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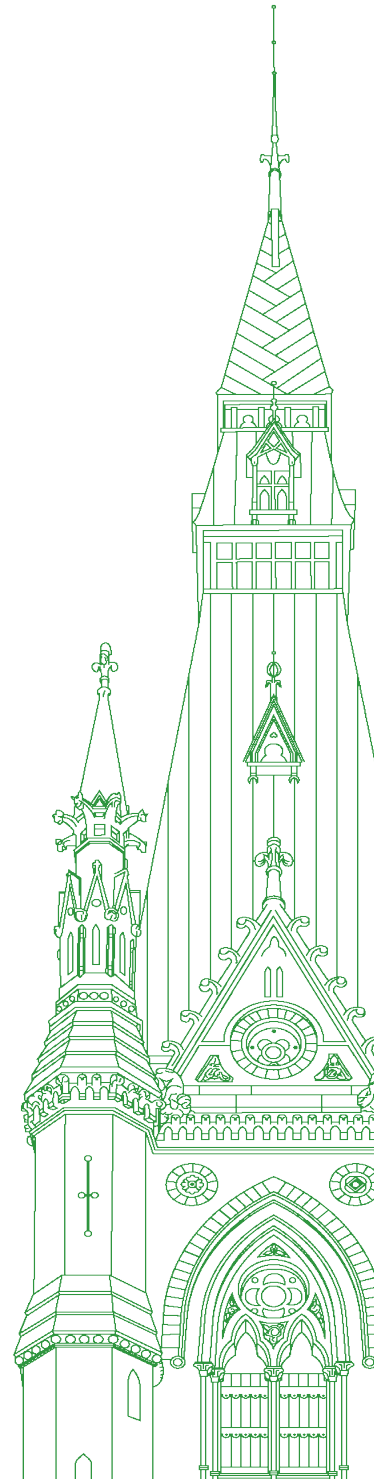
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Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

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NUMBER 140

Thursday, December 5, 2024



Chair: Mr. Robert Morrissey

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

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• (1100)

[English]

The Chair (Mr. Robert Morrissey (Egmont, Lib.)): The clerk has advised me that we have quorum. It being 11 o'clock, I will call the meeting to order.

Welcome to meeting number 140 of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities. Today's meeting is taking place in a hybrid format. All witnesses have completed a sound test.

I would like to remind participants of the following points. Please wait until I recognize you by name before you participate. You have the option to participate in the official language of your choice. In the room, make sure you're on the proper translation channel to have the language of your choice. For those appearing virtually, click on the globe icon at the bottom of your Surface to choose the language you wish to participate in. If there's an interruption in translation service, please raise your hand to get my attention. We will suspend while it is being corrected.

Again, please direct all questions through the chair and wait until I recognize you before you participate.

This morning I welcome Madame Vien back to committee.

Pursuant to the order of reference of Wednesday, September 25, 2024, the committee is resuming its study of Bill C-378, an act amending the Canada Labour Code.

We have with us this morning two departmental witnesses. From the Department of Employment and Social Development, we have Mr. Muhammad Ali, director, strategic policy, analysis and workplace information directorate, labour program; and Ms. Danijela Hong, director general, workplace directorate, labour program.

The officials will not be giving an opening statement. We will be going directly to our standard line of questioning to the witnesses until the committee members exhaust any questions they may have for them.

You look like you have a question, Ms. Gray.

Mrs. Tracy Gray (Kelowna—Lake Country, CPC): If I may, Mr. Chair, this is just a housekeeping question before we start the meeting.

We've almost completed Ms. Chabot's study on seasonal workers and one part of the motion hasn't been fulfilled yet. That's to invite the Minister of Employment, Workforce Development and Official

Languages. It's actually part of the motion. That minister hasn't come and spoken yet on that study.

I'm wondering if we could do as we've done with other studies and keep the study open until the minister comes to speak on this. That's just so that the analysts don't move forward and we can schedule the minister to be here.

The Chair: Yes, you are correct, Ms. Gray. The motion that was adopted was for the minister to be the last witness to appear. That is being worked on. As you know, there was a change. The invitation has been extended. We're setting up the time. The study motion cannot conclude until the final witness appears, which is the minister, as you correctly pointed out

Madame Chabot.

• (1105)

[Translation]

Ms. Louise Chabot (Thérèse-De Blainville, BQ): I want to thank Mrs. Gray for pointing that out.

I completely agree. The motion did indeed provide that we would spend some time with the minister. Now it will be the acting minister. Since we have to report to the House on this study, I assume the analysts can still begin drafting the report based on what has been said thus far, even if they have to make some changes afterwards.

I am trying to understand what is meant by "suspend". We cannot actually complete the study without that last hour with the minister. In Quebec, we often say that you can't walk and chew gum at the same time.

[English]

The Chair: Amazingly, at times people can do that.

Thank you, Madame Chabot. You are correct that the study does not conclude. As soon as I have direction on that, I'll advise the committee. I hope to have some clarification on that by Tuesday.

With that, if there's nothing further, we will move on.

[Translation]

Mrs. Vien, you have the floor for six minutes.

Mrs. Dominique Vien (Bellechasse—Les Etchemins—Lévis, CPC): Thank you, Mr. Chair.

Hello, colleagues. Thank you for welcoming me once again this morning.

Every time Bill C-378 get through another stage, I am so pleased because the goal is to make workplaces safer, to stop harassment and violence in the workplace and to ensure employees can exercise their rights. That means former employees, because the bill pertains to them.

Let me begin with a quick reminder. This bill will give former employees more time to lodge a complaint. Since 2021, as a result of the changes made to the Canada Labour Code in 2018 by Bill C-65, former employees have three months to file a complaint. Three months is better than nothing, but it is hardly any time at all. I think we can all do more to give them more time. The benchmark I used, perhaps selfishly, is the bill I introduced myself when I was Quebec's labour minister, Bill 176 from 2018, which overhauled labour standards in Quebec.

Now we can see that it was a wise choice to allow current and former employees—no distinction is made between the two in Quebec—two years because it has produced results. It has allowed former employees in particular enough time for recourse.

Mr. Ali and Ms. Hong, thank you for being here today and spending some time with us. We will need your input, even though the bill has the unanimous support of all the political parties. That demonstrates how concerned we are with the safety of current and former employees and giving them better working conditions.

Ms. Hong, I would like you to give us an overview of workplaces in the public service and those in the private sector that are federally regulated. In reading the report by your department entitled “Annual Report 2022: Taking action against harassment and violence in workplaces under Canadian federal jurisdiction”, we note that there has been an increase in incidents undermining workplace safety, unfortunately. I am referring to incidents of violence and harassment. Those are also reported in the public service, and in fact I believe the trend is especially strong there.

[English]

Ms. Danijela Hong (Director General, Workplace Directorate, Labour Program, Department of Employment and Social Development): Thank you very much.

I would just like to note that you are correct: We have provided two annual reports thus far on the current status of the employer reporting from the perspective of harassment and violence in the workplace.

As you noted, in our 2022 annual report, there is an observation particularly on the increase of the actual occurrences that are reported and the investigation of those in the workplace. We have observed a 26% increase since 2021, but what I want to mention is that an increase in reporting occurrences may be attributed to a variety of factors.

Particularly, employees in federally regulated workplaces, whether they be private or public federally regulated workplaces, are becoming more aware of their protections and their rights. As a result, they are reporting these instances more often and more frequently.

There is definitely a continued effort to prevent workplace harassment and violence and to support employees in all federally regulated sectors, both public and private.

• (1110)

[Translation]

Mrs. Dominique Vien: Under Bill C-65, from 2018, companies and organizations are required to produce a policy.

In your opinion, Ms. Hong, would Bill C-378 provide a new tool to mobilize and further raise the awareness of managers and company executives in order to make workplaces safer?

[English]

Ms. Danijela Hong: Thank you.

I will start by saying that Bill C-65, which was the original bill that introduced the changes to harassment and violence prevention that we currently have in place, significantly strengthened what we had in the past. It had a significant number of requirements for employers, managers and others in the workplace, from the perspective of the prevention of harassment and violence. Some of those elements included the development of a policy that engages the employer, workplace committees and employees, as well as the requirement of mandatory training for all, whether that be managers, supervisors or workers.

That bill introduced a significant number of changes, which are currently in place. I will say that, since 2021, the system has been significantly more robust than it was in the past.

[Translation]

The Chair: Is that everything, Mrs. Vien?

Mrs. Dominique Vien: I'm sorry, I thought my speaking time was up.

How much time do I have left, Mr. Chair?

The Chair: You had 30 seconds.

[English]

Mr. Fragiskatos, go ahead for six minutes.

[Translation]

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you, Mr. Chair.

If Mrs. Vien would like to ask another question, that's fine with me.

Mrs. Dominique Vien: That's very kind, thank you, but I can wait.

[English]

Mr. Peter Fragiskatos: Okay.

Thank you very much for being here today.

I can say—and the proponent of this bill knows this—that I'm quite supportive of the bill. I think it's a very reasonable measure. Our side supports it as well.

There will be a couple of questions from me. Then, if there's time remaining, I'll pass it to Mr. Long.

First of all, how does this bill compare with those in other G7 countries—or other democracies, if we want to be more broad—regarding this move towards the two-year threshold? Where are other comparable countries on an issue like this?

Mr. Muhammad Ali (Director, Strategic Policy, Analysis and Workplace Information Directorate, Labour Program, Department of Employment and Social Development): I would say that the way the Canada Labour Code works with respect to, for example, U.S. federal or state labour laws, or those of other G7 countries.... It's not an apples-to-apples comparison. That is one thing for us to consider.

A general comment would be this: Given that we already have Bill C-65, which is a very robust framework in this regard, we can safely say that Canada has a very strong framework to prevent and otherwise manage incidents of harassment and workplace violence.

• (1115)

Mr. Peter Fragiskatos: Thank you.

Under Bill C-65, what is the threshold, then? What is the time period in which a former public servant can make a complaint?

Mr. Muhammad Ali: Right now, it can be reported by a former employee up to three months after the occurrence. Then there is one year for the employer to figure out whether they can resolve it through informal discussions or the conciliation process, or whether there's an investigation process. There are multiple ways for the employer to resolve it. One year is given for that. After that one year, the employee can again take another three months to make a formal complaint if they have not been satisfied by the employer.

In total, I would say that it's 18 months under the current law.

Mr. Peter Fragiskatos: As you say, it's 18 months compared with 24 months. With great respect, I think the bill our colleague put forward would, from the vantage point of a former civil servant, allow for more time, and therefore, on the face of it, seem more just.

You're nodding your head. Would you agree?

Mr. Muhammad Ali: In addition to those 18 months I mentioned, there is another element to Bill C-65.

If we reach the stage of 18 months after the complaint was lodged, and the employee is not satisfied, they can then take the matter to Labour Canada's labour program. There is a head of compliance and enforcement who can grant additional time, depending on the circumstances. For example, there was discussion that three months is not sufficient time. Some victims could be going through a medical or psychological situation, and they have to take more time to recover from that. If they can prove they are facing that type of situation, they can mention that to the labour program's head of compliance and enforcement. There is a provision to give them an extension, and there is no limit to that.

Mr. Peter Fragiskatos: However, the private member's bill that we are studying here would not prevent any of that from also happening, so it's not opposed to what you just described.

Mr. Muhammad Ali: That's true.

Mr. Peter Fragiskatos: I have a final question. I suppose this does happen with any bill, whether it's initiated by the government or a private member. Are there unintended consequences you've identified here that you think the committee should reflect upon? It is not uncommon with any piece of legislation, but I find, in particular with private members' bills, that there could be an unintended consequence. I haven't seen that. I've reflected on it a bit, but it would be good to hear from you on this, or from Ms. Hong.

Mr. Muhammad Ali: I'll start, and then I'll ask my colleague....

There are a few things. Number one is that, as we increase the time in the law, the message will then be heard by employers, and not only the public service: All the federally regulated employers who will be impacted because of this will have to adjust their HR regime in order to do more record-keeping, but also prepare for additional investigative work. There is that requirement, so there will be some incremental costs attached to that. We have not done proper calculations on that. We plan to do that as a result of the five-year mandatory review, which will be done on Bill C-65, starting in January 2026, so we'll have a more wholesome idea about those impacts.

The Chair: Thank you, Mr. Fragiskatos.

• (1120)

[*Translation*]

Ms. Chabot, you now have the floor for six minutes.

Ms. Louise Chabot: Thank you, Mr. Chair.

I want to thank the two departmental officials for taking the time to answer our questions.

Once again, I want to commend the bill's sponsor. I think everyone around the table agrees that allowing former employees 24 months will strengthen the objectives or scope of the measures established in October 2018 under Bill C-65, which is still quite recent in the history of the Canada Labour Code. It will increase the time employees are allowed to file a complaint.

If I understood the answer given before, which I think is important, there are already mechanisms allowing for deadlines to be extended, but only if the employee provides evidence. The burden of proof therefore rests with the person requesting a deadline extension. The time allowed is three months, by default. In some cases, however, a person does not even realize they are being harassed. In many cases when a person is having problems, receives a medical diagnosis or receives treatment, they are told to rest. I think that is really important.

I have a broader question. I expect you are to some extent involved in overseeing the application of this framework. In Quebec, the labour standards act is the equivalent to this framework. One of our witnesses, who was from Quebec, thought what we are doing is a step forward, but that more could be done with regard to corrective measures, restorative measures and employee support, for instance.

While the timeframe is being extended, is the current framework sufficient? Could the act be strengthened in other ways by enhancing restorative measures for victims? Have you ever recommended to the minister that the Canada Labour Code be strengthened with regard to health and safety?

[English]

Ms. Danijela Hong: What I would like to mention is that as part of Bill C-65, there was, throughout the study process, a requirement added for a five-year legislative review of all of the provisions that currently exist under part II of the Canada Labour Code, as well as under the regulation. A five-year review is almost there, and we are currently in the preparatory phases of that review. We will be looking at the successes of the current regime, as well as any opportunities for its improvement. I would say that is absolutely where we are headed in the coming years.

[Translation]

Ms. Louise Chabot: Is there a mechanism for consulting employees and employers as part of the five-year review?

[English]

Ms. Danijela Hong: As mentioned, we are currently planning for the review, but absolutely, as part of all of our reviews, we consult with our stakeholders. That is through tripartite engagement. We do engage with employers and employees, and we actually engage with them on a regular basis through our advisory committees. They currently have an opportunity to provide this feedback, but we will have a more formal process for that at the five-year review stage.

[Translation]

Ms. Louise Chabot: Thank you.

I have absolutely no doubt that the bill will get through the committee stage.

I suppose if the timeframe is extended from three months to two years, fewer complaints will be rejected because of deadlines. Are there any specific statistics about rejected complaints, those that were not allowed because the deadline had passed? Do you think this change will result in any improvements?

• (1125)

[English]

Ms. Danijela Hong: I can provide you with some of the statistics that we have from the perspective of your question. I can say that we have, since January 2021, received six complaints from individuals that were outside of the three-month period. Six complaints were received. In the majority of those cases, individuals did not proceed to seek any extension. It was a total of six, and in one case, an individual requested an extension of time but was not able

to demonstrate that they met the requirements of the legislation in order for that extension to be granted.

The Chair: Madam Chabot and committee members, I see the light. The bells may be ringing. Do we continue until we figure it out? We have 30 minutes. What is the wish of the committee?

Ms. Bonita Zarrillo (Port Moody—Coquitlam, NDP): I would like to go to the House for the vote, please.

The Chair: Do you want to do that right at this moment?

Ms. Bonita Zarrillo: Yes.

The Chair: Madam Zarrillo has said that she wants to depart.

With that, I will have to suspend the meeting until the conclusion of the vote.

Mr. Wayne Long (Saint John—Rothesay, Lib.): Mr. Chair—

The Chair: The meeting is suspended until the conclusion of the vote.

• (1125)

(Pause)

• (1215)

The Chair: The committee has now resumed.

We've resumed with the agenda from the first hour. We were about to proceed to Madam Zarrillo for her six minutes of questioning.

Ms. Bonita Zarrillo: Thank you so much, Mr. Chair.

Thank you for the ability to go back to the House for my vote.

We were discussing a very important piece of business, women's reproductive rights. Unfortunately, the Conservatives decided to try to adjourn that debate and to stop the debate on women's reproductive rights. Of course, as a woman and a supporter of women and people of diverse genders, I definitely wanted to be there to stand on guard against the regressive Conservatives' push-back on women's reproductive rights.

We have here some testimony that was received from Nicholas Thompson in regard to—

The Chair: There is a point of order.

Specifically go to the order you're referencing, Ms. Gray.

Mrs. Tracy Gray: Thank you, Mr. Chair.

With reference to adjectives that are defamatory to people, I don't think they are appropriate.

Also, just to put it on the record, in fact, today is a Conservative opposition day in the House, and that was—

The Chair: Okay, thank you. That's debate, Ms. Gray.

Madam Zarrillo, you have the floor.

• (1220)

Ms. Bonita Zarrillo: Thank you so much.

Nicholas Thompson brought testimony to this committee about the lack of justice and accountability. We know that Nicholas Thompson is leading a human rights complaint against the federal government right now in regard to harassment.

There were three recommendations, three areas that this witness referenced when he came to our committee: disciplinary action, restorative outcomes and supports for employees. I'm interested to know how these can be placed or if these have been discussed internally.

On disciplinary action, Nicholas Thompson brought up that "investigations that confirm harassment or violence should automatically trigger a referral to a disciplinary body." I'm interested in your opinion on that.

The second one is on restorative outcomes. "The process should include provisions for financial compensation, public acknowledgement of wrongdoing or apologies, which it doesn't provide at the moment." I'm interested in your thoughts and opinions about having that included.

On supports for employees, to strengthen support for marginalized workers, "Specific programs should be developed to address the unique barriers faced by Black, indigenous and racialized employees." It goes on to say in the recommendation to include "culturally relevant training, outreach and tailored assistance to ensure equitable access to the complaint process."

This is just around justice and accountability. Perhaps you can share your thoughts on those three potential inclusions.

Ms. Danijela Hong: I will just mention a couple of elements, as I've already indicated.

I want to mention, from the perspective of support for employees—maybe I will start there—that part of this regime that was introduced in 2021 as part of Bill C-65 was supports for employees. One of the elements was really focused on support.

As part of the process, employers are required to provide information to all employees on what supports are available to them in the workplace or other supports that may be available. The regime is about prevention: prevent, respond, support. That element currently exists in the provision.

From the perspective of disciplinary actions, I would like to mention that this element was discussed as part of the introduction to Bill C-65. The decision at the time was that discipline can be outlined in the harassment and violence prevention policy.

Those are the elements. The employer is obligated to develop a policy in the workplace with respect to harassment and violence prevention. An element of discipline can be outlined in that policy.

Those are some of the elements that I wanted to raise. I think my colleague will add another element.

Mr. Muhammad Ali: Thank you, Ms. Hong.

I can also add, especially about the discipline angle, that the employer has a policy about prevention of harassment and violence. They would have those measures covered in that. Suppose there is an occurrence and there's a complaint process that is being pursued. As a result of that, there is an investigation happening, and whatever comes out of that, it becomes the employer's responsibility.

Suppose it is established that this violence or harassment has happened, it becomes incumbent on the employer to take necessary

actions according to their policy. If there is a discipline angle captured over there, they enforce that in parallel.

Ms. Bonita Zarrillo: Is there an external body? The witness was saying.... If it's been ensured that this is what it is, can it go off to an external body?

Mr. Muhammad Ali: We have the Canadian Human Rights Commission route. They can also go to the police. It's in the law. We also have a labour program. If they are not satisfied, they can come to the labour program, complain and go through that. Multiple avenues are available.

● (1225)

The Chair: Thank you, Ms. Zarrillo. That concludes your six minutes.

I've had a discussion with the committee members, and there is agreement. I'll seek your opinion as well, Madam Zarrillo, on whether we will proceed at this stage to clause-by-clause.

Do we have consensus in the committee to proceed to clause-by-clause, Madam Zarrillo and Madame Chabot?

Some hon. members: Agreed.

The Chair: Okay, the witnesses will stay and we'll be joined by the legislative counsel. Thank you, members.

Pursuant to the order of reference of Wednesday, September 25, 2024, the committee is commencing its clause-by-clause consideration of C-378, an act amending the Canada Labour Code with respect to complaints by former employees.

The officials from the Department of Employment and Social Development are present in case members have questions on clause-by-clause consideration of Bill C-378.

I would like to provide the members of the committee with a few comments on how the committee will proceed with clause-by-clause consideration.

As the name indicates, this is an examination of all the clauses in the order in which they appear in the bill. I will call each clause successively, and each clause is subject to debate and a vote. Although no amendments were submitted in advance to the clerk, members may propose amendments and subamendments from the floor to the clause in question, provided that they are submitted in writing. If a member wishes to move an amendment or a subamendment, I will recognize the member wishing to move it, who may explain it. There is no need for a seconder to move an amendment. Once moved, you will need unanimous consent to withdraw it.

In addition to having to be properly drafted in a legal sense, amendments must also be procedurally admissible. Since there were no amendments made here, that will be dealt with procedurally only if amendments are received from the floor.

During debate on an amendment, members are permitted to move subamendments. Approval from the mover of the amendment is not required. Only one subamendment may be considered at a time, and that subamendment cannot be amended. When a subamendment is moved to an amendment, it is voted on first. Then another subamendment may be moved, or the committee may consider the main amendment and vote on it.

Once every clause has been voted on, the committee will vote on the title and the bill itself. The committee will have to order the chair to report the bill to the House. That report contains only the text of any adopted amendments, as well as an indication of any deleted clauses.

Finally, if members have any questions regarding the procedural admissibility of amendments, the legislative clerks are here to assist the committee. However, they are not legal drafters. Should members require assistance with drafting an amendment or a subamendment, they must contact the legislative counsel.

I thank the members for their attention.

Is there any discussion on clause 1? No.

(Clauses 1 and 2 agreed to: yeas 11; nays 0)

The Chair: Shall the title carry?

Some hon. members: Agreed.

• (1230)

The Chair: Shall the bill carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill to the House?

Some hon. members: Agreed.

The Chair: Thank you.

You were right, legislative attendants. I have one final piece here.

As you know, it has been my prerogative style as chair to allow those members who bring motions or bills to the committee to present them in the House, if they choose.

With that, then, is it agreed that Dominique Vien present to the House the report on Bill C-378, an act amending the Canada Labour Code with respect to complaints by former employees?

Some hon. members: Agreed.

Hear, hear!

The Chair: Thank you.

With that, the meeting will....

Madam Zarrillo.

Ms. Bonita Zarrillo: For the committee, can you please just...? What's the process for any dissenting or supplementary reports?

The Chair: It's legislation, so there are no dissenting reports.

Ms. Bonita Zarrillo: I just wanted clarity.

The Chair: Thank you for that. It's legislation.

The committee will meet on Tuesday, December 10.

With that, is it the will of the committee to adjourn?

Some hon. members: Agreed.

The Chair: The committee is adjourned. Thank you.

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