large organizations. It shows that we may have taken steps, but we need to go further.

Take the example of Quebec. Quebec, in 2004, gave employers an obligation of means. It was not an obligation of results. It sought to ensure that the environment was free of harassment. However, we never defined what the employer's expectations were for that. We realize today that we need to be very specific about the expectations of employers. So you have to have a policy, and it has to contain different options depending on the person against whom the complaint is made. We must also ensure that the person conducting the investigation is truly independent and competent.

I have seen poorly done investigations cause more problems than the initial situation itself. A smaller problem became very large because the investigator did not do his homework properly. We all want to talk about prevention, but when we get to the investigation stage, it's a bit late, something has already happened. However, if we have clear mechanisms and rigorous investigations, I bet that there will be fewer and fewer cases of inappropriate behaviour, because the signal will be clear and because employers will take it seriously and will take the necessary steps.

[*English*]

Mr. Dan Ruimy: Not only are you recommending that a broad definition get into the legislation, but that the process needs to be very clear.

Ms. Manon Poirier: That's correct, and who drives the investigation needs to be very clear.

Mr. Dan Ruimy: Okay.

The last question I have is on something we've touched on, but we really haven't delved into it. We've heard about time to investigate. We've heard that sometimes it's two months and sometimes it's three years. How do we address that?

Ms. Manon Poirier: I've seen a lot of organizations that are actually quite efficient. They have in their policy a time frame that is reasonable. The more bureaucratic we become in the investigation and in terms of who's involved and who needs to be consulted, I think that's where it takes time.

● (1720)

[*Translation*]

There are very effective processes in both unionized and non-unionized settings. By cons, when we add a lot of players and stages, the process becomes much too long and the damage continues to grow. I will allow you to say that, in my opinion, the solution is that it is as simple and as light as possible.

[*English*]

Mr. Dan Ruimy: I have only 30 seconds.

Does anybody else want to jump in on the investigation time and how we manage that?

Ms. Caroline Senneville: Keep it as simple as possible.

Mr. Jason Godin: I can't emphasize enough how important it is to deal with these as swiftly as possible. The longer these investigations drag on.... It is extremely difficult and poisonous for the work environment. We experience investigations.... We currently have one that has been going on for over two years. We're still waiting to complete it. It's completely unacceptable.

Whether it's about making sure that we fully streamline and understand what a harassment complaint is and try to decipher that through the various committees we're proposing, or whether additional resources need to be added to make sure they can be done in a very timely and swift manner....

Mr. Dan Ruimy: Thank you.

The Chair: I think we all agree with that.

MP Falk, you have five minutes.

Mrs. Rosemarie Falk (Battlefords—Lloydminster, CPC): Thank you, guys, for being here. I appreciate your time. I know it's valuable, and I just want to honour that.

In regard to the quicker response time, I know it was mentioned. On Monday, a time was given. Is there an appropriate time frame that any of you believe would be acceptable and reasonable for the investigation and the process to take place?

Ms. Caroline Senneville: Actually, it's not guys. It's girls. I just wanted to point that out.

[*Translation*]

In a lot of our collective agreements, we have 60 days.

[*English*]

Mrs. Rosemarie Falk: Oh, wow.

[*Translation*]

Ms. Caroline Senneville: Actually, there are two time frames. The first one, for the time at which the investigation must begin, is one or two weeks. In a lot of cases, there is then a period between about 60 or 90 days. That is what we find most often in our collective agreements.

Ms. Manon Poirier: In a survey we did with our members a year ago, we asked them what kind of time frame they had in their policies and were committed to. It turns out that the deadline for completing investigations is between 30 and 45 days on average. That is quite quick.

In my environment, in a professional order, when someone asks a syndic to conduct an investigation of an ethical nature into a member's behaviour, a whole investigative process is set in motion. Syndics have to complete their investigations within a time frame they are given and, if they do not do so, they have to explain why. For very major investigations, it is possible to ask for a more time. Then it is 60 days. I noticed that private companies had a period of 30 to 45 days within which everything was finished.

[*English*]

Mrs. Rosemarie Falk: Thank you.

The other question I had was on the definition. I know that we've had a lot of conversation about the definition, but what we've said around this table a lot is that this is our one shot to get it right. I'm sorry if it's beating a dead horse, but I want to know what components you think should be in there. I've heard psychological, sexual, and physical...and with the sexual, the three branches of that definition. Am I missing anything?

Dr. Sandy Hershcovis: Just within and outside organizational time and space boundaries I think is really important.

Mrs. Rosemarie Falk: Yes.

[*Translation*]

Ms. Caroline Senneville: Employees are not the only ones involved. For example, it might be about a supplier or a delivery person making sexist comments to the receptionist. In that case, the employer can take steps against the person making the comments. The intention of the alleged harasser is not important; what is important is the effect that the actions have on the person allegedly being harassed. You cannot get out of it by saying that you did not want to cause any harm. The question is whether there was harm.

[*English*]

Ms. Manon Poirier: I'll offer, if I can, wording from one of the provincial...that "psychological harassment at work is a vexatious behaviour in the form of repeated conduct, verbal comments, actions or gestures that are hostile or unwanted, that affect the employee's dignity or psychological or physical integrity. that make the work environment harmful." These are some of the key elements.

● (1725)

Mrs. Rosemarie Falk: Does anybody else want to say something?

Dr. Sandy Hershcovis: I would say that "repeated" should not necessarily be in there, because it could be one really negative event, and that should be enough for an investigation.

Mrs. Rosemarie Falk: Right. That's one of my apprehensions. If it's too broad, we miss the point or we start getting things that aren't...but if it's too narrow, then we're also missing the point.

Dr. Sandy Hershcovis: This speaks to Ms. Damoff's concern about unfounded complaints. I think the benefit of unfounded complaints, as Caroline pointed out, is that usually there is in fact something going on. It's a he-said-she-said thing, or one person's word against another, but it highlights to the organization that something is going on and they're going to be more aware and do more to prevent it, even if it is an unfounded complaint.

I don't necessarily think it's a bad thing to err on the side of caution.

Mrs. Rosemarie Falk: Perfect, thank you.

The Chair: Thank you.

Finally, for three minutes, we have MP Trudel, please.

[*Translation*]

Ms. Karine Trudel: My question goes to you, Ms. Senneville.

Witnesses have suggested a five-year review to validate the effectiveness of Bill C-65 and to measure the results.

Do you think that is a good idea?

Ms. Caroline Senneville: It is not a bad idea, but is it really necessary? We will have to wait and see.

Everything depends on what is in the act and the regulations. Regulations can be easily amended. For example, if the act contains a definition of roles and responsibilities, and if we decide to take a strong position on it, it would be a good idea to be able to review it five years later.

Ms. Karine Trudel: I do not have much time, but could you go back to the notion of an occurrence and the importance of adding it to clause 1 of the bill.

Ms. Caroline Senneville: The objective of the bill mentions only accidents, injuries or illnesses. But the legislation itself talks about occurrences. We have to make things consistent. We have a kind of separation between the purpose of the bill and its content. The word "occurrences" should be added to the purposes of the bill.

Ms. Karine Trudel: There was also talk of the psychological aspects, which caught my attention.

One witness talked a lot about the effects of harassment on physical health. But often, for a victim of harassment or bullying, the psychological aspect is important and must be considered.

Ms. Caroline Senneville: Yes, and more and more absences from work are attributable to psychological injuries, if I may call them that. They also take a lot of time to heal.

If someone falls down a broken flight of stairs, the stairs will be repaired before the person gets back to work. If someone takes sick leave because of psychological injuries and the work environment has not changed when they get back, those conditions will unfortunately mean more psychological injuries.

Ms. Karine Trudel: Thank you.

[*English*]

The Chair: Thanks to all of you for your contribution to the review of this piece of legislation. All of us around this table agree that this is incredibly important. I think somebody said that this is our shot to get this right. I would agree with that, and I thank you for helping us make sure we land where we need to on this bill.

Colleagues, we will be breaking for about an hour. The next session will begin at 6:30.

Thank you all very much.

The meeting is adjourned.