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Chair

Mr. Art Hanger

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• (0905)

[English]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): I would like to call the Standing Committee on Justice and Human Rights to order.

Pursuant to the order of reference of Monday, October 30, 2006, Bill C-22, An Act to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act, is before the committee.

We have a good slate of witnesses here this morning. I would ask that those presenting keep their comments to about ten minutes so that all will have a chance to present. Presentations will be followed immediately afterwards by a series of questions from the members here.

There is a speaking order on the agenda. I'm going to begin, as is noted here on the order paper, with Ms. Faytene Kryskow, the director of Motivated Young People for a Strong Canada.

Also presenting here this morning will be the Canadian Federation for Sexual Health; Egale Canada; Regroupement québécois des CALACS; and the Canadian AIDS Society.

I'm now going to ask Ms. Faytene Kryskow to begin.

Ms. Faytene Kryskow (Director, Motivated Young People for a Strong Canada): Good morning, members, and thank you for your service to the nation on this extremely important committee. Your recommendations regarding Bill C-22 will impact future generations in Canada and in other nations that are looking to Canada for leadership on protecting children from sexual predators.

Last year, on the same day as a similar bill was voted on in Parliament, Bill C-331, Liberal member Pablo Rodriguez stated to the House that "a political party has a duty to listen and pay attention to what [youth] has to say.... They are in the best position to identify the problems and challenges facing them. ...when we in this House talk about building the Canada of tomorrow, we are talking about their future, and we ought to listen to them."

With this wisdom in mind, I would like to let you know exactly who I represent. The recently incorporated MY Canada association already has a membership of multiple thousands of young people, primarily under the age of 30, with a few moms and dads in the mix. We served in several dozen campaigns in the last election, have mobilized hundreds of young people to meet their MPs, are observant CPAC junkies, and are committed to supporting, in practical ways, those members who will lay aside party politics to do

good and sensible government. We span every province and territory and both nations in Canada. We are non-partisan, and yes, we vote.

Last summer, more than 12,000 Canadians—youths, young adults, and their parents and guardians—gathered on site at Parliament Hill and via webcast for a mass event called The Cry. We are told by political analysts that every person represents a thousand. If this is true, it's amazing to think that our first national gathering could very well represent 12 million Canadians.

Now that you know who we are, we want to point out that good and responsible government takes into account both the wishes and the well-being of its citizens. On this note, let me present to you feedback that comes both from our network and from average Canadian citizens, not special interest groups that are loaded with aggressive agendas.

In the last eight days, we posted a survey on our site regarding Bill C-22. We also canvassed the University of Ottawa and Carleton University to get a broader youth perspective than just that of our own network. In just eight days, we've had 931 surveys returned, with 94% saying they do not believe a 14-year-old has the maturity to choose an appropriate sexual partner; 92% saying they do not believe a 14-year-old would have the confidence to resist an adult who is pressuring or manipulating them to have sex against their will; and 90% saying they support Bill C-22 and believe the age of consent should be raised.

Some respondents who marked "No" on this last question did so because they believe it should be even higher. For example, they said they don't think it should be raised to 16 because they think it should be even higher, at 18. In some cases, it was even higher than that.

Many Canadians we talked to were both shocked and disturbed—never mind surprised—that the current age of consent is only 14. Consistently, we heard a plea from youths, who were in essence saying, please protect us.

Here are a few quotes from the youth comment section of our survey:

I am 15 years old going to 16 soon. I am older than everyone in my grade so we are just past the age of 14. I know for a fact that most of my grade is not mature enough to make a decision as big as this. I know I'm not mature even though I am told that I am very mature for my age. I don't want to see people getting hurt just because they can have sex—

The Chair: Excuse me a minute, Faytene. I don't mean to interrupt you, but could you slow down a bit for the translators?

Ms. Faytene Kryskow: Oh, I'm sorry. Okay.

I don't want to see people getting hurt just because they can have sex...and I've seen it happen already...I do think the government should raise the age of consent to 16...I know that 14 is too young for someone to make wise decisions about sex...It ruins lives because of people's immaturity.

This was Paul, from Roblin, Manitoba.

Megan, from Lions Head, Ontario, said: I am fifteen years old...and although I'd like to think...I am able to choose an appropriate sexual partner or resist someone who's pressuring me to have sex, I'm not...sure that I could...I would not want to live with those effects when I'm older and recognize the mistakes I made, or, was forced to make. Thanks for trying to pass this bill.... Good luck!

Others in the survey pointed out that at 14 we don't let youth vote, drive, buy cigarettes, drink, or join the army. If they can't do this, then what makes us think they can exercise judgment regarding sexual activity at a stage of life when they're hormonally charged? One survey pointed out that at 14 a child's frontal lobe, which is the area they need for reasoning, hasn't even developed. Another pointed out that many youth are not even educated regarding STDs at this stage.

Now, let me share my personal two cents. For almost 10 years I was a humanitarian worker on the streets of Vancouver. Nightly I walked the streets looking for young men and women who were tripping out, ones who needed food, shelter, a hug, or an ear. Every night I would see skinny young boys or girls on street corners selling their bodies to men who could care less about them and who saw them as nothing more than a three- to ten-minute thrill for \$20.

I soon discovered that many of these young ones were between the ages of 14 and 16 and that they were targeted because of their age. At age 14, with a little bit of manipulation they could be coerced into consenting to have sex with adults. Because they were still under the youth offenders act, basically nothing would happen if they were caught. This is a sweet package for a pimp. What kind of Canada would allow this to happen to our sons and daughters?

I have received desperate e-mails from parents who were looking to find their children who were being exploited in the sex trade. We could do nothing to rescue youth who were 14 or older, unless they came to us. Yet the reality is that many of them felt trapped, because pimps threatened to kill them or hurt them or their family members. They said whatever they could to control them into staying. In the book *Children in the Game*, one pimp said, "There ain't no rules, that's why I win".

The UN convention on children's rights defines a child as anyone under the age of 18. It also states that when children's rights conflict with adults' rights we must allow the children's rights to override.

Members, based on the UN definition, this is currently the bottom line: Canada is blatantly endorsing adult sex with children, and this must stop. We find it perplexing that in Canada it's legal for a consenting 14-year-old to have sex with a 50-year-old, but if that same 50-year-old pulls out his cellphone or camcorder to record the act, it's called child pornography. What kind of Canada are we building and who exactly are we protecting: pimps, predators, or children?

Here with me today is a young man named Donny. He was exploited as a minor in the sex trade. His story is chilling. At the age of 13, he was sexually assaulted by friends. Overwhelmed with

shame and confusion, he soon became overtaken by a life of addiction to crack. At the age of 14, he was selling his body to men who couldn't care less about him. As a minor, he frequented bars. Owners, who were well aware that he was underage, did not remove him.

He said to me the other night, "Johns always go after the young ones—the younger, the better". Donny was set up by a system that offered him no protection from others or even from himself. Donny will share with you the horror and the brokenness of those years and how, in looking back, he wished there had been something or someone to protect him.

Donny will be happy to answer any questions that you have about his personal experience in the question time. Please ask him. He has a story to tell.

In closing, I want to read to you a precious e-mail from an eighth grader, Laura:

I really want to contact some of the MPs to talk to them... I know I'm young but I'm really worried for my generation. I've noticed a huge change in kids' behaviour. Almost everyone in my class is watching R rated movies! I know some of the people who work at the theatre and they say kids sneak in...and they don't even care!! I know a kid who's 12 who's already gotten drunk more than once... I want the people who are running this country to know that they have a huge responsibility for all the kids that can't vote! ... They need to be a role model for kids 13 and up because we hear a lot about elections..

We have ears so we listen. We have eyes so we see. We have mouths so shouldn't we speak?

●(0910)

Though we may be too young to vote, and we don't have the responsibility to make huge decisions like what bills to pass...grown ups need to listen to us...and if the MPs need to know what the kids need most why not ask one?

...we each know more about OUR needs than ANY grown up, hands down.

I was...abused and my parents didn't know until we moved now I talk to the kid who did it to me and I found out they learned that behaviour from their parents. ... How are they any more responsible then their children?

If that is what some parents teach their children shouldn't there be someone [else] to teach that child write from wrong so those kids don't grow up and teach their children to be abusive?

The MPs CAN'T vote because their party says yes or no. They need to vote for the right things...Every child born and too young to vote has to trust their MP to make the right decisions for them. If our role models and MPs cannot make the right decisions for the right reasons, how will we?

Members of Parliament, I ask you, what message is allowing adult sex with children sending to young ones like Laura?

It's time to pass legislation that reflects community standards. And may I remind you that 90% of those surveyed said they believed the age of 14 was too low. Those in favour of keeping the age of protection at 14 or lowering the age of consent in any form, be it heterosexual or anal sex, are interested only in their own selfish personal or political gain, and are not looking out for the interests of the most vulnerable in society: children and youth. Such perspectives should be seen as dangerous, selfish, and harmful.

Last week an MP said to me that the role of government is to protect its citizens. On behalf of the multiple thousands we represent in our network, we want to say we agree and we encourage members from every party to do whatever they can to support this bill and see protection come to the children and youth of our nation. It's long overdue; ask Donny.

● (0915)

The Chair: Thank you very much, Ms. Kryskow.

I'm going to turn now to Linda Capperauld.

I believe you will be presenting, will you, Linda, or will it be Andrea?

Ms. Linda Capperauld (Executive Director, Canadian Federation for Sexual Health): It will be Andrea.

The Chair: Andrea and Linda are with the Canadian Federation for Sexual Health.

Please go ahead. You have the floor.

Ms. Andrea Cohen (President of the Board of Directors, Canadian Federation for Sexual Health): Thanks very much for this opportunity, Mr. Chair and members of the Standing Committee on Justice and Human Rights.

My name is Andrea Cohen. I'm currently president of the board of the Canadian Federation for Sexual Health, and that's my voluntary life. In my day job, I'm also the executive director of a large community health centre in Toronto, in the neighbourhood of Lawrence Heights. Every year we deal with thousands of vulnerable youth, providing both primary care and health promotion programs.

With me is Linda Capperauld, who's the executive director of the Canadian Federation for Sexual Health, and our head office is here in Ottawa.

The Canadian Federation for Sexual Health is a national, member-driven charitable organization focusing exclusively on sexual and reproductive health and rights. We've been around for over 40 years, working both in Canada and internationally. We represent a national network of 26 affiliate members across Canada and have great experience and success working with youth and parents in both education and health care delivery. Our federation includes the Canadian Youth for Choice, which is a rapidly growing national network of young people who are educating and advocating for the rights of youth regarding their own sexual health.

We support the intent of Bill C-22, which is to protect young people from sexual exploitation. However, this bill as it currently stands focuses only on the law enforcement aspects of protection. Law enforcement in and of itself does not protect youth; it only allows for prosecution once youth have already been exploited. If we

are serious about protecting youth, then we must make sure they have the skills, education, and health services needed for them to make informed choices, to negotiate their sexual relationships, and to prevent abuses of power. Moreover, we must think about the possible unintended consequences of this bill.

We have three major concerns that we'd like to share with you today, but we've conveniently added three recommendations to go along with them.

First, young people do not seek out the information and sexual health services they need if they fear a lack of confidentiality. We know this from our long experience and from the research. We also know from experience that when a young person is able to build a trusting relationship with a health care provider or other professional, it creates a positive environment for counselling on decision-making, choice, and empowerment.

The perception or reality that a young person or his or her partner would be reported to authorities and prosecuted for consensual sexual activity outside of the five-year limit will result in sexually active youth not seeking or getting the health services they need. There are potential consequences to this. The prevention of unintended pregnancies, the prevention and treatment of sexually transmitted infections, and the prevention of HIV/AIDS will be seriously compromised.

Second, the increased age of consent could be used as justification for denying young people the sexual health education and services they need. Unfortunately we know that once a law is passed there is often little control over how it is used or interpreted. Educators and health professionals may be reluctant to enter into conversations about sexuality with young people under the proposed new age of consent due to uncertainty about their legal obligations, their own personal viewpoints, and parental and other pressures. This has happened in other jurisdictions, such as the United Kingdom.

Both our experience and best practice research show that sexual health education that begins early, is age appropriate, and includes skills building as well as factual information is effective in helping young people to negotiate relationships, to delay first sexual activity, and to practise safer sex when they become sexually active. This education is essential for youth to learn ways in which to protect themselves from potentially exploitive situations. As surprising as it may sound, even today sexual health education is inconsistent and at times non-existent for many youth in Canada.

Third, the Criminal Code of Canada includes a clause that sets the age of consent for anal sex at 18 years, which is higher than for any other type of sexual activity. There is no logical or medical reason to treat one type of sexual activity differently from others. Both the Ontario and Quebec courts of appeal have already found this distinction to be unconstitutional.

While this clause exists, it means that, for example, two 16-year-olds who engage in consensual anal sex could be prosecuted, regardless of the intent of Bill C-22 not to criminalize consensual teenage activity.

The Canadian Federation for Sexual Health offers the following three recommendations in light of those concerns.

● (0920)

Amend Bill C-22 and all relevant legislation to ensure that information provided by a young person when accessing sexual health education information and medical services is considered to be privileged unless there is evidence of exploitation. This would mean that if a young person disclosed to a health care provider a consensual relationship with a person outside of the five-year exemption, this would be kept confidential and not be reported unless there was evidence of exploitation.

The second recommendation is to continue to provide strong federal government support to the Joint Consortium for School Health, which is a working group of provincial and federal ministries working together to try to increase the ability of the school system to teach topics of health education, including sexual health education. This important national initiative will help ensure that age-appropriate, accurate, and unbiased sexual health education is provided to children and youth in schools across Canada.

The third recommendation is to remove section 159 from the Criminal Code of Canada. This section sets the age of consent for anal sex at 18 years, which is higher than any other type of sexual activity. This will make the age of consent uniform for all sexual practices and orientations.

We thank you very much for the opportunity to present to the committee today.

The Chair: Thank you.

We will now turn to Egale Canada. I'm probably going to murder your name. Forgive me.

Mr. Kaj Hasselriis (Executive Director, Egale Canada): That's okay. I could just introduce myself and spare you.

The Chair: Please do, and you have Mr. Gregory Ko with you.

Mr. Kaj Hasselriis: Yes.

The Chair: All right. Please tell us who you are, and then present.

Mr. Kaj Hasselriis: Good morning, everyone. My name is Kaj Hasselriis, and I'm the executive director of Egale Canada.

Egale Canada is the national organization that advances equality and justice for lesbian, gay, bisexual, and trans-identified people and their families all across Canada. Egale was established over 20 years ago. We have thousands of members everywhere across this country: in Calgary northeast, Scarborough, Rouge River, Hochelaga,

Windsor, Tecumseh, Notre-Dame-de-Grâce, Lachine, and everywhere else.

One of our members, Gregory Ko, is with me today. He is a University of Ottawa student who will be attending McGill law school this fall.

We're very pleased to present Egale's views to this committee. Thanks very much for inviting us.

As you know, homosexuality was illegal in Canada until the late 1960s. Whenever the gay and lesbian community hears about a change in the country's sex laws, you'll have to excuse us, but we tend to get a little nervous.

Egale sees Bill C-22 as an unnecessary invasion into the sex lives of young Canadians. There are already sturdy laws that protect teenagers from sexual exploitation and assault. Instead of further criminalizing sexual behaviour, Canadian governments at all levels should instead focus on sex education. We should help young people by helping them make their own choices about what is comfortable for them.

Egale is opposed to raising the age of consent from 14 to 16. Whether or not we think Canadian teenagers should be having sex at age 14 or 15, the reality is that most Canadian teens of that age are indeed having sex. Some of them are having consensual sex with their same-age peers, and some are having consensual sex with adults. Egale believes very strongly that it is possible, even common, for 14- and 15-year-olds to consent to sex, even with people over the age of 20.

When young people don't consent to sex, Canada has very strong laws in place to protect them: laws against sexual assault at any age and laws against people in positions of authority who take advantage of the minors in their care. We also have strong laws against child prostitution, child pornography, and Internet luring.

We should teach young people to make decisions for themselves. We want young people to get reliable information about sex from their school guidance counsellors, local health clinics, and peer support groups. We want young people to get sex information from friends they can trust and also grown-ups they can trust. If young people feel their behaviour is criminal, we have good reason to believe they will not seek help.

Likewise, if school boards get the impression that youth sexuality is being criminalized, they'll be apprehensive about offering full sex education before students turn 16. After 16 it could be too late, because that's when many young people drop out.

We should also give discretion to the courts about the relationships that young people get involved in. We want judges and juries to focus on individual cases and make decisions about the best interests of young people in those cases. We do not want to leave it up to the government to make broad judgments about all young people in Canada and the activities they engage in.

Finally, I would like talk, as Andrea Cohen did, about anal sex. I mentioned earlier that homosexuality was illegal until the late 1960s. That's when section 159 of the Criminal Code was changed to allow consenting adults to engage in anal sex. Section 159 was not eliminated then, as it should have been. If you take a look at the Criminal Code, you'll see that it exists between the sections on bestiality and incest.

The Criminal Code makes anal sex illegal for anyone under the age of 18. That means, as Andrea pointed out, that all 16- and 17-year-olds who engage in anal sex are committing a crime, even if they do it with a 19-year-old, an 18-year-old, or even with another 16- or 17-year-old. Bill C-22 does nothing to abolish this inequality, even though section 159 of the Criminal Code has been declared unconstitutional by several different provincial courts. It is time to eliminate section 159. If you insist on passing it, Bill C-22 is the perfect opportunity to do so.

● (0925)

At the absolute minimum, the age of consent for anal sex should be equal to the age of consent for other forms of sexual expression. If not, Canada's anal sex laws will continue to be an act of state-sanctioned discrimination.

In conclusion, and before Gregory says a few words, let me say that the issue of young people and sexuality is indeed a very sensitive one, and it's one that should be carefully considered before any laws are passed. That's why I'm very glad that we have this opportunity today to make our presentation to this committee.

We at Égale would like to thank the justice committee for the opportunity to speak about this very important topic, so thanks for listening.

Here is Gregory Ko.

The Chair: Thank you.

Mr. Ko, before you start, keep in mind that I'm going to hold you to your time, as I have with the other presenters, due to the numbers that we have here.

Mr. Gregory Ko (Member, Égale Canada): I'll try to keep it brief.

Unfortunately, I didn't have a chance to fill out that questionnaire of yours.

[*Translation*]

As a young Canadian involved in the work of Égale Canada, it seems to me entirely appropriate to offer the viewpoint of a young person on an issue that seems to concern Canadian youth in particular. I'd like to emphasize two points.

I really believe that, with this bill, the committee wants to protect young Canadians from sexually predatory behaviour. I have no doubt that your intentions are good. However, it must be emphasized

that the Criminal Code already contains sound provisions designed to protect persons under 18 years of age from Internet luring, sexual assault and relations with a person in a position of authority.

We question the need for this change. Unfortunately, increasing the age of consent from 14 to 16 will definitely be interpreted by young people as a criminalization of their sexual activities. Although this bill contains some distinctions that permit sexual relations between youths, it sends youths under 16 years of age the message that their sexual activities are illegal.

● (0930)

[*English*]

What this change will do is effectively have a silencing effect on youth. I think we need to be worried about young people who are going to be too afraid to come forth to seek health advice, to be counselled. If our true intention is to safeguard the sexual lives of young Canadians, then our focus should be on sexual health education and not on the Criminal Code, to ensure that young people can make intelligent and informed decisions about a very important part of their lives.

Sex health education is about keeping an open line of communication for all youth, particularly for those who, in reality, let's face it, begin to experiment at the age of 14. It is about ensuring that the most vulnerable among us are the most informed about their rights and about their safety. Raising the age of consent to 16 will make keeping those open lines of communication all the more difficult and might mean that the most vulnerable among us go uninformed.

[*Translation*]

I also believe that if we want to discuss sexual relations among young people, this discussion has to include all young people, both heterosexual and homosexual. That simply means that we will have to repeal section 159 of the Criminal Code, under which the age of consent to anal intercourse is still 18.

Under the present Criminal Code, the sexual relations of a 17-year-old gay couple are an indictable offence. That is not the case of a heterosexual couple. You can see how unfair this is. In addition to being clearly unequal and homophobic, this section was ruled unconstitutional by the Quebec and Ontario courts of appeal almost 10 years ago. If Canada wants to be a fair and equitable country, it seems to me it has to legislate in a fair way.

I want to thank you for giving me your time.

[*English*]

The Chair: Thank you, Mr. Ko.

Now we'll hear from the Quebec centre for sexual assault, Madame Carole Tremblay and Michèle Roy. Who will be presenting?

[*Translation*]

Ms. Carole Tremblay (Spokesperson, Regroupement québécois des Centres d'aide et de lutte contre les agressions à caractère sexuel): I'll start, and I'm going to address the committee in French.

The Regroupement des CALACS is an organization representing 30 centres for providing assistance in and combating cases of sexual assault. Our assistance centres have been in existence for 30 years and focus mainly on sexual assaults committed against adult women and adolescent girls.

My remarks will essentially concern three subjects. We have discussed Bill C-22 with youths that enter the CALACS. They clearly found it hard to understand certain things. If Bill C-22 were passed, it would be hard for them to determine in which circumstances they would be in an illegal situation, if only to know when mistaken belief would become inadmissible. These concepts are not easy for youths to understand. In our opinion, the additions made by Bill C-22 should be backed by structural steps to ensure that the new amendments to the bill are known and clearly understood.

The expression "non-exploitative sexual activity" is used in a number of places in the bill. This suggests that there is an age at which people can start to agree to be sexually exploited. In fact, the bar is set at 18 years of age. That concerns us very much and, in our view, is not consistent with promoting egalitarian values. The problem didn't start when Bill C-22 was introduced, but the fact remains that the bill does not correct the exploitative nature of the situation among persons over 18 years of age. We think there is work to do in this regard. For example, I will say that the concept of a minimum age has been in our Criminal Code for a long time, but that has never prevented people from starting to engage in prostitution.

For us, the problem is greater than the mere question of age. You have to consult qualified people and conduct research in order to understand why certain adults exploit children. Perhaps we will subsequently have to change the age of consent, but first we need to gain a better understanding of predatory behaviour and the causes of the sexual exploitation of children.

Will Bill C-22 protect these individuals from sexual predators? We fear it will create an illusion of protection. As we somewhat jokingly ask in our groups, what predator asks to see the ID of his potential victim. That's a bit cynical, but it's a fact that you note when you meet with youths who have been the victims of predatory behaviour.

If the purpose is to send more criminals to prison or to extend their stay there, the fact remains that society will not change if more structural measures are not taken. What do we mean by more structural measures? We think it praiseworthy that Bill C-22, in its present form, provides for a five-year exemption to protect the right of adolescents to disclose a sexual relationship.

• (0935)

In our view, however, that entails other rights, the right to receive information, sex education, sexual prevention courses, the right to condom distribution, access to abortion and so on.

In our opinion, if Bill C-22 is passed as is, the rights that must be preserved go beyond the right to sexual expression. It must cover more than that.

Ms. Michèle Roy (Spokesperson, Regroupement québécois des Centres d'aide et de lutte contre les agressions à caractère sexuel): As an organization that works with the victims of sexual violence, we are very much concerned by all forms of sexual

violence; by the hypersexualization that can be seen throughout society, both for young people and for adults; by pornography in all its forms, from child pornography to that intended for adults; by Internet luring and by everything that circulates on the Internet; by the development of sexual tourism, both in Canada and abroad, by Canadians in some cases; by prostitution; and by all forms of sexual exploitation.

What enables both young people and adults to resist the forms of sexual exploitation, the pressures related to hypersexualization? First, it's the opportunity to know oneself well, to recognize that you have rights and worth as an individual, to have the right to say no or to say yes, to choose when and how you have sexual relations.

We observe that as many adults as young people and adolescents do not realize that they have that right. They are conditioned by every social message that requires them, that puts pressure on them, to have sexual relations, to engage in prostitution or pornography.

To make it possible to really make a significant change in this regard, we are persuaded that we need much more sex education, education on relations between men and women, boys and girls, on equality and respect for human beings. The bill as proposed must provide for a set of education programs and send a very clear social message against sexual exploitation at all ages, not only up to the age of 18.

If our society conveys a contradictory message about sexual exploitation, that is to say if there is an age where it's permissible and another age where it is not, if we first say that we have to protect children and if we subsequently say that it is all right for a mother, father, uncle or big brother to be involved in prostitution, pornography and so on, and if that is not a problem, how to do expect young people to sort through all those messages?

Unequal sexual relations are promoted among adults, but not among children, among youths. It's said that they don't yet know at the age of 14, but that it's no longer a problem at 17 or 19. This is very much a concern for us. We get the impression that a simple message stating that you have to protect young people won't provide them with the means to protect themselves and to develop their ability to recognize their rights.

We work with young girls who are pressured into having sexual relations with their boyfriends. The members of their group ask them why that they haven't yet had sexual relations at their age. The magazines all preach that you should have sexual relations early, no matter how. Enormous social pressure is put on girls and women, it's true, to push them toward the market for sexuality in all its forms. So it's not just reviewing the age of consent for non-exploitative sexuality that will reverse this trend.

In that sense, it is very important for us that the social message sent to young people and adults be coherent and that there be continuity. We can't have a double standard and say that people can consent to any type of activity starting at such and such an age, but not before. That's a concern for us.

In addition, if the act isn't clear, simple and popularized, young people will be even more reluctant than they are now to seek out sexual information, to confide in healthy adults in order to obtain a different point of view. They will have trouble asking for help when dealing with exploitation situations or situations in which they do not feel safe or respected. They, especially girls, will hesitate to ask for help.

We know that young people have sexual relations, whether we like it or not, whether we think they are ready or not. However, that isn't always done in a respectful manner. That's true and it's a concern. We have to give them ways to find a better balance. The more young people are poor and live in vulnerable conditions, the earlier sexual relations will begin.

Are we going to work to fight poverty? Are we going to work to enable young people to have access to more information, to better chances for success and expression in life? Are we going to ensure that girls do not choose to have sexual relations in order to prove that they are someone, that they have social worth? Will the proposed bill make it possible to address these issues?

● (0940)

If it isn't rooted in another logic than repression, or if the message of protection from exploitation isn't clear, we're headed in the same direction we've been heading in for years now. We're sending young people a very ambiguous message, and they will continue along the same lines.

We'll be available to answer all your questions later.

[*English*]

The Chair: Thank you very much.

Now we go to the Canadian AIDS Society, represented by Ms. Kim Thomas and Ms. Nichole Downer.

Ms. Nichole Downer (Programs Consultant, Canadian AIDS Society): Thank you very much for this opportunity to present to you today.

We recognize that a lot of our points have been presented. Being the last group, we would like to take the opportunity to reinforce several themes that are evident in the presentations today.

The Canadian AIDS Society is a national coalition of over 125 community-based AIDS service organizations across Canada. We are dedicated to strengthening the response to HIV/AIDS across all sectors of society and to enriching the lives of people in communities living with HIV/AIDS.

As an organization dedicated to decreasing HIV/AIDS infection rates, we are concerned about the pending legislation to increase the age of consent for sexual activity from 14 to 16 years of age. Furthermore, the proposed amendments do not address an existing law prohibiting anal intercourse for individuals under the age of 18.

The Canadian AIDS Society believes the law should not discriminate by type of sexual activity. First, there are already protections in place under Bill C-2, protection of children and other vulnerable persons. Passed by Parliament in July 2005, Bill C-2 created new protections for youths under 18 years of age against exploitative sexual activity. The Canadian AIDS Society supports

this bill. Bill C-2 takes into account the nature and circumstance of the relationship, including the age of the young person, the difference in age between the youth and the other person, how the relationship evolves, and the degree of control or influence exercised over a youth under 18.

Second, increasing the age of consent could result in youths being more secretive. The Canadian AIDS Society is concerned that increasing the age of consent could result in youths being more secretive about their sexual practices and in youths not seeking out the information they need. This will place youths at an increased risk of contracting HIV and other sexually transmitted infections.

Almost one-quarter of students in grade 9 feel embarrassed about seeing a physician or a nurse if they suspect they may have an STI. Raising the age of consent could have the negative impact of further decreasing the number of youths accessing the information from health providers if they are under the age of 16. This is problematic, as research in Canada has shown that the average age of first sexual intercourse is 14.1 for boys and 14.5 for girls.

A study in Britain showed that youths are unlikely to seek information about contraception and sex if they are under the age of consent, because of worries about law and confidentiality. The studies show that youths under the legal age of consent in Britain were six times more likely than those over the legal age of consent to give the fear of being too young as the reason they did not seek out sexual health information.

Regardless of the age of consent, youths will continue to have sex, and we need to make sure they have the information they need. As we know the average age of first sexual intercourse is under 16 in Canada, raising the age of consent could result in many youths engaging in their first sexual intercourse while being fearful of accessing the information they need.

Not enough research has been done in this area to alleviate the fears that raising the age of consent could have detrimental effects on the sexual health practices of youth. Therefore, it would be irresponsible to raise the age of consent without knowing the full effects of this action. The Canadian AIDS Society supports more research being done in this area.

Third, the close-in-age exemption is not a solution. The close-in-age exemption has been used as a solution to fears that Bill C-22 will criminalize youth sexual behaviour. We do not believe this is an adequate solution.

While we understand the rationale behind the creation of a close-in-age exemption and that this exemption would be increased to five years under Bill C-22, the bill places unnecessary restrictions on youth, while not addressing the reality of sexual abuse. Given that all exploitative activity is currently illegal involving people under 18, this law makes the situation for youths unnecessarily complex.

Most youths, and even adults, do not have the legal expertise to know about the criteria and exemption, or to be able to determine if their relationship meets them. It is very likely that this exemption will be misunderstood or forgotten, and the age of consent will generally be understood to be 16 years of age. Many young people would assume their relationships are illegal and not seek the information and help they need.

Using age as a factor to determine sexual exploitation does not address the reality of sexual abuse. In cases of sexual coercion, a person is no less abused if the perpetrator falls within a five-year peer group. This legislation is focusing on the wrong group of people. Criminalizing the sexual behaviour of youths will do nothing to stop exploitative activity. As all exploitation of persons under the age of 18 is currently illegal under Bill C-2, more resources need to be devoted to pursuing cases involving sexual exploitation and abuse.

• (0945)

Fourth, the focus should be on comprehensive HIV/AIDS and sexual health education. School was reported as the main source of information about HIV/AIDS by 67% of males and 58% of females in grade 11. However, 27% of grade 7 and 14% of grade 9 and grade 11 students had not received any instructions on HIV/AIDS education over the past two years.

The Canadian AIDS Society is concerned that if the age of consent is raised from 14 to 16 years of age, prevention and education in schools will not be available for youths under the age of 16, decreasing further the amount of information provided to them. Research evidence has shown that in the long term, prevention messages are more effective when they're delivered early, and they are effective at reducing risky sexual behaviour. We also know there were 212,000 high school dropouts in Canada in 2004-05. The legal minimum school leaving age is 16 in most provinces in Canada. Therefore, not delivering sexual health education in schools before the age of 16 would mean that many youths are not receiving critical prevention messages.

The Canadian AIDS Society believes the government should be focusing its efforts on promoting consistent, comprehensive HIV/AIDS and sexual health education across Canada. The best way to protect and support youths is to ensure that educational services are available to inform them about their rights and options, and about the risks and benefits of engaging in sexual activity. Educating youths to make informed choices that are right for them is better addressed through parental guidance and comprehensive sexual health education than it is by using the Criminal Code.

Fifth, the age of consent should be universal and not discriminate by type of sexual activity. According to the Criminal Code, the age of consent for anal sex is 18, while the age of consent for vaginal intercourse is currently 14. Section 159 of Canada's Criminal Code states that people who engage in anal intercourse are guilty of either an indictable offence, risking being given a prison term of ten years or being found guilty of a summary offence.

The unequal treatment of anal sex has been found unconstitutional in the Court of Appeal for Ontario, the Court of Appeal of Quebec, the B.C. Court of Appeal, the Alberta Court of Queen's Bench, and the Federal Court of Canada, yet the federal government refuses to

recognize its unequal treatment and change the law. The Court of Appeal for Ontario recognized the potential for harm when the age of consent is higher by striking down the age of consent of 18 for anal intercourse.

In the ruling, the judge stated:

Health risks ought to be dealt with by the health care system. Ironically, one of the bizarre effects of a provision criminalizing consensual anal intercourse for adolescents is that the health education they should be receiving to protect them from avoidable harm may be curtailed, since it may be interpreted as counselling young people about a form of sexual conduct the law prohibits them from participating in. Hence, the *Criminal Code* provision ostensibly crafted to prevent adolescents from harm may itself, by inhibiting education about health risks associated with that behaviour, contribute to the harm it seeks to reduce.

The Canadian AIDS Society hopes you will reconsider increasing the age of consent based on the issues raised above. The solution to protecting youths from sexual exploitation is not found by placing restrictions on them. Bill C-22 has the potential to affect the health and well-being of youths. It is irresponsible to enact Bill C-22 without solid evidence to the contrary.

Therefore, our recommendations are that more resources be devoted to pursuing cases of sexual exploitation and abuse; that more research be conducted into the impact the age of consent has on providing sexual health education and youth confidence in accessing health professionals; that section 159 of the Criminal Code be removed and the law regarding anal sex be made consistent with the law on vaginal intercourse. Should Bill C-22 be passed, plain-language information on the new law and what it means needs to be communicated to youths, particularly around the close-in-age exemption.

Thank you.

• (0950)

The Chair: Thank you very much.

We're going to get to questions, but I'd first like to acknowledge a delegation from Manitoba and Ontario that found an opportunity to come and watch the process of government at work. They represent the National House of Prayer, which is in Ottawa.

Welcome, folks.

I would begin by asking Mr. Bagnell to start the questioning.

Hon. Larry Bagnell (Yukon, Lib.): I thank you all very much for coming. It has been very interesting, and the input is helpful.

The common messages that I've gotten are that we have to change the rule on anal sex; that enforcement is not everything; and that information, education, and protecting those types of resources are very important. I think most people agree on those things. But even with all those things in place, whether or not we pass this law is still a contention.

I'd like to ask something of Egale and Kim, probably, because I think you're the only witnesses I can remember as having spoken against the bill. I'd just like to ask a question that we asked the bar association, and that is about how you develop your policy.

Kaj, roughly how many members do you have? How did they feed into this decision, into your position on this particular bill?

Mr. Kaj Hasselriis: That's a good question, and thanks very much for asking it.

Egale has several thousand members across Canada, people who donate their time and money to the organization. As I said in the presentation, we have members in every province and territory.

Egale is a non-profit, political organization that is run by a 12-member national board. There are many committees that do very valuable work for Egale, including Egale's legal issues committee, which looks at all sorts of political and legal issues and, from time to time, also intervenes in court cases—for instance, the recent Hislop Supreme Court decision on same-sex pension rights, and the recent Supreme Court decision on Little Sister's bookstore in Vancouver—

• (0955)

Hon. Larry Bagnell: I'm sorry, but I was more interested in how you came to this decision.

Mr. Kaj Hasselriis: There is the legal issues committee, which has as its members lawyers and law professors and other legal professionals across Canada. They make recommendations to the board, and then the 12-member national board makes decisions on behalf of the membership of Egale.

Working as the executive director of Egale, I can tell you that Egale is very engaged with its membership across Canada. Members are calling us every day. We are often sending them newsletters. We have an active website. We have a listserv. Members are free to give their opinions all the time, and believe me, they do. So we get input all the time on different cases.

Actually, at our last national board meeting a couple of weeks ago, we looked again at this issue and talked about it prior to our coming to present our statements to you.

Hon. Larry Bagnell: And the board agreed with this position?

Mr. Kaj Hasselriis: Yes, exactly.

Hon. Larry Bagnell: Okay, great. Thank you very much.

I have a similar question for Kim.

Ms. Kim Thomas (Director of Programs, Canadian AIDS Society): The Canadian AIDS Society is a coalition of 125 community-based HIV/AIDS organizations that are working on the front lines of responding. Many of them do in fact serve youth through prevention and provide services for youth who are living with HIV/AIDS.

In terms of how our policy is built, we have several bodies that assist in that. One, of course, is the board of directors. On our board of directors, we have a youth seat designated for a youth living with HIV/AIDS. This representative is guided by a steering committee made up of representatives from across Canada, a standing committee that helps him to define what types of policies and

responses are required on issues that affect youth when it comes to HIV/AIDS.

As well, the board of directors has a committee that looks at all of our policy positions and helps guide the staff in developing the statements themselves. All of our position statements are in fact passed by the board of directors, and there are records of those in our board minutes, which are of course available publicly.

As well as representing a community-based movement, we have a body called the People Living with HIV/AIDS Forum, which meets annually. Within this forum, we attempt to represent people from many different lived realities in Canada, including youth. That body has a resolution process that helps us to set the policy priorities over the course of the years. The issue of youth prevention has come up at that forum and has been put forward for the board to address also.

Hon. Larry Bagnell: Okay. I don't have much time, but just quickly, I assume that the youth steering committee and your board are against this bill.

Ms. Kim Thomas: Yes.

Hon. Larry Bagnell: Okay.

Perhaps it'll take the rest of my time, but I'll just give Donny a chance—I don't think he's had a chance to speak yet—to say whether or not he's against this bill. And if you're for passing this bill, maybe you could explain why in relation to your own experiences.

Mr. Donny Melanson (Member, Vancouver, Motivated Young People for a Strong Canada): Yes, thank you very much for asking me that question. I'm definitely not against it. I'm definitely for passing the bill.

The bottom line is that there's a very real injustice unfolding in our generation right now with youth exploitation, and it even goes deeper than that into slavery—you could call it modern-day slavery if you want.

Based on my own experience, a lot of the reasons why young women and boys are exploited is abuse. All abuse is emotional, whether it's physical, mental, spiritual, social, whatever.

In my case, having been abused at the age of 13 by two friends fuelled my addiction. The addiction just pushed down the shame and the guilt, and as a result I ended up in downtown Toronto at a place called Boystown, and I was introduced to a way and a means of making money at a very young age to support my drug habit. Thus, this sick cycle began of pushing down the shame and guilt and then selling my body to men in order to continue not to feel.

I believe we need to start respecting each other as brothers and sisters and not look at each other as objects of affection, not look to each other to impress one another or to have power and control over one another. That's where this injustice stems from; it's this mentality in our society today that says I have one over you.

It's all around us, really. I don't think any of us are blind to it and I think we really need to open our eyes and see that a good place to begin is to raise the age of consent.

Everyone else has made really good points. What follows after that is education and awareness, but we need to start somewhere. You can't keep passing the ball.

That's all I have to say for now. Thanks.

•(1000)

The Chair: Thank you, Mr. Bagnell. That was a good question.

Mr. Melanson, I know it's tough to be able to articulate some things, as you have here, so we thank you for making that effort.

Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Thank you, Mr. Chairman.

I'm going to start by putting my questions to Ms. Roy and Ms. Tremblay. I was very interested by your evidence. You're pushing us to think a little beyond the law as such, that is to say to think about the whole range of values and how we can use justice to advocate more equal relations among individuals.

You aren't that much in favour of the bill because you feel it skips an important aspect.

Strictly from the point of view of what we can do within the bill that is before us, how should we attack the entire issue of so-called exploitative relations? This distinction has been made in the bill. Do you think we shouldn't make it? Do you think it's a definition? What changes would you like concerning this concept of exploitative relations, which, as presented, refers to pornography and prostitution?

Ms. Michèle Roy: It is always complicated, in a legal context, to change a bill or a specific section of an act without providing it with a framework as part of another initiative. There are always constraints. You can't change the age of consent without integrating it in a more comprehensive change in terms of what we want to promote as a society and the way we will subsequently set that down in various acts.

It's difficult for you to say that we should specifically delete such and such a line and add another in this bill. It's hard to cut it in that way because, ultimately, the question is whether this bill will really make it possible to achieve the objective we claim to have, that is to say to protect young people from sexual exploitation committed by persons, either through the Internet or otherwise, by adults who try to impose sexual relations on them. It is difficult to know whether we are for or against it because the question we especially ask ourselves is whether the objective pursued will be achieved. Will it really provide protection?

I think we have to ensure that all women and girls in our society have the right to say no, and to convince all men and boys that, when someone says no, it means no. Those are the current issues. In some cases, boys don't respect a refusal, regardless of the way it is expressed, and women and girls do not recognize that they have a right to say no, in certain circumstances.

There are some young people who agree to have sexual relations out of choice, will, love or desire. That is not the problem. The problem is that many young people currently do it for all kinds of false reasons, not to mention the pressure that is put on them to prove their notoriety, to look for love, to escape poverty, to buy drugs, and so on. As the gentleman said, these are relationships of inequality and abuse of power. That's the problem.

•(1005)

Mr. Réal Ménard: All right.

Ms. Michèle Roy: But I find it hard to tell you to delete part of the clause.

Mr. Réal Ménard: Thank you very much, Ms. Roy.

I'd like to continue with a second question, with your permission. This is for the people from Égale Canada or the Canadian AIDS Society.

I think section 159 has to be amended. It seems clear to me that there is no reason for this type of distinction.

At the same time, we had a favourable prejudice. I'm very pleased with Ms. Roy's testimony because she made us understand that our effort is limited; I'm aware of that. Let's take a 50-year-old person who has a relationship with a 14-year-old. Even if it is not exploitative, should we encourage that in our society? The question arises.

You seem to say that raising the age of consent will mean that people will be less inclined—that's somewhat the sense of the testimony you gave—to look for information and that there will be harmful effects in the schools.

Can you tell us a little more about that? The link with raising the age of consent is not clear.

I don't know who wants to be the first person to answer.

[*English*]

The Chair: Please go ahead.

Ms. Andrea Cohen: Thank you.

I should start by saying, actually, that the Canadian Federation for Sexual Health is not for this legislation. We believe it's a rather crude instrument to deal with a pretty complex issue, which human sexual behaviour is, particularly around youth.

Actually, we lack any kind of framework in Canada around sexual health and rights. In the early nineties, the government commissioned a national framework on sexual and reproductive health, and it was never implemented. Some of the things in that framework guaranteed rights of access to health care and education, and guaranteed things around issues of confidentiality, and really dealt with the whole issue of sexuality, particularly for youth, in a way that was thoughtful, in a way that was based on evidence and best practice and what works, and in a way that was fair and didn't discriminate against certain types of sexual activity.

So today we've picked the three most important things that we think will improve this particular legislation going forward. Our members provide both health care and education to youth and parents across the country, and our members have told us that they are very concerned, in the way this legislation is currently written, that youth are already skittish about seeking out information and seeking out health care, and any risk to their confidentiality and anything that puts up that kind of barrier will actually compromise their health and their decision-making.

The Chair: Ms. Thomas.

Ms. Kim Thomas: I want to respond to Mr. Ménard's question around education and the state of education in schools right now.

Currently 16 is the age at which youth are allowed to drop out of high school in all provinces except New Brunswick. I'm sure people in Ontario are aware that there is some discussion about changes to that in Ontario as well. But that creates a problem, because it tends to be youth who are most at risk who are looking at dropping out. One of our primary concerns is that they will not be able to access information about sexual health and, in our case particularly, HIV/AIDS prevention.

The lack of education on sexual health in schools across Canada right now also needs to be addressed. That vacuum has been evidenced by studies on sexual health that have been done by the Council of Ministers of Education, Canada. That study has revealed a lot about sexual health realities in education across Canada for youth today.

•(1010)

The Chair: Thank you, Mr. Ménard.

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair, and thank you all for being here.

To the federation and the society, specifically on sexual health, were you consulted by the current government either before or since this bill has come forward?

Ms. Andrea Cohen: No.

Mr. Joe Comartin: To Egale, on section 159 specifically, were you consulted by the current government as to how that should be dealt with either before this legislation came forward or since then?

Mr. Kaj Hasselriis: Not that I know of.

Mr. Joe Comartin: Ms. Cohen, you have some very general recommendations on a major change. I'm preparing some amendments for the Evidence Act to deal with the specific concern you have about people having to testify or give evidence that would be

used against their sexual partners, and that being a reason why they would not seek medical treatment.

Are medical doctors, general practitioners specifically, subject to having to make those reports if they get that information from a patient?

Ms. Andrea Cohen: Our understanding is that there will be a duty to report under this legislation. If youth come in to access testing and diagnostics around sexually transmitted infections and something comes back positive, they have to provide a list of their partners to public health. That's a good policy, of course, but by providing that list of partners they are therefore disclosing potential outside of law, outside of age exemption partners. We certainly fear that will prevent them from coming in to be tested, and therefore it will continue to spread.

STIs are really on the rise with our youth, and I think we should all be very concerned about that. We need to protect youth from that very important health issue.

Mr. Joe Comartin: I'm guessing you're not a lawyer. Have you had any legal counsel look at this? I've identified a potential amendment to the code that would address part of this problem. It's a major amendment that would be needed to the Evidence Act to provide this privilege we're looking for. From your report it would appear there may be other statutes, and I haven't caught any of those.

Has a lawyer looked at other statutes at the federal level? Of course we can't do anything for provincial legislation.

Ms. Andrea Cohen: That certainly makes it very complex. We've been very careful in both our brief and our comments today to focus on the areas where we feel we have some background and experience—that's in sexual health, and particularly education for youth and parents. Because there's federal legislation and provincial legislation that varies across the country, we can't recommend any specific wording to that legislation that would be helpful, but we certainly encourage your efforts to do so.

Mr. Joe Comartin: You have not had lawyers look at it. Okay. Thank you.

Ms. Kryskow, you made reference to Bill C-331 with some favourable comments. That bill did not include a near-age defence.

Ms. Roy, Ms. Tremblay, and Ms. Kryskow, I'm not clear from your presentations if you are in favour of the near-age defence, or if you would simply raise the age to 16.

Perhaps I could have a comment on that.

Ms. Faytene Kryskow: Yes. My reference to Bill C-331 was a reference not to the actual legislation but to the statement that was made by Mr. Rodriguez about the importance of this to youth. I just wanted to clarify what I was actually saying there.

In terms of the near-age clause, I think the fact that we're not criminalizing sex between consenting youth is a helpful thing. I don't think I need to expound on that any more than that.

Mr. Joe Comartin: That's fine. Thank you.

Madame Tremblay ou Madame Roy.

[Translation]

Ms. Carole Tremblay: It's the same thing in part. If Bill C-22 is carried as is, it is a necessary evil to allow this exemption so as not to criminalize adolescents who have sexual relations with each other. As I mentioned earlier, provided this does not cover only those rights, only the right to have sexual relations, but much more than that.

• (1015)

Mr. Joe Comartin: You agree that, if the age is raised to 16, we have to add exemptions?

Ms. Carole Tremblay: Yes.

Ms. Michèle Roy: I think we share Madame's concern about the question how medical records and so on, for example, could limit access to youths. So we have to permit this near-age exemption.

[English]

Mr. Joe Comartin: *Merci.*

I want to play devil's advocate to both Egale and the AIDS society. Certainly I've heard this argument. I won't say I subscribe to it, but I want to hear a response.

If we accept your arguments to not raise the age to 16, it seems logical that we would either eliminate an age of consent completely or reduce it to 12, as it was in the late 1800s. What do you say to that kind of an argument? There are a few countries in the world that don't have an age of consent at all in their criminal legislation. Obviously the vast majority have one that runs from 14 or 16 to 18. But if you follow—and Ms. Downer, I think I'm pointing to you specifically because you addressed this more than anybody did—your arguments regarding the nature of the relationship and so on, why would you not reduce the age? We know from the statistics that there are a reasonable number of youth in Canada aged 12 and 13 who are in fact engaged in sexual relations.

Ms. Kim Thomas: The question I keep writing down to myself as we're talking about this is why should the onus be on youth to protect themselves here? That's why I keep getting this feeling that we're talking about criminalizing youth behaviour through this bill, that we're talking about telling youth what to do. It's been a few years, but I was a youth at one point—

Mr. Joe Comartin: I'd forgotten that too.

Ms. Kim Thomas: —and I think if I remember correctly back to that, I certainly wasn't thinking about these types of discussions when I was making decisions around sexual activity. I think we need to focus on the realities that are facing youth through this.

I'm not sure if reducing it to 12 years of age is going to make a difference. I have to tell you, when I was 15, 16, or 17, I didn't know what the age of consent was. I just did what I felt like doing. It's a much more immediate thing. I think that setting and enforcing the restrictions that we already have around predatory sexual activities is really the priority that we need to address right now.

The Chair: Mr. Ko.

Mr. Gregory Ko: Thank you.

I think it's generally more about the difference between keeping the status quo and making a change. The age of consent has been 14 since 1890, I believe, so it's not a matter of reducing the age; it's a

matter of keeping the age as it is, and a matter of the impression that youth are being given by the change in age. Changing it to 12 sends a message in itself, but what's being signalled today by this bill does something equally harmful, I think.

The age of 14 is there. It's been there since 1890. I think, in particular, that raising the age gives the impression that the security and comfort that youth have already surrounding sexuality and the seeking of counsel are threatened. That's the impression I think we're highlighting today, more than anything else. So there is a difference between maintaining the status quo and changing and signalling something to youth.

The Chair: Mr. Hasselriis.

Mr. Kaj Hasselriis: I just want to add that Egale Canada has never actively sought a reduction in the age of consent. I suppose our presence here is somewhat reactionary. We don't want the age of consent to be raised, and that is what this bill intends to do. We are here to say that we do not want that to happen.

We're also concerned when people like the first presenter suggest that maybe if we raise it to 16, there will be people who might want it to be 18, or even higher. They wonder when it will end. If we raise it from 14 to 16, what's next? Raising the age higher? Saying that people can have consensual sexual activities only when they're married, for instance?

We are here to say that the changes in this bill should not happen.

• (1020)

The Chair: Thank you, Mr. Hasselriis.

Mr. Moore.

Mr. Rob Moore (Fundy Royal, CPC): Thank you, Chair.

And thank you to all of the witnesses today. It's certainly been very interesting testimony.

I want to speak a bit about what Ms. Thomas just mentioned, about the onus being on youth. I think it's interesting that a lot of the discussion today has been around youth, when at our last meeting the discussion revolved around the adult. This is very much about putting the onus onto the adult. So I do appreciate your comment.

You mentioned you didn't know the age of consent. Probably most people don't know the age of consent. I think, Ms. Kryskow, you also mentioned that Canadians are shocked when they hear that the age of consent is 14. That's in some of the testimony we've already received from, for example, the police, who deal with this on an ongoing basis.

I'll read from the testimony we heard from the National Child Exploitation Coordination Centre. They say that in their experience, many Canadians believe that 14- and 15-year-olds are already protected by the law: "They are of the mistaken belief that young teens are protected from anyone who is more than five years their senior. Our experience is Canadians believe it is illegal for a 50-year-old male to have a sexual relationship with a 14- or 15-year-old teen."

So on one hand you have young people who often may not know the intricacies of the law. On the other hand you have Canadians who think that this activity is already prohibited by law, when it's not. But we heard about another group, and that is those who do actively seek out young people in Canada for sex. That's a third group. You have the general public, you have kids, and then you have...and they, above anyone else, know our laws inside out.

We heard testimony that in the online forums and chat rooms, Canada's laws are in some cases celebrated, that people know our age of consent; they know how our age of consent and our law and our system of punishment for adult predators compare to their own. Many of you may have watched the *W-FIVE* investigation recently, where people were coming to a house to have sex with a 12- or 13-year-old girl. I had the privilege of meeting with one of the police officers in my riding who mentioned that if he goes online posing as a 12-year-old girl or a 13-year-old boy, within minutes he's being approached by an adult about sex.

So I do want to talk about that. We already discussed whether any minimum is appropriate. I think for Canadians there's a consensus that there should be a minimum at some point. There seems to be one around the table.

Ms. Thomas, you mentioned another thing, about the dropout age, that I thought was interesting. The age to drop out is 16. So we've set that age. We've also set an age of 16 to drive. We've set an age to vote. We've set an age to do all these things. Canadians feel that these people—adults who are 40- or 50-year-olds who want to have sex, specifically in Canada, with 14- and 15-year-olds—should be prevented from doing so, putting the onus on them. They're aware of the law. Our law currently states that a 14-year-old is fair game, when in the United States or other countries where these people may be coming from, the law says you have to be 16.

So could I get some comments, from anyone really, talking more about the person who wants to seek out a 14- or 15-year-old for sex?

That's open to anybody. Just go ahead.

Ms. Faytene Kryskow: I'd like to respond to that, Mr. Moore.

This is what we've been hearing over and over as we were doing the surveys and reading the e-mails that have been coming into our office like a flood in the last eight days: youth want to be protected. This is the implicit underlying common denominator.

The statistics were overwhelming, even to us. We weren't expecting to have statistics that high: 92% of young people said they would not have the confidence to resist somebody who was more than five years older and who was pressuring them to have sex, even against their will. This is coming from the mouths of the youth. Really, that is our concern.

What about these young ones who are between the ages of 14 and 16? We know from word on the street—and we've heard the testimony of the RCMP and I believe it was the Ontario police board that was here—that this is the age range where young people—children, according to the UN definition—are being targeted. We absolutely must do something to create a safe Canada for these young ones and at the same time help educate them to make the right decisions.

• (1025)

Mr. Rob Moore: Does anyone care to comment from the perspective of the message this may send, not to youth—we've talked a lot about that—but to someone who wants to come to Canada to have sex with a child who's 14 or 15?

Mr. Gregory Ko: I'd like to make a point here. I think Canada already has quite strong legislation that dictates that exploitative sex is unacceptable with youth below the age of 18. It's quite clearly written in the Criminal Code. I think that message is being sent, and I think that needs to be reinforced.

Raising the age to 16 seems to affect youth more than potential predators. Predators should know already—and I think we should make it quite clear—that those under 18 are already protected in Canada.

Mr. Kaj Hasselriis: Yes. I want to reiterate that Canada has very strong laws against sexual exploitation, against child prostitution, against child pornography, and against Internet luring. All the activities you're describing are very much against the law.

You asked about having an age of consent of 16 because 16 is the age at which we allow young people the right to drive, for instance. As Nichole pointed out in her presentation, and according to one of the biggest youth sex surveys ever done in Canada—by the Council of Ministers of Education—the fact is that the average age at which young people are first having sex is 14. That's the average age. That means there are quite a number of young people who are first having sex when they're 12 or 13.

The fact is that young people are having sex at that young age. What we should be doing is giving them all the information they can get to make healthy decisions about who they want to have consensual sex with, because that's what we're talking about here: consensual sex.

The Chair: Thank you, sir.

Ms. Roy.

[Translation]

Ms. Michèle Roy: I think that's what we tried to raise earlier when we asked how, in a society, we could accept the idea that there is an age where sexual exploitation is legitimate and acceptable, and send another message to youth by telling them that this isn't acceptable before a given age.

For example, we know perfectly well that Internet luring for trafficking in human beings is done in order to feed and fuel the sex industry in all its forms. The fact that they recruit youths 12 years of age, people of 22 or 36—and that stops quite quickly—is all related to the same wish to feed an industry.

So if you don't talk about buyers, if you don't talk about the fact that you're trying to have sexual relations, free of charge or by paying, with youths, for example, or with adults, if you don't state the issues behind that, and if you don't denounce the contradiction that exists in our society that consists in saying that we have to protect young people of a certain age from sexual exploitation, but that sexual exploitation is possible in our country after that age, how do you want young people to understand such a contradictory message? How can they draw the distinction? They're going to think they need protection up to a given age, but that they can be exploited after that age.

They say that youths have sexual relations at the age of 14, but we also know that prostitution starts around the same age. In a way, we're telling them that consenting to having sexual relations and being paid to have sexual relations isn't the same thing. The ambiguity is there.

In a report of another justice committee, a very clear connection has just been made between trafficking in persons and prostitution. Will trafficking in youths and adults be taken into account in the legislative changes we're going to propose? We can't simply say that we want to protect young people from sexual exploitation without calling sexual exploitation as a whole into question.

I think that's what our organization would like to point out. It's true that the message of this bill is aimed at youth, not adults. It's a very big concern to think that the message that may come out of this bill is that youths can consent to have sexual relations at a given age, but that that message is not aimed at adults.

• (1030)

[English]

The Chair: Thank you, Ms. Roy.

Mr. Lee.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Thank you, Mr. Chairman.

I don't blame some people for being a little mesmerized by the complexity of the law. The statute proposed certainly does attempt to protect the person under 16 years of age, but as I read the law, it seems to be a lot less than people think it is. So I want to direct my comments to those who've said the statute muddies the waters, makes it complex for a young person, in particular a 14- or 15-year-old, to determine whether he or she is into illegality or not.

The law certainly doesn't criminalize sexual activity by a 14- or 15-year-old, certainly if they're close in age, within five years, so that type of sexual contact will continue.

Then in relation to sexual assaults, Mr. Moore has suggested that what we're dealing with is the age of consent to have sex or be involved in a sexual act. It may not be all of that. It is whether or not consent of the complainant is a defence to a sexual assault, and that's

all it is. So we are not criminalizing sexual activity on the part of a 14- or 15-year-old.

But I can think of one scenario that's not clear, and I would like to ask if you agree, where the 14- or 15-year-old is the aggressor in a sexual act, where the other individual who is more than five years older is simply passive, or even if the person who is more than five years older has offered some inducement for the sexual act. As I read it, this statute does not criminalize the actions of the 14- and 15-year-old because all the act does is remove the ability of the 14- and 15-year-old to consent. But where the 14- and 15-year-old is the actor, the aggressor, he or she is not the complainant; he or she might be the one who is seen as committing the assault.

I'm not confused by that; I'm reading the law the way it's written, and perhaps we can get some technical advice on that later. Can I have reaction from the groups who are urging us to be cautious because the statute is complicated and will confuse the 14- and 15-year-old and may scare them off accessing information about sexual health?

Ms. Andrea Cohen: It's a complex question, in addition to the legislation being complex.

One of the things that people constantly use as an example when we're having this discourse is, do we think it's okay for a 50-year-old man to be having sex with a 15-year-old girl? I think most of us would agree that, in all likelihood, that's probably not a good and healthy situation for that 15-year-old girl.

But there are a number of cases, certainly in the community where my health centre is located, where it's common for a 15-year-old girl to have sex with a 21-year-old, and that 21-year-old may still go to her high school and may be a part of her community and a friend of the family, and her parents may think that's an okay relationship as well. So there are these complexities to this.

When we read the legislation—and we're not lawyers, so maybe this is a good perspective to have—it didn't appear to focus on exploitation. It focused on an age. Age is not an indicator of whether a young person is being exploited or not, and my understanding of the previous legislation is that it took individual factors into account.

Perhaps those individual factors need to be strengthened. Perhaps we need to put more resources into trying to go after predators and trying to have young people come forward, because Internet luring comes up consistently. Certainly when the legislation was first broached, parents were concerned that their kids were going to be lured over the Internet. I have a child at home and I'm concerned about that too.

What I think will probably protect my child most is having a trusting relationship with an adult to be able to tell about things, the feeling of empowerment to make decisions about whether to say no, about what's right and wrong. That's done in the context of their own family values and their family situation. Those are the things that protect kids from exploitation; it's not having a blunt age.

That's my first reaction to those comments.

• (1035)

The Chair: Does anyone else have a response to Mr. Lee's question?

Go ahead, Faytene.

Ms. Faytene Kryskow: I think they should exist together. We should have a society that encourages education and encourages trusting relationships, where young people have a safe person they can go to in order to tell. But we also still need to consider those who are going to be exploited and make sure laws are in place to protect them when they are exploited. I don't actually think those two things are mutually exclusive. I think it's important that they exist together.

The Chair: Ms. Freeman.

[*Translation*]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): First, I want to thank you all for your presentations, which were really very enlightening for us. I noticed that everyone's common concerns at the outset are really education and health, in addition to section 159, which obviously raises a lot of questions for parliamentarians.

In my preamble, when we received the Minister of Justice, I mentioned that, before thinking about developing regulations and so on, we should mainly think about prevention and education—I see that's the concern of everyone here—as well as health.

With regard to health, I'd like Ms. Cohen to explain further the recommendations she's making here.

In the first recommendations, you say that not only medical information, but all medical information and health education services should be treated as confidential information. That's what you propose in your recommendations.

Can you tell us more on that subject? If we eventually proposed an amendment to ensure that all these types of information are confidential, could that satisfy you?

[*English*]

Ms. Andrea Cohen: Yes, I think so. Currently health providers are certainly obliged to report all kinds of different behaviour, child abuse being one of them. There's room for the health care provider to make an assessment and a judgment on what child abuse is.

In the recommendations that we've suggested, we're looking for health care providers who are quite well trained and well experienced. If they're able to build trusting relationships, they would probably be in a position to assess whether or not a relationship is exploitative. That ability won't be about the age of the young person. It will be about how competent they are to make decisions, who the adult is, the age of the adult, and whether or not the adult is in a position of trust or authority.

Those kinds of differences make a big difference in whether or not the child is being exploited, as opposed to it being a friend of their brother who is in the house all the time, and that looks a little different to them. We're hoping it will actually encourage young people to come and seek out health services to build a trusting relationship.

Once the trusting relationship is in place, we can actually talk to youth about how they are making decisions. Do they feel they have what they need? Are they getting access to services? Are they protecting themselves from STIs and unintended pregnancies? Those

are really valuable in terms of what we see as protecting young people.

[*Translation*]

Mrs. Carole Freeman: Right now, I would like to speak to Ms. Tremblay and Ms. Roy because I know that my riding office is next door to one of the CALACS offices in Châteauguay. So I'm always in touch with those people.

You seem to find this bill inadequate to meet the needs that you express. However, you have to take into account the fact that we are currently studying this bill and that we have to improve it. We have to work within the context of this bill, right now. Do you have any specific suggestions as to what could be improved?

You've come with a very broad presentation. It's very good that we talk about trafficking in women, and we also have to take into account the specific situation in Quebec, where young women can have the right to an abortion at the age of 15 without their parents knowing and can have a right to contraception. Our practice is quite different from that in effect in the other provinces.

We nevertheless have to try to see how we can improve the bill that has been introduced, not try to provide a comprehensive solution to the entire problem of exploitation.

•(1040)

Ms. Carole Tremblay: I think Bill C-22 provides the necessary leeway to allow judges more discretion regarding all the considerations mentioned earlier. Youths have this fear—in any case, we met some who have it—of getting caught in the calculation of age and of being charged with sexual assault in particular circumstances. For them, it's not easy to understand when mistaken age will be admissible or not. If only in the preamble, I think we should name these things, these fears, and allow more discretionary authority. That's one of the answers I have to provide.

My other answers would not be directly contained in Bill C-22, and I know you want to limit your question to that, but we think that every circumstance of sexual exploitation should be considered as an aggravating factor, even after the age of 18. Currently, with regard to sexual assault, the sexual exploitation of persons 18 years of age and over is not considered an aggravating factor. What is violence and signs of injury, and so on. That definitely still takes us back to our original position.

There's something else that causes a big reaction in me as well. You know, the people we meet in the CALACS in Quebec are mainly victims, yes, of sexual assault by persons much older than they, but by persons who are in a relationship of trust with them, relations, people within the family and so on. Beyond Bill C-22, there are still a lot of changes to be made to police know-how to facilitate the judicial handling of the victims of sexual assault.

Mrs. Carole Freeman: What do you mean by police know-how?

[*English*]

The Chair: Just quickly respond.

[*Translation*]

Ms. Michèle Roy: What we currently see is that very often, when youths go to the police or are referred to them, the attitude of police officers, the type of questions they ask, the assistance the youths receive make a difference. And in some cases, that concerns the attorneys as well. There's also the fact that they are not assisted in these efforts by a person of trust of their choosing and cannot be informed of their rights in this regard. Youths are very reluctant to go and ask questions or eventually consider filing a complaint or, for example, violence and sexual exploitation in all their forms. These measures have to be attached to something else.

We talked about prevention and education, but all the youths who, directly or indirectly, are affected by the implementation of this act will also have to receive support that will specifically take into account their particular characteristics, their relations with the police communities or with the legal system as a whole, as well as with those that can be called witnesses.

[*English*]

The Chair: Thank you, Ms. Freeman.

We'll go to Mr. Thompson.

Mr. Myron Thompson (Wild Rose, CPC): Thanks very much.

I appreciate you people being here today. I want to especially extend my appreciation to Donny Melanson. It takes a lot of courage, when you have experienced a tragic point in your life, to come forward and be willing to talk about it and spread your warning. I just appreciate that.

I too am like my colleague here. I've been in the education business for 30 years, most of the time as the principal of a junior-senior high. I've seen examples of these types of situations. The best results we had were when we involved other aspects of the situation, and I haven't heard too much about that today. I've heard about education, going to the schools, getting guidance counsellors, getting the support groups and peer groups, and all kinds of things. But I didn't hear the parents mentioned very much. I didn't hear them mentioned at all, as a matter of fact, as a support group. And I didn't hear the church being mentioned very much, which is another organization that is in most communities and likes to help when it can with certain problems.

I know that we had these kinds of situations. It really bothered me to have, toward the final years of my tenure, a 39-year-old single mother with a 14-year-old daughter who ran off and lived on a reserve with a 26-year-old man. The mother begged the police. She came to me, as a politician, begging me to help get this 14-year-old girl out of that situation with this 26-year-old. But because the 14-year-old gave her consent, the police could not move, and the parent had no authority to take her out. They simply couldn't do anything.

I do not want to see children—and 14-year-olds and 15-year-olds are children—caught up in those kinds of situations. Something has to happen, and the only thing that can happen in that regard to a 14- or 15-year-old is that you raise the age of consent to 16. Then the parents can get the police and they can remove the child from that unfavourable situation.

That's why I want this raised, specifically for that kind of situation. And I want a message sent to those people who come to the Internet, or through other sources, child shopping for 14- and 15-year-olds because they know they can do it in Canada and not get into trouble if they're successful in getting consent.

True, you can't exploit. That's against the law. If there is consent, you can go for the exploitation charge, but that won't break up the consensual situation.

There was the 55-year-old who came here and got a 15-year-old—from Texas, I believe—and lured the boy to a room. The boy was absolutely upset that they charged this guy for exploitation, which they did, because he wanted the relationship, and he had the right to have it because he was 15.

The picture is much bigger than that, so I think the message has to be to those who would seek the consent of a 14- or 15-year-old child. And I'm going to keep calling them children, because that's what they are—they're children.

Regardless of what they did in 1890—back in those years they used to trade 13-year-olds for two horses, and it was okay because it was accepted by society—there are a lot of things that aren't accepted anymore. Society has progressed beyond those kinds of things. To go back and say that it's been that way since 1890...well, I could never use that argument when they lowered the drinking age. They said that it had been 21 forever, but they still lowered it. So that's not an argument.

I'm saying that we have to stop predators from thinking they can come and develop a consensual relationship with 14- and 15-year-olds in this country. This bill will do it. We have to get a message to young people that you cannot consent to a situation that pertains to this bill at the age of 14 or 15. You cannot even consider it until you're 16. I want those two messages to be loud and clear.

Now, what is wrong with that? Why are we getting objections to a bill that says, protect the children? They're 14 and 15. Give the parents authority. They're the ones who had them. They're their children.

Why can't the churches be involved with helping to rehabilitate and with understanding?

● (1045)

I saw them bring sexual education programs into my school. They're okay, they didn't hurt anything necessarily, but the doctors in the communities who came asking for some of these things to happen within the schools reported back after five- and ten-year reviews that the situation hadn't improved. There were still too many teenage pregnancies, still too many diseases, etc. So that wasn't the total answer.

But I haven't heard the name "parents" being mentioned as a resource group.

I'll just emphasize this once again. You perpetrators, stay out of Canada with the idea you're going to nail some 14- and 15-year-olds to consent. It isn't going to happen. And you children under the age of 16, you're not going to be able to consent to having a sexual relationship with an older individual. No more are you going to be able to jump in the vehicle and take off for a drive when you're 14 years old, if you feel like it. And I think we have to be firm about it.

So you can comment. I would like Donny to respond, or Faytene, or anyone else, if you would like.

The Chair: Perhaps you would respond, and then Ms. Capperauld.

• (1050)

Ms. Faytene Kryskow: First of all, I can speak pretty confidently on behalf of our network, based on the e-mails, etc., that have come into our office, that many in our network would be very grateful to hear an individual like you, from whatever party, taking a stand like that. And I think our friends from McGill will agree. Homosexuality was illegal in 1890, and I don't hear them advocating to go back to that. So I agree, we have to evaluate with where we're at today and the fact that we didn't have Internet predators in 1890, that sort of thing.

The other thing I want to mention is that I think the sentiments you share, Mr. Moore, do reflect community standards. I'm not a law student, but from what I understand, this is an important principle in Canadian legislation. Our lives need to reflect community standards, and it's very clear from every survey that I've seen. As I said, I was surprised at how high the numbers were in our survey and that the average Canadian is saying yes, we agree with this and this reflects our values as Canadian citizens. These aren't special interest groups that are speaking; these are average Canadians who are bringing their voices to the table.

So I think that would be my two cents on that.

I would like to back up what Mr. Thompson was sharing with another story. This is an e-mail that came in just last night from a 21-year-old named Bonnie Barker. She said:

A couple months ago a young girl came into our youth church where I am a leader. I soon learned her story from herself and from her mother. She recently turned 14, but had already been targeted by an age 40+ man. He gained her consent for sexual intercourse, and now this young girl is pregnant. The man is no longer in the picture, but as those in her life, we are SICK that there is currently no law to stop this from happening again.

At the time, she may have thought that she was mature enough, but now, I guarantee you, she's knows she was not. She is scared and imagines that her life and what she dreamed for it is over.

As a 21 year old Canadian citizen, I want these young people protected!

Bonnie Barker from British Columbia.

Mr. Donny Melanson: Can I just add to that?

The Chair: Go ahead, Mr. Melanson.

Mr. Donny Melanson: I really like what you had to say. I completely agree with you that the parents and the churches should be more involved. I think over the years and generations, some parents and churches have gotten a bad rap. However, there are agencies and churches out there that are making a big difference in the world today. I happen to be a part of one in the downtown eastside of Vancouver, and we speak against human trafficking. We

speak against modern-day slavery. We advocate for the youth who are being exploited.

I did some writing on the plane and I was just looking at the age of consent. Basically it's an enabler to our young generation, saying you're old enough to be responsible for the well-being of your own body. This attitude can absolutely lead to unhealthy decision-making that generates harmful situations that our youth may not even be aware of. Even though they may be consenting, there is somewhere deep inside where they know that this is just not right, even though the words come out of their mouth and they say yes, I consent to something like this. So they even need protection from themselves.

That's pretty much all I want to say now.

The Chair: Ms. Capperauld.

Ms. Linda Capperauld: We've observed and know from some research that sexual health education in the schools is quite inconsistent and sometimes non-existent. Based on other research, we know that good, comprehensive sexual health education includes more than just the body parts and the facts; it includes helping young people learn how to negotiate relationships, build their skills to say no when things are inappropriate, and use the values they've learned to make their choices.

Good comprehensive sexual health education also involves parents. It's very clear that parents are involved. Young people are encouraged to do work at home with their parents as part of the course curriculum. Parents are highly valued as being important educators of sexual health information for young people, and they are recognized in the curriculum. It's also interesting that surveys have shown that a very high percentage of parents want their children to learn more of this at younger ages in the school system.

The Joint Consortium for School Health that we mentioned in our second recommendation is also looking to involve a much broader spectrum of Canadian society. It's beginning to look at how to involve churches, community groups, youth groups, police groups, and a whole lot of folks to look at how to make the school system healthier and embrace a sexual health curriculum that is comprehensive.

• (1055)

The Chair: Mr. Hasselriis.

Mr. Kaj Hasselriis: The first presenter talked about 14- and 15-year-olds being hormonal, and we heard from Mr. Lee about 14- and 15-year-olds being sexual aggressors in certain situations. I would like to reiterate that we know it is a fact that 14- and 15-year-olds are consenting to sex and looking in lots of different places for information about sex.

If I can speak just briefly on the gay and lesbian, bisexual, and trans-identified youth experience, certainly parents are a good place to go for information about sex. The church is another good place to go. But there are a lot of young people out there who do not feel comfortable asking their churches for advice, or their parents. In some cases their churches feel that the decisions they're making are totally wrong. Young people don't even want to raise the issues inside their churches or with their parents. They don't feel comfortable doing that. They do feel comfortable raising those issues with others in youth groups in their high schools. We really have to acknowledge that, and that the reality of youth sexuality should be demonstrated very clearly in law.

The Chair: Thank you, sir.

Ms. Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): I'll try to be really brief.

If you don't have an opportunity to respond, because we only have three to four minutes before the committee adjourns, I'd ask that you respond in writing.

The first point is that the age of consent is 18 for a number of sexual activities. It criminalizes a number of sexual activities—exploitive sex, etc.—in the Criminal Code. I think a certain amount of your concern is that regardless of the age of consent, whether it's 14, 15, or 16 years, there's a whole section where if you're under 18, the individual is over 18, and it's exploitive, it's criminal activity. I think that should remove a major part.

One of the things I'm hearing on the issue is that there will no longer be any kind of discretion on the part of the judge when the age difference is five years or more. You've witnessed cases where there is a sexual relationship and the age difference is five years or more, and in your expert opinion, given the work you do, it's not exploitive and the older individual should therefore not be criminalized.

My question to you is this. If there were some way to amend Bill C-22 to ensure there is still a certain level of discretion for judges to actually look at the nature of the relationship, and if they deem it's not sexually exploitive and would therefore not criminalize the older person, would that provide a level of comfort? That's the first question.

Secondly, in terms of harmonizing the age of consent for all kinds of sexual activity regardless of the age level—and I'm talking about section 159—we've been told it's outside the scope of the law as it has been presented here. It would literally mean the government would have to do it themselves through another bill—and I'm sure they would get agreement on from the opposition to hopefully fast-track it—or through a private member's bill, in which case it probably wouldn't see the light of day for months, if not for years.

You might want to again ask the government to harmonize the age of consent for anal intercourse, because that's what we're talking about. I'm talking to everyone who's in favour of having it harmonized so that we're not discriminating among sexual activities based on sexual orientation.

• (1100)

The Chair: There may be someone who wants to respond to that particular point.

I'm going to ask if the witnesses and the members would be willing to stay for a few extra minutes, because there is one other person on my slate here who would like to ask a question. What is the general consensus?

We'll keep on going. Thank you very much.

Go ahead, please, Ms. Kryskow.

Ms. Faytene Kryskow: Yes, I'd like to make a comment.

This is an e-mail that came from a parent of one of our members who works in child protection. He said one of the things he was concerned about was the inability for some youth to actually give true testimony because of the overwhelming nature of emotionally being able to relate what they've gone through.

The Chair: Ms. Jennings, on a point of order.

Hon. Marlene Jennings: I understand that Ms. Kryskow would like to read it.

Ms. Faytene Kryskow: Oh no, I won't read it.

Hon. Marlene Jennings: But it's not in response to the specific questions I asked.

The Chair: No, she's not going to be reading it.

Hon. Marlene Jennings: I would suggest that if she has an e-mail she would like to share—

The Chair: Her question reflects on the issue of what she would call harmonizing all the sexual offences that are in the Criminal Code right now. In other words, for anal intercourse, bring the age down to 16. That's what she's asking.

Hon. Marlene Jennings: If the age of consent is brought up to 16, then bring down the age of—

The Chair: It's clearly outside the scope of this particular bill.

Very quickly, Mr. Hasselriis.

Mr. Kaj Hasselriis: I think the government is putting forward a bill that deals with the age of consent for sex. In section 159 of the Criminal Code, it says the age of consent for anal intercourse is 18.

If you're going to bring forward a bill that deals with the age of protection, as you call it, then I believe very strongly that it should include an amendment. This bill amends various different sections of the Criminal Code. There's no reason it cannot open section 159 and change numbers in the section, in the same way as it simply changes numbers in other sections.

I also don't see why this bill can't include the repeal of section 159. If we're going to deal with the age of consent for youth sexuality, then it should deal with all forms of sexual expression, including anal intercourse, and it shouldn't leave it out. The committee should make sure it happens.

The Chair: I'm not sure if anyone else wants to respond to that.

Clearly the section you speak of is outside the scope of this particular bill.

Mr. Kaj Hasselriis: But why? I don't understand why.

The Chair: Because it is. We're dealing with the age of protection.

I'm just advising the member—

Mr. Kaj Hasselriis: I'm frustrated that this is only coming up at the very end and that we're rushing to finish this. This is an amendment that many of us have called for and suddenly we're hearing, oh, it's outside the scope of the bill, but we can't really explain why.

I feel very strongly that the issue of anal intercourse is very much within the scope of this bill because it's more of a sexual expression that many young people are engaging in. Right now, the way the law stands, they are being criminalized.

The Chair: I'll tell you what, sir, I'm sure there's going to be an opposition member here who will present an amendment to this particular bill. It will be ruled upon by the chair of this committee as to whether it's in order or not. I'm sure that it'll happen.

Mr. Joe Comartin: I have a point of order, Mr. Chair. It's inappropriate for you to make the decision as to whether it's out of order or not until I present that amendment. You're going to hear an argument from me that in fact it is within the scope of this bill.

The Chair: Fine, Mr. Comartin.

Your time is up.

Mr. Petit.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): My question is for Ms. Tremblay or Ms. Roy.

You talked a lot about the fact that it is necessary to educate youths in the context of Bill C-22. Naturally, at the federal level, we don't interfere much with provincial jurisdictions. You addressed one aspect of evidence, professional secrecy. This issue is usually managed by the provinces, that is to say doctors, priests and, in a wider sense, nurses, psychologists and so on.

You said you were afraid that youths would not consult persons to whom they could disclose their problem, out of fear of being “betrayed” by those persons. You surprise me somewhat. In Quebec, professional privilege is absolutely protected by the Code of Civil Procedure. I would like to know how, in your opinion, a professional

could betray the trust of a youth to whom he has provided medical care, for example, even if that youth is of the age in question in Bill C-22.

• (1105)

Ms. Michèle Roy: We were just talking about what is going to happen in Quebec. This act will apply across Canada, in all provinces, and there will be provisions concerning the information that will be transmissible and the information that is not.

We are relying on Quebec's experience, but we know that this will apply everywhere and that it could have an impact in the other provinces. Lastly, we are concerned about the idea that this could happen.

Mr. Daniel Petit: But you will agree that professional secrecy is not a problem in Quebec.

Ms. Carole Tremblay: Of course, what we're saying more concerns the people taken in by the organizations we represent. We also take in Aboriginal women and teenagers who come from reserves. You'll tell me that this is Canada, but there's nevertheless a major problem, and that is that Aboriginal teenagers are very reserved when it comes to reporting someone. In their case, confidentiality is very little respected, even by the police departments.

The phenomenon of proximity in Aboriginal communities means that we have to address the situation in a different way. And it's not because it's an Aboriginal environment, in a federal territory, as you like to say, that we won't have a say.

Does that answer your question?

Mr. Daniel Petit: No, but it's a good answer. Thank you very much.

[*English*]

The Chair: Thank you very much, Mr. Petit.

Thank you, members, for staying.

Again, I thank the witnesses for their appearance here and for their information.

This meeting is adjourned.

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