



**Legislative Assembly
of Ontario**

First Session, 40th Parliament

**Assemblée législative
de l'Ontario**

Première session, 40^e législature

**Official Report
of Debates
(Hansard)**

Monday 11 June 2012

**Journal
des débats
(Hansard)**

Lundi 11 juin 2012

**Standing Committee on
Social Policy**

Toby's Act (Right to be Free from
Discrimination and Harassment
Because of Gender Identity
or Gender Expression), 2012

**Comité permanent de
la politique sociale**

Loi Toby de 2012 sur le droit
à l'absence de discrimination
et de harcèlement fondés
sur l'identité ou
l'expression sexuelles

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Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Monday 11 June 2012

Lundi 11 juin 2012

The committee met at 1400 in committee room 1.

The Chair (Mr. Ernie Hardeman): Good afternoon, ladies and gentlemen. Thank you very much for being here at the June 11 Standing Committee on Social Policy meeting. We are here today to, first of all, have delegations on Bill 33, An Act to amend the Human Rights Code with respect to gender identity and gender expression. At the conclusion of our delegations, we will hopefully then proceed with clause-by-clause and hopefully be able to complete the bill this afternoon.

SUBCOMMITTEE REPORT

The Chair (Mr. Ernie Hardeman): First of all, we have to deal with the subcommittee report that I believe everyone has on their desk in front of them. If we could have a motion to deal with the subcommittee report? Ms. DiNovo?

Ms. Cheri DiNovo: I move it.

The Chair (Mr. Ernie Hardeman): Seconded? Ms. McKenna?

Mrs. Jane McKenna: I do.

The Chair (Mr. Ernie Hardeman): Thank you very much for offering to move it. Now if you would just read it into the record, we'll be all set. Thank you very much, Ms. DiNovo.

Ms. Cheri DiNovo: Sure. So I'm reading the report of the subcommittee to the Standing Committee on Social Policy.

Your subcommittee on committee business met on Wednesday, June 6, 2012, to consider the method of proceeding on Bill 33, An Act to amend the Human Rights Code with respect to gender identity and gender expression, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings in Toronto on Monday, June 11, 2012.

(2) That the clerk of the committee post information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(3) That interested people who wish to be considered to make an oral presentation on Bill 33 should contact the clerk of the committee by Friday, June 8, 2012, at 12 noon.

(4) That the clerk of the committee provide a list of all interested presenters to the subcommittee following the deadline for requests in the event that all requests cannot be accommodated.

(5) That 15 minutes be allotted to each presenter.

(6) That the committee begin clause-by-clause consideration of the bill following the witnesses' presentations on Monday, June 11, 2012.

(7) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

The Chair (Mr. Ernie Hardeman): Thank you very much. You've heard the report. Motion—

Mr. Yasir Naqvi: Chair?

The Chair (Mr. Ernie Hardeman): Yes, Mr. Naqvi.

Mr. Yasir Naqvi: Talk about technicalities. I've just been informed that if we don't recess at 4 and then start clause-by-clause at 5—apparently I expire at 4 o'clock because I'm subbed in and I lose my vote in the committee and it won't kick in until 5 o'clock when I'm subbed in again, so my concern is that if we can somehow figure out that technicality. I'm all for doing clause-by-clause right after the presentations because I don't want to lose my vote, of course.

The Chair (Mr. Ernie Hardeman): Thank you very much. We'll have the clerk speak to that.

The Clerk of the Committee (Mr. Katch Koch): Mr. Naqvi, all I need is a new sub slip. You have 30 minutes into the meeting to provide me with a sub slip.

Mr. Yasir Naqvi: We'll get that to you. Perfect. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much. Any further discussion on the report?

If not, all those in favour? Opposed? The motion's carried.

TOBY'S ACT (RIGHT TO BE FREE FROM
DISCRIMINATION AND HARASSMENT
BECAUSE OF GENDER IDENTITY
OR GENDER EXPRESSION), 2012
LOI TOBY DE 2012 SUR LE DROIT
À L'ABSENCE DE DISCRIMINATION
ET DE HARCÈLEMENT FONDÉS
SUR L'IDENTITÉ OU
L'EXPRESSION SEXUELLES

Consideration of the following bill:

Bill 33, An Act to amend the Human Rights Code with respect to gender identity and gender expression /

Projet de loi 33, Loi modifiant le Code des droits de la personne en ce qui concerne l'identité et l'expression sexuelles.

REGISTERED NURSES'
ASSOCIATION OF ONTARIO

The Chair (Mr. Ernie Hardeman): Our first delegation this afternoon is from the Registered Nurses' Association of Ontario: Doris Grinspun.

Welcome this afternoon, and thank you very much for making time in your busy schedule to be here. You will have 15 minutes to make your presentation. You can use all or any part of that for your presentation. If there is any time left at the end of the presentation, we'll have questions from the committee, and we will start with the New Democratic Party this time.

Ms. Doris Grinspun: Thank you very much. I'm the executive director for RNAO—sorry, my mistake. I will get in trouble already with my board of directors.

I'm the chief executive officer of the Registered Nurses' Association of Ontario. With me today is Lynn Anne Mulrooney, senior policy analyst at RNAO. We are the professional association for registered nurses who practise in all roles and sectors in Ontario. Our mandate is to advocate for healthy public policy and for the role of registered nurses in enhancing the health of Ontarians.

We are pleased and humbled to be here today to support Toby's Act. This legislation is of fundamental importance, both in term of strengthening human rights and for taking a stand against transphobia and for the protection of trans Ontarians against discrimination and harassment.

We are thrilled that Bill 33 is proceeding as all-party legislation, sponsored by Cheri DiNovo of the New Democratic Party, Yasir Naqvi of the Liberal Party and Christine Elliott of the Progressive Conservative Party. As human rights legislation, it is both appropriate and significant that it is moving forward on its obvious merit without partisanship. It is in the best tradition of MPPs working together for all Ontarians. RNAO thanks you all for your courage and your leadership.

Bill 33 is proof that good things can come in small packages. As short as the bill is—no more than one page—it is tall in importance and what it will mean in real terms for the many people in this province who have lived with harassment, transphobia and discrimination. They know discrimination can take various forms—through direct assault, such as hate crimes, physical violence and verbal attacks. They also know that it can come as a result of stigmatization, barriers to inclusive and appropriate care because of discriminatory practices by health care institutions and professionals, and by not having access to the quality, safe work environments that many of us take for granted.

Sections 1 to 5 of Toby's Act amend the Human Rights Code by adding the words "gender identity, gender expression," ensuring that every person has a right to equal treatment without discrimination because

of gender identity or gender expression with respect to services, goods and facilities, accommodation, contracting, employment and membership in a trade union, trade or occupational associations or self-governing professions. Section 7 of the Human Rights Code is amended to guarantee that every person has a right to be free from harassment because of gender identity or gender expression.

One short page speaks volumes: Toby's Act recognizes a human right to be free from discrimination and harassment because of gender identity or gender expression.

It is a fitting tribute to Toby, who, like many other trans persons, died prematurely after a life fighting depression and addiction issues. It is named for Toby Dancer, but it is for all trans people who have experienced transphobia and trans bashing and the fear, violence, ignorance, stigma and hatred that are still all too common. It is for all of us, indeed, as we value the diversity of our province, where discrimination and harassment against one person affects us all.

RNAO has a long and proud history advocating for human rights and the health and wellness of lesbians, gay, bisexuals, transsexuals, transgender, two-spirited, intersex, queer or questioning persons.

I want to acknowledge and thank the brilliant and dedicated members of our Rainbow Nursing Interest Group, the expert group within the RNAO that stands with the Trans Health Lobby Group, the Trans Lobby Group, Rainbow Health Ontario, Rainbow Health Network and all those who have worked so hard and selflessly for the day to come when Toby's Act would finally become law. We share their heartfelt hope that they will not need to wait much longer.

Toby's Act is an essential step in providing full human rights protection for one of the most marginalized economically and socially vulnerable groups in our society. Advocating for full human rights protection for trans Ontarians through legislation is an ethical and professional imperative consistent with registered nurses individually and collectively seeking to promote justice.

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Strengthening human rights protection enables people to be who they are and to be respected for who they are. As was explained during the House of Commons debate on Bill C-389, a bill to amend federal legislation, "Gender identity is a person's innate feeling of being male, female, both genders, neither or in between. It is not a reference to people's biological sex or their sexual orientation. Identity is something to be respected and honoured and gender identity is no different. Gender expression is the expression of that inner identity. It is the freedom to be, plain and simple, one's self."

Discrimination against people who are transgender, including those who identify as transsexual, erodes health through increased risk of violence, poverty and social exclusion, diminishes access to health care, and threatens quality work environments.

Results of the National Transgender Discrimination Survey by the National Center for Transgender Equality

in the United States found that their respondents experienced unemployment at twice the rate of the general population; 15% lived on \$10,000 per year or less—again, twice the rate of the general population; and 19% of the sample have been or are homeless. A staggering 90% of the respondents reported experiencing harassment or mistreatment at work. Because of gender identity/gender expression, 44% did not get a job they applied for, 23% were denied a promotion, and 26% lost their job. Particularly hard hit for job losses were those who were black—32%—or multiracial—37%.

These multiple barriers to health and well-being experienced by trans people are consistent with findings from the Ontario Public Health Association's Trans Health Project, the Ontario Human Rights Commission's consultation on human rights and rental housing, and the Trans PULSE project, a community-based research project in Ontario.

The Trans PULSE project "aims to broadly understand how social exclusion impacts the health of trans people." In their analysis of the significant barriers to receiving health care that trans people experience, the authors identify the processes of erasure in information production and dissemination and in institutional protocols, practices and policies.

Assumptions that those assigned male or female at birth will always grow up to be the same are so prevalent that they are difficult to even recognize. Social activities, such as child rearing, the policies of institutions, and the organization of the broader social world and the health care system itself disallow the possibility of trans existence or trans visibility, let alone of respect.

As nurses, we know that client-centred care is based on the values of respect and human dignity. As part of the commitment of registered nurses to improving health outcomes and the health care system for transgender clients and staff, Ontario's registered nurses urge you, our elected leaders, to make trans people visible by fully protecting their human rights.

Ontario's registered nurses view Toby's Act as an essential way to address discrimination that threatens health, well-being and access to health care.

Ensuring that the human rights of all Ontarians are protected is not only the just thing to do, but it will contribute to building a stronger, more vibrant community where all people are respected. This is why the RNAO is here with you this afternoon: to add nurses' voices to those of so many who have played key roles in bringing Toby's Act so close to reality.

Let me just take a final minute to give voice to some of those who have experienced discrimination and harassment first-hand. These are excerpts from emails sent to the Canadian Senate upon the consideration of Bill C-389 last year:

"Being transgendered is not easy. Loss of relationships, family, friends, limited employment, ridicule on the streets, denial of service in stores are just some of the issues I have experienced. But I am one of the lucky ones; I was able to afford help when I considered suicide,

and I have not suffered physical violence or lost employment, but for so many, this is not the case.... It is my hope that with your support ... we can start to reduce the rage and violence, the suicides, the almost guaranteed poverty, the destruction of families and, most importantly, access some form of dignity and self-respect."

And another: "As the wife of a man who identifies as transgendered, I have witnessed many years of struggle and shame. He was honest with me from the outset of our relationship and I attributed the wonderful characteristics of caring and empathy with his transgendered nature. But with those gifts also come guilt and shame.... Going out into the world, even to private meetings of other trans people, is traumatic because of the looks, comments and fears of being recognized and judged."

Toby's Act is an essential step in providing full human rights protection to trans Ontarians. We must put the harmful effects of stigma, discrimination and harassment behind us, remove the barriers to employment and stability, health services, income security, food security and housing.

In passing Toby's Act without further delay, together, we can end the shame we all share that trans people continue to be among the most marginalized groups in our society.

We thank you again for your courage and leadership and for giving us the opportunity to present to you today the views of the Registered Nurses' Association of Ontario.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We have about three minutes left. Ms. DiNovo?

Ms. Cheri DiNovo: Doris, always a pleasure, and thank you so much for coming here and giving your testimony. It means a great deal to everyone around this room, I think we can say. It will be coming back for third reading debate Wednesday morning in the House, and the vote will come Wednesday morning. So if you possibly can, come back for that; I would certainly welcome you. But again, just thank you.

Ms. Doris Grinspun: We will make sure, and we will also tell our members of the Rainbow interest group—absolutely, Cheri. Thank you very much.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. As the member said, we'll see you on Thursday.

Ms. Doris Grinspun: Wednesday.

The Chair (Mr. Ernie Hardeman): Wednesday. I'm trying to make it a day late. Sorry about that.

QUEER ONTARIO

The Chair (Mr. Ernie Hardeman): Our next delegation is Queer Ontario.

The clerk will pass out the presentations to the committee members. We thank you all for being here today. As with the previous delegation, you'll have 15 minutes to make your presentation. Use any or all of that. If, at the end of your presentation, there's sufficient time left

for comments and questions, we will start the questioning with the government side. With that, the floor is yours and the next 15 minutes are yours. Thank you very much for being here.

Mr. Nick Mulé: Thank you.

The Chair (Mr. Ernie Hardeman): Oh, and could you all introduce yourselves for Hansard as you start to speak.

Mr. Nick Mulé: Thank you for giving us this opportunity to speak to this important bill. My name is Nick Mulé. I'm the founder and chairperson of Queer Ontario, and I'm joined by fellow activists Davina Hader, who is the member at large for Queer Ontario, and Casey Oraa, vice-chairperson for Queer Ontario.

As an introduction to the organization, Queer Ontario is a provincial network of gender- and sexually diverse individuals and their allies, who are committed to questioning, challenging and reforming the laws, institutional practices and social norms that regulate queer people. We operate under liberationist and sex-positive principles and fight for accessibility, recognition and pluralism within society. Our broad definition of "queer" includes people who are marginalized because of their sex, gender, sexuality, relationship and lifestyle.

Queer Ontario continues to strongly support the amending of the Ontario Human Rights Code to include gender identity and gender expression as recognized and, thus, protected grounds. We are pleased that the bill is being sponsored by representatives of all three parties and expect that it will go through. Nonetheless, we have come here today to highlight why Bill 33 is an important piece of legislation socially, legally and culturally.

For the sake of this deputation, we will be referring to "trans communities," which include individuals who are transsexual and transgender, as well as individuals who are agender, bigender, gender queer, two-spirited, androgynous, cross-dressers and gender fluid, just to name a few. These are all gender identities and gender expressions that exist in Ontario and, indeed, the world, and it is due time that we recognize the individuals who live these identities, sometimes clandestinely because of the ignorance, hatred and mistreatment they fear they will face if they do present themselves genuinely. This bill will ensure that such fears are allayed and that individuals know that they have the support of the government and the courts if ever they were to face discrimination for being themselves.

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Some facts: Trans communities have faced an inordinate amount of discrimination in many areas of life that most people take for granted. Aside from experiencing dysphoria, a deep and, in many cases, debilitating dissatisfaction with one's body or assigned sex or gender, many trans people continue to face severe disadvantages in employment, housing and the provision of health care and social services.

Data from the Trans PULSE health survey reveal that trans people face disproportionate levels of poverty, with over 40% unemployed, underemployed or unable to

work. Moreover, 50% of trans people reported an annual income of \$15,000 or less, and one in five are living in assisted or unstable housing. Trans-identified Ontarians consistently face discrimination from landlords and health care providers—43% without formal training on trans issues—including denial of access to vital services such as shelters, mental health and rape crisis services.

All of this has a serious impact on their health and well-being, considering that 43% of trans Ontarians have attempted suicide.

As the bleak statistics show, trans communities disproportionately are discriminated against in many avenues of their lives, and often at higher rates than their lesbian, gay and bisexual counterparts. It would be utterly irresponsible of the state to continue to ignore these serious social problems.

Ms. Davina Hader: I'm Davina. Systemic concerns: Not only would the passage of Bill 33 have the potential of changing the lives of trans people and their loved ones, but such explicit recognition will contribute to the systemic changes so desperately needed in our education, housing, employment, policing, corrections, health care and social service systems, all of which require trans-sensitive policies and programs to ensure equal access.

To share but one powerful example of a set of systemic policies that contribute to and perpetuate the ongoing stigmatization of trans people: A psychiatric diagnosis is imposed by the DSM, the Diagnostic and Statistical Manual of Mental Disorders, on these individuals. The current diagnosis is "gender identity disorder," and proposed for DSM-5 in 2013 is "gender dysphoria." Not only does such labelling contribute to the ongoing pathologization of these communities, but here in Ontario, such a diagnosis is directly tied to accessing sex reassignment surgery, or SRS, given that such a diagnosis is required in order to claim coverage from OHIP. For most seeking SRS, doing so without OHIP is prohibitive. Bill 33 will serve as a crucial beginning countermeasure to such systemic pathologization and stigmatization.

Gender diversity: Having social recognition and ensuring legal human rights protections are important in our ever-evolving cultural understanding of gender diversity. The traditional binary concept of gender is being challenged today like never before, given that many people are beginning to realize that the designations of infants as boys or girls at birth, or men and women in adulthood, are not only limited in terms of options but also presumptuous, premature and ultimately changeable, given our tremendous medical advances over the past couple of decades. Indeed, there is no doubt that there are individuals who identify with the sex or gender they were assigned at birth, with the opposite one, with neither of the two, with both of them, or with another gender that is a combination of the two, or something else altogether, and they, as individual persons, have every right to identify as they do and to present themselves to the world as they see fit.

It is the responsibility of the medical and mental health professions, and of our governments and courts, to

understand the full diversity and complexity of these communities and to develop theoretical frameworks and professional practices that not only acknowledge and reflect the lived realities, including its most marginalized, but which also assist and protect them throughout the course of their lives. Presenting or facilitating barriers is antithetical to a sensitized, caring society that equitably meets the needs of its citizens.

The struggles of a gender diverse person may be complicated by other discrimination they face due to race, ethnicity, religion, age, disability, class etc. Furthermore, we are seeing an increase in gender non-conforming children who are expressing discomfort with their designated sex and in very concerned and caring parents, child care workers and educators who want to be supportive but have few, if any, resources to turn to that will address these concerns in the compassionate and sensitized manner required. Whether children, young adults or seniors, there are a growing number of gender diverse people who require the protections of this bill.

Mr. Casey Oraa: By recognizing trans people in law as opposed to simply being read in under “sex” or the less apt “disability,” you will establish a clear legal framework. Amending these two important concepts in, you will be providing the explicit language necessary to counter the feeble process currently being used.

Reading a person in isn’t enough, as that places them at the mercy of judges who can interpret the provision whichever way they decide. Providing clear, defined language as generated from within these communities will provide the means necessary to directly address their issues and concerns.

To draw a parallel: In 1975, when advocates first called for the inclusion of “sexual orientation” into the Ontario Human Rights Code, they were told this was not possible because society was not ready to recognize them. But our communities believed otherwise and we continued to advocate to have the Ontario Human Rights Code amended to include “sexual orientation,” which successfully occurred in December 1986. Amending in “sexual orientation” gave our communities the social recognition that furthered our existence within the public consciousness and provided greater legal footing upon which to assert and defend ourselves, as needed. With Bill 33, this long-overdue amendment will give trans communities the same recognition and protections as any Ontarian should have.

In a democratic society, the recognition offered by the state reaches further than the courtrooms and affects how its citizens perceive their rights, the rights of others and, unfortunately, the worth of individuals. By choosing to recognize trans communities with these amendments, you will directly encourage the citizens of our province to question their own perceptions of trans communities and maybe even their own genders, given the possibilities this will open up, and hopefully recognize and respect these communities as well, as they deserve to be.

Amending the Ontario Human Rights Code to include “gender identity” and “gender expression” would not

only rightfully extend social recognition and legal protections, but also symbolically celebrate the courage, tenacity, spirit and resilience of the trans communities in the face of severe discrimination and hostility.

In conclusion, fresh in the stead of the passing of Bill 13, the Accepting Schools Act, 2012, you’ve already passed into law “gender identity” and “gender expression” as social locations that are protected. Given that you rightly recognized them in Bill 13, extending the same recognition and ensuing protections in Bill 33 contributes to consistent and integrated policy-making.

In conclusion, this bill has come before Parliament a total of four times now. It is long overdue that the trans and gender diverse populations, among the most marginalized and oppressed communities in this province, be given the same level of social recognition and legal protection as all Ontarians. We strongly urge you to pass Bill 33.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We have about five minutes left, so we’ll start with Mr. Naqvi.

Mr. Yasir Naqvi: This is the fourth time, and I’m fairly confident this will be the lucky time for this bill to pass and become law in terms of recognizing and protecting the rights of trans communities in Ontario and hopefully setting a leadership example for us as a country as well.

I just want to take this opportunity to thank you for your advocacy. I’ve had the chance to work with you and members of your organization several times in educating me on the importance of this issue and many other issues that impact queer Ontarians. Thank you very much for being here and making the presentation, and I will look forward to passing this on Wednesday morning.

The Chair (Mr. Ernie Hardeman): Thank you very much. Any of the other parties, did you want to have a comment or question?

Mrs. Jane McKenna: I just wanted to thank you as well. I echo everything that my colleague has just said. I know that when you come in, the passion is phenomenal. I had the privilege of speaking in the House on this bill as well, and I was very pleased to do so. So thank you so much.

1430

The Chair (Mr. Ernie Hardeman): Thank you. Ms. DiNovo?

Ms. Cheri DiNovo: Just to add my voice to theirs. Thank you so much. It’s been a long time coming, I know—too long, but here we are. It’s also, quite frankly, an example of a minority government that’s working.

I just wanted to thank you so much for coming before us today. Keep up the good work.

The Chair (Mr. Ernie Hardeman): Thank you again for coming in this afternoon and making your presentation. We look forward to dealing with the—hopefully get it through committee today and get it back into the House on Wednesday for third reading. We can’t judge it any further than that, but thank you very much for coming in.

Mr. Casey Oraa: Thank you.

The Chair (Mr. Ernie Hardeman): Our next presentation is Christin Milloy. She has not arrived yet, so we'll have to just hold on for a minute.

ONTARIO HUMAN RIGHTS COMMISSION

The Chair (Mr. Ernie Hardeman): Is Barbara Hall here from the Human Rights Commission? There she is. She is our delegation for 2:45, but she's here, and hopefully Christin Milloy will come sometime during Ms. Hall's presentation, so we can turn those around.

Ms. Hall, thank you very much for being here for the social policy committee again. It was just the other day we were here, but we thank you for coming in. As before and as with the other delegations, you'll have 15 minutes to make your presentation. You can use any or all of that. Any part that's left over, we will start with questioning from the official opposition side this time. Again, thank you for coming in, and the floor is yours for the next 15 minutes.

Ms. Barbara Hall: Thank you, Mr. Chair. It's a real pleasure to be here on behalf of the Ontario Human Rights Commission to indicate our overall support for Toby's bill. I'm pleased to be accompanied by Sunil Gurmukh, a solicitor from the commission, as well as Jackie Pegg, an inquiry analyst at the commission.

In 1999, my predecessor, Keith Norton, first called for an amendment to the Ontario Human Rights Code to add "gender identity" as a prohibited ground of discrimination and harassment. We have repeated that call publicly many times since.

In 2000, after careful research, public consultation and case law review, the commission released, for the first time, a policy on gender identity and human rights, taking the position that the ground of sex could be used to protect transgender individuals from discrimination and harassment.

This recognition began to have an impact. Transgender individuals started coming forward with claims about harassment and other forms of discrimination at work, at the mall, at the health club, in dealing with police, as a member of the Canadian Armed Forces and in other areas of daily life. Tribunals and courts began to recognize their rights, but unfortunately, this progress was too often met with public ridicule, fear-mongering and backlash, which continues today.

Transgender individuals are one of the most marginalized groups in society. They routinely face discrimination, hatred and danger. Explicit recognition in the code would help better promote and protect their rights. It could reduce complaints and bring clarity to situations that often arise out of ignorance and confusion.

Gender identity is linked to an individual's intrinsic sense of self, particularly the sense of being male or female. A person's gender identity is different from their sexual orientation. People's gender identity may be different from their birth-assigned sex. The personal characteristics that are associated with gender identity

include self-image, physical and biological appearance, expression and behaviour and conduct, as they relate to gender.

The ground of sex does not properly convey this meaning. A new ground would leave no doubt in the eyes of the public, or the law, that trans people are entitled to the same protections as everyone else.

That's why we're pleased to see a bill come before this committee that would add "gender identity" and "gender expression" to sections 1, 2(1), 3, 5(1) and 6 of the code dealing with services, housing, contracts, employment and vocational associations.

With respect to harassment, we have recommended that gender identity be added to section 2(2) of the code dealing with harassment in housing accommodation, and section 5(2) dealing with harassment in employment.

Bill 33, on the other hand, proposes to address harassment based on gender identity and gender expression under sections 7(1) and 7(2), which deal exclusively with sexual harassment in housing and employment. This would not be consistent with the commission's policies. While transgender individuals do experience sexual harassment, they also experience other forms of non-sexualized harassment related to their gender identity.

For this reason, we recommend the bill be amended to address harassment based on gender identity and gender expression under sections 2(2) and 5(2) of the code, rather than 7(1) and 7(2), as it currently reads.

Legislative recognition of gender identity rights is beginning to happen in other jurisdictions as well. The Northwest Territories' Human Rights Code already includes gender identity. Similar changes are being proposed in Manitoba and at the federal level, and the UN Office of the High Commissioner for Human Rights has recently called on member states to recognize gender identity in human rights legislation. Recognizing gender identity in Ontario's code is long overdue.

Last week, I was pleased to see the Legislature pass Bill 13, recognizing gender identity, among other groups, for protection against bullying in schools.

Later this week, we're celebrating the 50th anniversary of the Ontario Human Rights Code. The code has been amended many times during that period, including adding new protections for sex, for disability and for sexual orientation. The code has evolved as society's understanding of human rights has grown and evolved. The time is right—now—to amend the code to recognize, promote and protect the rights of transgender individuals.

Finally, I would ask the committee to consider another amendment to the code. The ground of sexual orientation was added in 1986, but was never enumerated under sections 2(2) and 5(2) dealing with harassment. We therefore restate our long-standing recommendation that amendment of these provisions also include the ground of sexual orientation. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We have approximately six minutes left, so we'll start with the official opposition.

Mrs. Jane McKenna: Thank you so much, Barbara, for coming out. That was a wonderful presentation. It's

wonderful that you've been here and come out, and I pass it along to Cheri to say something else. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you so much, Barbara, first, for years back writing a letter to the Toronto Star in support of this bill and being a supporter ever since. So, here we are finally, and I thank you for your support along the way.

I wanted to let you know that the amendments we proposed are based on the amendments that you have asked for. So we will be discussing those later this afternoon, just to make it even stronger. We hope that you join us on Wednesday morning when the bill passes, we hope. Thank you for being here and for all the work that you do. It's exciting. I hadn't realized it's the 50th anniversary, so it's a nice coincident with the passage of this bill. Thank you.

1440

Ms. Barbara Hall: Thank you. Well, the 50th anniversary is on Friday. It just feels like another important point in the life of human rights in Ontario will have been met then.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much. Mr. Naqvi.

Mr. Yasir Naqvi: We would say that we had it all planned, but it just happens to be that way. But it's a good, good coincidence.

I really want to thank you and the commission for the work they did in 2000 in getting that policy guideline because I think that was very instructive to a lot of us to see, and to the trans community, of course, to have their rights being protected under the category of sex. This obviously takes that very next important step in leaving no ambiguity in protecting the rights of the trans community. So thank you very much.

Thank you also for letting us know some of the other areas where we can make it a little bit more clear in terms of the application of the code vis-à-vis sexual orientation or gender identity and gender expression. We'll be looking at it in terms of the amendments that are being proposed later in the afternoon. Thank you, Ms. Hall.

Ms. Barbara Hall: Sex did provide an opportunity for people to come forward and get relief, but it didn't send a clear message, and what we're all interested in is prevention. So that's why having the explicit grounds in the code will send a strong, strong message. We'll hope that the prevention will occur of the really quite horrendous discrimination and harassment that trans people are experiencing till this day. I feel like I'm here for the tipping point.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. On behalf of the committee, I want to say that the committee has no power to hold off the third reading of the bill to Friday, because on Friday the House will not be sitting. So I guess—

Mr. Yasir Naqvi: We're not taking that risk.

The Chair (Mr. Ernie Hardeman): I don't know what's going to happen on Wednesday, but it will hopefully be before the Legislature on Wednesday to deal with it.

Ms. Barbara Hall: Thank you. I'll be here Wednesday morning. Friday afternoon, just across the street at Hart House there will be a plaque unveiled and a celebration of the 50 years of human rights in Ontario. Thank you very much.

The Chair (Mr. Ernie Hardeman): Thank you very much for being here, and thank you again for all the hard work you do.

Again, going back to Christin Milloy: Is Christin present? The staff have tried to contact her, but they have not been able to make contact with the deputation.

EGALE CANADA

The Chair (Mr. Ernie Hardeman): We have our 3 o'clock appointment, Egale Canada. Is Egale Canada here? Yes, very much so—coming up. We're a little ahead of the game here, but that's—

Ms. Helen Kennedy: I love it. That's great.

The Chair (Mr. Ernie Hardeman): Nothing wrong with that. Thank you very much for being here again. As with previous delegations, you'll have 15 minutes to make your presentation. You can use any or all of that for your presentation. If there's any time left over, we will start the questioning from the committee with the—I think it's with the third party this time.

Ms. Helen Kennedy: Great. Thank you. Thank you very much. My name is Helen Kennedy. I'm the executive director of Egale Canada. Egale is our national lesbian, gay, bisexual and trans human rights organization, advancing equality, diversity, education and justice.

Egale's vision is a Canada free from transphobia, biphobia and homophobia and all other forms of discrimination, so that every person can achieve their full potential unencumbered by hatred and bias.

Unfortunately, far too many Canadians who identify as trans continue to suffer from significantly increased levels of violence and harassment. Much of it is unseen and invisible to others. Many are the victims of hate crimes, bullying and violence motivated by their perceived gender identity or expression.

Unfortunately, current Canadian anti-discrimination and hate crime legislation has been unable to fully protect Canadians who identify as trans from these injustices. This is clearly unacceptable and must be rectified.

In 2010, the Canadian Bar Association unanimously passed a resolution encouraging all provincial and territorial governments across Canada to amend their human rights laws to better protect transgender individuals, and I'm really, really pleased to see that Ontario has taken up that task. Kudos to you, Cheri, and the trans community and to everybody—Yasir and our Conservative friends as well. We will now be the second jurisdiction in Canada to have protections under the human rights code for

transgender people, and that is really something that we should be proud of.

I just wanted to give you sort of a little bit of a sense of what our trans youth are facing on a daily basis in our Canadian school system. In 2009, Egale's education committee conducted a survey of high schools across Canada. After 18 months of data collection ending in 2009, we had over 3,700 participants whom we collected from to address the issue of transphobic violence, homophobic violence and biphobic violence and harassment within our school system.

What did we learn? Well, we learned that our schools are indeed unsafe for our trans youth: 78% of our trans students felt unsafe at school; 52% of our trans youth reported feeling unsafe in the change rooms and the washrooms; 43% of our trans youth reported that teachers never intervened when transphobic comments were being made; and 53% of our trans youth don't feel comfortable reporting incidents of harassment to the school staff.

I could go on: 47% of our trans youth in Ontario have thought about suicide, and that is from the Trans PULSE survey in 2010. We know that we have problems within our society when addressing issues of transphobia.

Also, we more commonly hear about homophobic incidents. When you look to the trans community, they're at far greater risk of harassment, violence, discrimination. Our trans adults may be incredibly well-educated. They can't find jobs, they can't get housing, and this is just not acceptable in Canadian society—in any society.

We know that 40% of our UN member countries criminalize homosexuality and discriminate against our LGBT populations. Canada needs to be a leader in this regard. Currently, there are only six countries around the world that have protection for trans people under their Human Rights Codes. That's really appalling. We know that Ontario will now be the second jurisdiction in Canada, and we should be incredibly proud of that, but we have more work to do.

There is a bill before Parliament right now, Bill C-279, the gender identity bill, which passed by a narrow margin at second reading last week. It is now going to committee as well. I want to commend those members who are here who have counselled and encouraged their counterparts in Ottawa to support this bill, because if we pass this bill and if we are successful, Canada will be the seventh country in the world to have recognition for gender identity within its Human Rights Act.

I do feel that today is a day for celebration. This really is democracy at work when we can get all three parties to agree on doing the right thing. I really do commend you and I'm very proud of the work that you have done to this point. I look forward to being in the House on Wednesday when this legislation passes. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We have about nine minutes left. With that, we'll start with Ms. DiNovo.

Ms. Cheri DiNovo: Well, thank you, Helen. Thank you for the incredible work that you and Egale do, of

course, across the country. We know about it—everyone here does—and we applaud you for it.

It's interesting when you say that the Northwest Territories have done this, but we will be the first province—I think Manitoba is nipping at our heels. I was out in Winnipeg on the weekend and I think they're bringing it in this week as well, towards the end of the week, so we'll be one day or two ahead of them. But we're really the second jurisdiction in North America—I keep emphasizing that because it's not just Canada; it's North America. It's very exciting, and we look forward to celebrating with you on Wednesday.

Ms. Helen Kennedy: Yes, thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much. The government?

Mr. Yasir Naqvi: Helen, thank you very much. Thank you very much also for your advocacy on Bill 13, the Accepting Schools Act, and what we have been able to accomplish. For the first time in the Education Act, we have "gender identity" and "gender expression" written in, and I think that was a huge step forward.

The very first time I remember learning about this issue was an Egale-sponsored debate in 2007 when I first ran for office, and a member of the trans community from my riding came up to the podium and asked the question—what my views were on enshrining and codifying gender identity and expression in the Human Rights Code. I was very honest. I remember telling them, "I don't know much about the issue, but I look forward to sitting down with you and learning about it." She quickly explained to me some of the issues and put forward a petition in front of me, if I would sign it, which I agreed to sign right at the moment because when it comes to issues around human rights, there are no ifs and buts; there are no grey areas. You protect the rights of people or you don't.

The big reason that my family came to Canada was to ensure that we would all have the same equal human rights. I've been working on this issue since then and was fortunate to partner with MPP DiNovo and MPP Elliott to move this issue forward. So thank you indirectly to you and your organization for educating me on this issue, raising these issues in an important forum like election times and getting elected representatives onside so that we can hopefully do all the right things. I appreciate the work you do.

Ms. Helen Kennedy: Thank you very much.

The Chair (Mr. Ernie Hardeman): Ms. Elliott?

Mrs. Christine Elliott: Thank you very much, Helen, for joining us today. It's a pleasure to see you again, and I very much appreciate the work that you're doing at Egale, working with all the groups to make sure that human rights for everyone in Ontario are protected. That's certainly essential to me and one of the first things that I worked on on being elected to this place in 2006. I'm pleased that we're moving things forward here provincially.

As far as the federal bill is concerned, I have urged the federal member for Whitby—Oshawa to support the bill—

Ms. Helen Kennedy: I noticed.

Mrs. Christine Elliott: —as he has done.

Ms. Helen Kennedy: Believe me, I was jumping up and down in my living room when I saw him get up. So that was—

Mrs. Christine Elliott: Yes. We're certainly onside as far as that is concerned. Continue the great work, and it's a pleasure working with you.

Ms. Helen Kennedy: Thank you very much. I very much appreciate it.

The Chair (Mr. Ernie Hardeman): With that, thank you very much for your presentation. It's very much appreciated.

Ms. Helen Kennedy: Thank you.

The Chair (Mr. Ernie Hardeman): Our next delegation is the Trans Lobby Group.

Interjection.

The Chair (Mr. Ernie Hardeman): Yes, they're not to be here yet. That appointment isn't until 3:15. If they're not here yet, then we can't hear them.

Mr. Yasir Naqvi: Are we in recess?

The Chair (Mr. Ernie Hardeman): If we're not here yet, we'll have to recess for a period of time because they're not due to be here till 3:15.

Mr. Yasir Naqvi: A 10-minute break?

The Chair (Mr. Ernie Hardeman): We'll recess until 3:15 or later.

The committee recessed from 1453 to 1515.

The Chair (Mr. Ernie Hardeman): We'll call the committee hearing back to order.

THE TRANS LOBBY GROUP

The Chair (Mr. Ernie Hardeman): I believe our next delegation is here, the Trans Lobby Group. Thank you very much for coming in this afternoon to speak to the committee. As with the instructions I've given to others, you'll have 15 minutes to make your presentation. You can use any or all of that as part of your presentation. If there's any time left at the end of that, we will have questions, and this time we'll start with the government side. If you would also give your name prior to starting your presentation. With that, the next 15 minutes are yours. Thank you very much for being here.

Ms. Susan Gapka: Thank you, Mr. Chair. My name is Susan Gapka, and I'm chair of the Trans Lobby Group. This is Martine Stonehouse, vice-chair of the lobby group. We have another member I'd like to call up, Davina Hader, who has been helping us. She's going to observe and maybe try to answer some questions.

We are a non-partisan group. Some of us do have political memberships, but we're not here today—we believe in working across the different parties.

Actually, just to start with, we're humbled; humbled and—there's another word. I want to thank the three parties and their representatives—Yasir Naqvi, Christine Elliott and Cheri DiNovo—for coming together in a collaborative effort so that trans people, transsexual and transgendered people, in Ontario can acquire and achieve

the same human rights that other disadvantaged groups already have—enumerated rights.

We are the Trans Lobby Group. We formed about 10 years ago. We have about 40 members, and a steering committee who does some of the day-to-day things.

We originally formed—Martine; it's all her who got us together—around funding for sex reassignment surgery. It was defunded in 1998 and relisted—I thank you for relisting it—about three or four years ago.

We launched—

Ms. Martine Stonehouse: It was 2008.

Ms. Susan Gapka: In 2008? Yes, 2008.

We've managed to work with Rainbow Health Ontario. We formed that with some funding to improve access to health care for trans people across the province.

There is still one thing we need to do, and that's move forward on multiple assessor points. There's only place in Ontario, a five-minute walk from here, at the gender identity clinic. So that's something we hope to work on, again with all parties, to move that forward.

The second thing that we've been working on is the human rights. Thank you, Cheri DiNovo, for introducing it four times, and all those coming together. We really think it's important that trans people have access to human rights.

Transphobia is an irrational fear and hatred of trans people, and like gay-bashing, it includes physical violence. Trans PULSE discovered that 77% of trans people in Ontario had seriously considered suicide. We're the determined ones. We're the survivors that have overcome these challenges. We use the same tenacity that we do now in overcoming our challenges to meet with you and try to move our agenda forward.

International Day Against Homophobia was created in 2003, and transphobia was added in 2009 “to give a specific dimension, and fight against the invisibility of the trans issue.” Yet we still remain a disorder—the Diagnostic and Statistical Manual recognizes it as a disorder—and still exist outside the human rights realm. So we'd like to see that move forward.

The other item we've been working on is the Vital Statistics Act. Our legal documents often do not match our name and our lived and experienced identity. An Ontario tribunal court struck down as discriminatory the amending formula of having surgery as a requirement.

1520

We look forward, again, to working with MPPs and the people here today and outside this room to come up with a criterion that meets the needs of trans people. Oftentimes, if we don't have identity documents that say who we are and how we live every day, we may be denied access to employment, access to housing or any other social needs.

We see these three components—access to health care delivered in community-based settings across the province, explicit human rights protections so that we have remedy for when we experience harassment and discrimination, and legal identity documents—as the three fundamental pillars for trans people to achieve social

inclusion in Ontario society. These are the three issues we've been focused on and the three issues, with your assistance in the next few days, to achieve so that we can achieve full citizenship.

There is in your handout a fact sheet, but I think I've covered most of the important parts—I'm looking at us around six minutes; I'm not sure if there are a lot of questions.

We do know that the human rights commission—I think Ms. Barbara Hall on the commission made some clear recommendations. Federally, the La Forest commission has made a recommendation to include in the Canadian Human Rights Act. As recently as last week, I was in the federal chamber in Ottawa, where on a vote of 150 to 132 in what we thought might be an unfriendly government—actually, a 13-vote majority to move to committee a federal bill like this. So perhaps things are aligning for us, and it's really important, finally acting 10, 12, 15 years later on recommendations from human rights commissions.

We've always said it is time to deliver on trans human rights. Perhaps this week we can work together to deliver trans human rights.

I'd like to turn it over to Martine Stonehouse for a few minutes, and then we'd like to open it up for questions, if you do have any for us. Thank you very much.

Ms. Martine Stonehouse: Hi. It has been a long, long fight. I was a person who was in the process of getting my approval for surgery when the funding was cut. I had tried for about a year to get funding for sex reassignment surgery relisted, and I ended up launching a human rights case in 1999. About that time, when we were talking about the La Forest report, the Canadian human rights review panel was going across the country, and I made a presentation to them and listed 30 recommendations. Upon that, it was added to the La Forest report. My name was published in there. As a result, someone from the Ontario Human Rights Commission approached me, and I gave them a copy of the 30 recommendations, some of which became part of the Ontario human rights policy paper on gender identity. So in two cases I contributed federally and provincially in trying to get human rights for trans people.

In my employment with the Toronto District School Board, when they were debating their first human rights policy, I outed myself to my managers and everything for the protection of not just the staff but students who were trans. In May 2000, when the human rights paper for the board came out, gender identity was a protected ground and we became the first school board in Canada to have gender identity protection.

It has been quite a battle. I see us today as similar to the five women in 1929 who stood up to get recognition of women as persons in this country. I see us as trying to get recognition for trans people to be recognized as persons in this country. What we are doing here, with all parties supporting this, is a first. It's very rare that you see all parties agreeing to one thing, but we're about to make history in this country by including rights for trans

people. What we do here in Ontario is going to show the rest of the country that trans people are persons, and it will have an impact across the country. I think it will help the federal bill as well. So, I really appreciate what everybody is doing here, especially Cheri DiNovo, Christine Elliott and Yasir Naqvi. I really, really appreciate all of this. We did a lot of educating over the years, and I think finally it's time and we're going to get it delivered this time. So, I thank you all. It has been great. If anybody has questions—how much time have we got?

Ms. Susan Gapka: We love to talk.

Ms. Martine Stonehouse: We love to talk. If you have any questions, that would be great.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We'll start with the questions and comments from the government. Mr. Naqvi?

Mr. Yasir Naqvi: Thank you very much, Chair. I teased my federal friends over the weekend that we passed our bill unanimously and they still had a difference—hopefully they will do the right thing as well.

I want to thank all three of you. I've been working with you for some time. Thank you for your advocacy. Susan, you walked I don't know how many kilometres to come and see me at my campaign office in the October election. We sat down and said, "How can we, in the new Parliament, move this forward?" We talked about it and said, "Why don't we try to get one member from each party to come together and really move this as a non-partisan issue?" It is a non-partisan issue; it's about the human rights of trans Ontarians. Salute to you and Martine and your whole team for the leadership that you've brought in. You've brought us all together to work on this as a collective. I think that's how we are doing service—the jobs that we have earned as representatives. So, thank you very much, and I look forward to a positive vote on Wednesday morning.

Ms. Susan Gapka: Thank you.

The Chair (Mr. Ernie Hardeman): Do we have a comment from the opposition?

Mrs. Christine Elliott: A comment, not a question: Good afternoon, Susan and Martine. It has been a pleasure working with you. You have been educating us over the years since I first met you in 2006, and you are very tenacious. That's what has gotten us to this point now—the fourth time it has been brought forward; fourth time is the charm. I really want to congratulate you and thank you for all your hard work on behalf on trans people everywhere. We want to make sure that everybody is fully included and has the same human rights as everybody else. We're all the same. So, thank you very much for that. We look forward to a good result, both provincially on Wednesday and hopefully, federally, very soon too.

The Chair (Mr. Ernie Hardeman): A final wrap-up comment, very quickly, Ms. DiNovo.

Ms. Cheri DiNovo: Sure, and just to add in that Manitoba is nipping at our heels, so they'll be bringing in something towards the end of this week. But, yes, it does feel good to be, outside of the Northwest Territories, the

first jurisdiction in North America, I keep reminding people, not just in Canada.

Thank you, Susan. I always hold you out as an example of the best lobbyist ever, because it's not about money; it's not about having access; it's just about, as Christine said, tenacity, and standing on the side of progress. You have done all of that. All of you have done all of that, so thank you.

The Chair (Mr. Ernie Hardeman): Thank you all very much, and thank you for your presentation. We look forward to finishing this through sometime later this week.

Ms. Susan Gapka: Just a final—yes, it's really about education and putting a human face and telling our stories. Thank you for listening. Anyone who has been in the near vicinity would know that if they ran—the first time they ran an election, I've been there and we've been there asking the questions. It's about just including us in society. Thank you so much.

The Chair (Mr. Ernie Hardeman): Thank you very much for making the presentation.

MS. CHRISTIN MILLOY

The Chair (Mr. Ernie Hardeman): That is the end of the list. A delegation that was here for 2:30 is here now. I'm at the committee's will if you want to hear that one, or we can go to clause-by-clause.

Interjections.

The Chair (Mr. Ernie Hardeman): Okay. With that, we'll call Christin Milloy. If you will take the chair there. We thank you very much for coming in. Just sit right there behind one of the microphones. The clerk will pass your presentation around.

We thank you very much for coming in. As with the other delegations, you will have 15 minutes to make your presentation. You can use all or as much of that time as you wish. If there's any time left over at the end of the presentation, we will start with the official opposition this time, but we'll let them all have their time of that which is left.

With that, we'll turn the floor over to you. If you want to give your name into the microphone before you start, and then from there on, the next 15 minutes is yours.

1530

Ms. Christin Milloy: Thank you very much, Mr. Chair. My apologies for the lateness of my arrival. I have asked to speak as an individual today. It happens I am a member of Trans Lobby Group, but I decided in this instance I'd like to just come and express some thoughts on an individual basis.

Good afternoon. My name is Christin Milloy. I've come to speak in support of Bill 33, Toby's Act. Thus far, two primary arguments have been made in support of this bill: firstly, that the Human Rights Code exists with the stated purpose of protecting disadvantaged groups from discrimination on the basis of grounds which define those groups; and secondly, that trans and gender-variant Canadians or Ontarians—everybody—collectively repre-

sent such a disadvantaged group, one which continues to be harmed by the omission of gender identity and gender expression as protected grounds in the code. This is an inequality, and Toby's Act is portrayed as a method of setting things right.

In and of themselves, these arguments constitute sufficient justification for the passing of the bill. These points have been very well made, and so I need not belabour them. Instead, I wish to take this opportunity to explore the nature of opposition to Toby's Act in greater detail.

In our culture, the notion of gender is tied inextricably with notions of sex and power. Humans are obsessed with sex and power, and humans often use sex and power as tools of coercion and control. Those who presently enjoy a greater degree of power within an existing system have a vested interest in maintaining that system.

It has become impossible to deny that trans and gender-variant identities are a reality of the human experience. Even in the mainstream media, we have witnessed the widespread realization of this fact dawn on our cultural awareness. Jerry-Springer-style marginalization and ridicule have given way to positive media coverage of our inclusion in reality television series, politics and beauty contests, as well as mostly positive fictional portrayals in mainstream television series.

Too often, our trans and gender-variant identities are made the primary focus of this media coverage, but that is understandable. Our culture has found a new concept, a new toy to play with, and wishes to thoroughly explore its novelty by examining it from every conceivable angle.

The introduction of trans and gender-variant identities into one's world view complicates earlier, simplistic notions of what constitutes male and female. Scientists, once certain that light consisted of either particles or waves but not both, now work to construct a unified theory to explain empirical evidence contradicting that earlier, simplistic view of the universe.

It's clear that trans and gender-variant identities are at the bleeding edge of an analogous cultural phenomenon, where empirical evidence has emerged that causes conceptual barriers delineating male and female to blur dramatically. We are living to witness the deconstruction of the gender binary.

Detractors and opponents of this phenomenon threaten a bleak, unpleasant future world, where boring, homogeneous humans go about their lives with inexpressive uniform hairstyles, in featureless jumpsuits, speaking in monotone to one another. They also often speak passionately about the destruction of traditional values. And of course, won't someone please think of the children?

But of course, we're not talking about the destruction of gender. We're talking merely about the dissolution of artificial limitations imposed on gender identity and expression, based on sex. The future is not a world with only one haircut, one outfit or one manner of speech. It is, rather, a world where any person can choose, of their own free will, that haircut, outfit and method of self-expression which one finds truest to one's own self.

Growth and change are critical to survival, and each goes hand in hand. Rather than the wholesale destruction of tradition, we will witness instead the gradual expansion of tradition necessary to incorporate these new identities, which again, one cannot deny, are a part of the reality in which we live.

Who stands to gain by resisting the recognition of these identities? Those who resist learning about and accepting trans and gender-variant identities behave much like children who do not wish to do their homework, and they make some of the same arguments: "It's too hard. I already know enough to get along. I will never use this in my real life." I've also heard, "I don't need this." I've also heard on occasion, "Don't confuse us."

We are all aware there is an analogue bill to Toby's Act making its way through federal Parliament right now. In both Legislatures, some have argued that explicit recognition of these grounds is not necessary "because they are already implicitly covered." If this is the primary argument, then it is easily refuted. If the grounds are indeed sufficiently covered implicitly, what would be the harm, then, in adding the grounds explicitly to eliminate the confusion? Those making the argument are consistently unable or unwilling to furnish a response. It stands to reason, then, that the purported lack of necessity is merely a smokescreen excuse for a lack of support which is truly motivated by other factors.

As traditional definitions of "man" and "woman" become less clear over time, it grows increasingly difficult for members of one group to continue to maintain power over the other. Because legislative protections against discrimination based on sex are already well entrenched in Canada, those who would openly endorse patriarchal oppression—and they're out there—have all but lost their tenuous grasp on their ability to discriminate overtly. I consider this a great cultural victory for all people and a point of pride as a Canadian.

The proposed dissolution of gender barriers imposed based on sex, and the inevitable continuation of the trend against the traditional gender binary, threatens to complicate even implicit forms of gender-based discrimination, and some people don't like that very much.

Entities opposing the passing of bills like Toby's Act should acknowledge their true motivations: To oppose this change is to preserve a system of power that oppresses. Resistance to this change would preserve tradition purely for tradition's sake, at the pain and expense of many.

In the context of our planet's ecosystem, diversity within a species is universally recognized by scientists as being key to the survival of that species, and yet somehow, culturally, we tolerate forces that combat diversity and seek to maintain existing power structures by preventing change. We are the only species that seeks to legislatively limit our own continued evolution.

With bills to the effect of Toby's Act and C-279 currently under consideration in multiple jurisdictions in Canada, we have reached a crossroads. The long, persistent history of both bills, as well as the notable

existence of similar laws and protections popping up all over the free world, should serve as a strong indication that this sentiment is not going away. The turning of the cultural tide cannot be suppressed, and it should not be oppressed.

The archetypical cultural identity that best fits my personality, my emotional values and my inner sense of being is female. You cannot deny that I am a woman simply because peg A fits slot B. That is simply foolishness.

The structure of our society places the burden of deciding this issue on the legislators, into whom the electoral system and, to a lesser degree, the voting members of the public have invested the awesome authority and power of law. On Wednesday, each member of provincial Parliament must decide whether or not to support this bill with a vote.

I'm just going to conclude with a couple of messages which I wish I had the power to share with every member of provincial Parliament, but I'm quite happy to share them with you.

I would say to all those legislators who are already planning on voting "yea" on Wednesday: Please accept my profound gratitude and congratulations on participating in this historic moment for Ontario.

To those legislators who privately support gender identity rights but who may have political obligations to socially conservative constituents, please take note: Doing the right thing when it is not politically convenient, fulfilling one's higher duty as a legislator, is the bravest act a politician can undertake.

Finally, to those legislators whose personal motivations may leave them finding Toby's Act viscerally upsetting, please recognize and rise above your own learned prejudice in deference to the rising tide of cultural awareness. Consider how history might remember this event and choose the side of the liberator rather than the oppressor. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much.

Ms. Christin Milloy: How am I for time?

The Chair (Mr. Ernie Hardeman): We have about four minutes left.

Ms. Christin Milloy: I just want to quickly add that I've attached another report into my written submission. Thank you.

1540

The Chair (Mr. Ernie Hardeman): Thank you. With that, we will be starting with the official opposition.

Mrs. Christine Elliott: Good afternoon, Christin. Thank you very much for coming to appear before the committee this afternoon. I don't have any questions, but just a comment: This is extremely well done, and I'm sure you put a huge amount of thought into it. You've presented some arguments to us that we haven't really overtly considered, but you've really translated them very well into your paper. So thank you very much for that.

Ms. Christin Milloy: Thank you very much, and thank you for supporting the bill so strongly.

The Chair (Mr. Ernie Hardeman): Ms. DiNovo.

Ms. Cheri DiNovo: Christin, thank you for all the work for all the years. Finally, we're here. It's always a pleasure. I think one of the wonderful aspects of Trans Lobby is that truly you are not, as a group, partisan. You represent all political stripes, and now we have a non-partisan acceptance of the fact that progress needs to happen here. That's minority government at its best, and thank you for helping in that.

Ms. Christin Milloy: I agree. Everyone's been fantastic about it.

The Chair (Mr. Ernie Hardeman): Mr. Naqvi.

Mr. Yasir Naqvi: Thank you, Christin. I really have enjoyed discussing these issues with you—debating at certain times as well. Not to distinguish between young and old, but you're probably one of the youngest trans activists on this file that I've worked on, and I do a lot of work in my community in Ottawa. Kudos to you for stepping up and working hard on what's right, as opposed to just letting the world pass and saying, "Some others will figure it all out." I really appreciate that and I look forward to seeing you on Wednesday, hopefully.

Ms. Christin Milloy: Definitely. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. It was very well done. We were happy to be able to squeeze it in at the end.

Ms. Christin Milloy: I appreciate that.

The Chair (Mr. Ernie Hardeman): That concludes the presentations this afternoon.

Again, we're back to where the committee wants to go. My understanding, Ms. DiNovo, is that we may go to clause-by-clause at this point until 4 o'clock. Is that right, Mr. Naqvi, that you can go till 4 o'clock? If it's not completed at 4 o'clock, we will recess to finish it, but Ms. DiNovo suggested that we might be able to get through it.

We'll just give legislative counsel an opportunity to get set in here.

With that, if we all want to turn to the bill. We start off as we normally do. We will start section by section and approve amendments to the section, then vote on the section.

Section 1: amendments to section 1? We have an NDP amendment. Yes?

Mr. Michael Mantha: I'd like to propose the following: I move that the French version of section 1 of the bill be amended by striking out "l'expression sexuelle" and substituting "l'expression de l'identité sexuelle".

The Chair (Mr. Ernie Hardeman): You've heard the motion. Discussion on the motion? If not, all those in favour? Opposed? The motion is carried.

Shall section 1, as amended, carry? Section 1 is carried.

Section 2: We have a New Democratic amendment.

Mr. Michael Mantha: I'd like to propose the following amendment, Mr. Chair: I move that the French

version of section 2 of the bill be amended by striking out "l'expression sexuelle" and substituting "l'expression de l'identité sexuelle".

The Chair (Mr. Ernie Hardeman): You've heard the motion. Discussion? If not, all those in favour? Opposed? The motion is carried.

We have another NDP motion for section 2.

Ms. Cheri DiNovo: I move that section 2 of the bill be amended by adding the following subsection:

"(2) Subsection 2(2) of the act is amended by adding 'sexual orientation, gender identity, gender expression' after 'creed'."

This is in line with the Ontario Human Rights Commission's considerations and their legal counsel.

The Chair (Mr. Ernie Hardeman): Thank you very much. You've heard the amendment. Discussion? If not, all those in favour of the amendment? Opposed? The motion is carried.

Any further amendments to section 2? If not, shall section 2 carry, as amended? Carried.

Section 3: We have an NDP amendment for section 3. That's amendment 4 in our package.

Mr. Michael Mantha: Yes, Mr. Speaker, and I move the following. I move that the French version of section 3 of the bill be amended by striking out "l'expression sexuelle" and substituting "l'expression de l'identité sexuelle".

The Chair (Mr. Ernie Hardeman): You've heard the motion. Discussion? If not, all those in favour? Opposed? The motion is carried.

Are there any further amendments to section 3? If not, all those in favour of section 3, as amended? Opposed? The motion is carried.

Section 4: We have an NDP amendment.

Mr. Michael Mantha: I move that the French version of section 4 be amended by striking out "l'expression sexuelle" and substituting "l'expression de l'identité sexuelle".

The Chair (Mr. Ernie Hardeman): You've heard the motion. Discussion? If not, all those in favour of the motion? All those opposed? The motion is carried.

The Chair (Mr. Ernie Hardeman): We have another NDP motion for section 4.

Ms. Cheri DiNovo: I move that section 4 of the bill be amended by adding the following subsection:

"(2) Subsection 5(2) of the act is amended by adding 'sexual orientation, gender identity, gender expression' after 'creed'." It's identical to the last one, really.

The Chair (Mr. Ernie Hardeman): You've heard the motion. Discussion? If not, all those in favour of the motion? Opposed? The motion is carried.

Any further amendments to section 4? If not, shall section 4 carry, as amended? The section is carried.

Section 5: We have an NDP amendment.

Mr. Michael Mantha: I move that the French version of section 5 of the bill be amended by striking out "l'expression sexuelle" and substituting "l'expression de l'identité sexuelle".

The Chair (Mr. Ernie Hardeman): You've heard the motion. Discussion? No further discussion. All those in favour of the motion? All those opposed? The motion is carried.

Any further amendments to section 5? No further amendments? Shall section 5 carry, as amended? Section 5 is carried.

Section 6: We have an amendment from the New Democratic Party.

Ms. Cheri DiNovo: I move that section 6 of the bill be struck out and the following substituted:

"6(1) Subsection 7(1) of the act is amended by striking out 'because of sex' and substituting 'because of sex, sexual orientation, gender identity or gender expression'.

"(2) Subsection 7(2) of the act is amended by striking out 'because of sex' and substituting 'because of sex, sexual orientation, gender identity or gender expression'."

Again, similar.

The Chair (Mr. Ernie Hardeman): You've heard the motion. Discussion? No discussion. All those in favour of the motion? All those opposed? The motion is carried.

Any further amendments to section 6? No further amendments to section 6? Shall section 6 carry, as amended? The motion is carried.

Section 7: Any amendments to section 7? There are no amendments. All those in favour of section 7? All those opposed? Section 7 is carried.

Section 8: We have an NDP amendment for section 8.

Mr. Michael Mantha: I move that the French version of the short title of the bill, as set out in section 8 of the bill, be amended by striking out "l'identité et l'expression sexuelles"—am I reading the right one?

Ms. Cheri DiNovo: Sorry, Mr. Chair.

The Chair (Mr. Ernie Hardeman): I won't call the vote on that one.

Ms. Cheri DiNovo: Not yet.

Mr. Michael Mantha: Let's try this again, Mr. Speaker—or Mr. Chair.

The Chair (Mr. Ernie Hardeman): Okay, I've just been informed that in your package, for committee members, there is a 9.1 and a 9.2 amendment. With that, we'll turn it back over to Michael.

Mr. Michael Mantha: Amendment 9.1: I move that the French version of the short title—

Ms. Cheri DiNovo: No, no, it's 9.2.

Mr. Michael Mantha: The third time's the charm. I'll get it.

Mr. Yasir Naqvi: The fourth time.

Mr. Michael Mantha: Is it the fourth? We might as well be consistent.

The Chair (Mr. Ernie Hardeman): I'll be the judge of that.

Mr. Michael Mantha: All right, it's the fourth time.

I move that the French version of the short title of the bill, as set out in section 8 of the bill, be amended by striking out "l'identité ou l'expression sexuelles" and substituting "l'identité sexuelle ou l'expression de l'identité sexuelle".

The Chair (Mr. Ernie Hardeman): You've heard the motion. Further discussion? If not, all those in favour? Opposed? The motion is carried.

Are there any further amendments to section 8? If not, shall section 8 carry as amended? The section is carried.

Shall the title of the bill carry? I believe we have an amendment to that.

Mr. Michael Mantha: Yes, we do.

I move that the French version of the long title of the bill be amended by striking out "l'identité et l'expression sexuelles" and substituting "l'identité sexuelle ou l'expression de l'identité sexuelle".

The Chair (Mr. Ernie Hardeman): I point out for the committee members that that's 10.1 in your package. You've heard the motion. Discussion? If not, all those in favour? Opposed. The motion's carried.

Shall the title of the bill carry, as amended? Carried.

Shall Bill 33 carry, as amended? Carried.

Shall I report the bill, as amended, to the House? Carried.

Completed in record time.

Interruption.

The Chair (Mr. Ernie Hardeman): I suppose the applause would not be appropriate, so if you just wait a minute. The meeting stands adjourned. Now you can applaud.

The committee adjourned at 1553.

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