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# Standing Committee on Citizenship and Immigration

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EVIDENCE

**Tuesday, May 12, 2015**

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**Chair**

**Mr. David Tilson**



## Standing Committee on Citizenship and Immigration

Tuesday, May 12, 2015

•(0845)

[English]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** Good morning. This is the Standing Committee on Citizenship and Immigration meeting number 48. It's Tuesday, May 12, 2015. We are in the process of completing our study of Bill S-7, an act to amend the Immigration and Refugee Protection Act and a number of other acts. We have finished hearing witnesses, and we are now about to proceed with clause-by-clause consideration.

We have a number of guests who I will not be introducing and not asking to speak at this time, because most of you have seen them before. They are representatives from the Department of Citizenship and Immigration and the Department of Justice. They are here in case members of the committee have technical questions on the clauses.

Also sitting with me is a new face. Mr. Philippe Méla is the legislative clerk who will advise me and tell me what to do.

We will start with the clause-by-clause consideration.

As you all know with respect to the short title, pursuant to standing order 75(1) consideration of clause 1, which is the short title, is postponed. We will therefore call clause 2.

(On clause 2)

Ms. May, welcome to the immigration committee.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** Thank you.

My first amendment, Mr. Chair, is an attempt to improve the definition for definitional purposes. The committee will remember the evidence and testimony of the Canadian Bar Association. Their concern was that the way this definition of polygamy has been drafted, it could, rather than protect women, go against Canada's obligation to protect the human rights of all women, particularly those who have been forced or coerced to comply with certain cultural practices against their will.

The CBA concluded that the “inadmissibility provisions could also harm children of polygamous unions, by removing their parent (s) from Canada, removing the children themselves from Canada, and infringing their rights under international law.”

The amendment proposed here by the Green Party is to make sure that women who are forced into polygamous marriages are not punished by exempting them from the application of this ground for inadmissibility.

•(0850)

**The Chair:** Thank you.

[Translation]

Ms. Blanchette-Lamothe, you have the floor.

**Ms. Lysane Blanchette-Lamothe (Pierrefonds—Dollard, NDP):** Thank you.

This measure on polygamy was mentioned by a few of our witnesses who were concerned about the repercussions of this measure on women and children, and feared that the measure would further victimize women and children.

I am tempted to support this amendment even though this clause will still not be good enough. One thing that came up often was that the definition of polygamy itself poses a problem. Clause 2 would ensure that it would not be exactly clear who would be targeted and under what criteria because the definition of polygamy itself is not clear.

I find Ms. May's amendment interesting, and I would tend to support it, but I still want to stress that even if this amendment is passed, I think the measure would still be problematic because of everything the witnesses have pointed out during our study on the matter.

[English]

**The Chair:** Mr. Menegakis.

**Mr. Costas Menegakis (Richmond Hill, CPC):** Good morning, everyone.

The exemption provided in this amendment, Mr. Chair, would allow polygamy to continue and runs counter to the objectives of Bill S-7. As the bill's title states, there should be zero tolerance for such practices occurring on Canadian soil. The proposed inadmissibility would support this goal by helping prevent polygamy from occurring in Canada by providing new tools to refuse applications from those who may be travelling to Canada to practise polygamy, and to render inadmissible those who practise polygamy once in the country. If an individual stops practising polygamy, the inadmissibility would cease to apply. If that individual is out of status in Canada, discretionary measures may be used to allow the person to remain in Canada. For example, the person may seek to stay in our country on humanitarian—

**The Chair:** Mr. Menegakis, excuse me, I just wonder if you're talking about the clause as opposed to the amendment.

**Mr. Costas Menegakis:** The amendment, and I'm giving you the reasons that the government will not be supporting the amendment, sir.

That was it. I was done.

**The Chair:** Yes, Ms. Mathysen.

**Ms. Irene Mathysen (London—Fanshawe, NDP):** Mr. Chair, I appreciate what Mr. Menegakis had to say, but there are a couple of things that trouble me. First of all, he said “may” allow. There is no guarantee that someone will be allowed to stay if whoever decides that there's been a polygamous relationship. As was pointed out last week, this is counter to what we expect in this country in regard to due process of law. These people are in danger of being deported, people who have been here for a long time. How on earth is that in keeping with our sense of fairness and justice?

I would support the amendment and we're right back to there's no clear definition for polygamy.

**The Chair:** Seeing no further hands, we'll vote on the amendment.

(Amendment negatived [See *Minutes of Proceedings*])

**The Chair:** Ms. Blanchette-Lamothe, you have an amendment. [Translation]

**Ms. Lysane Blanchette-Lamothe:** Yes, I would like to propose an amendment. It asks the minister to inform women arriving here as sponsored immigrants, sponsored spouses, of their rights and of the resources available, in their own language.

You will note that this amendment reflects everything we have heard within this committee, not just on the study of Bill S-7, but also in the context of other studies, including the study entitled *Strengthening the Protection of Women in our Immigration System*.

As witnesses from various fields of expertise have said, it is clear that women would be much better protected if they were better informed of their rights and the resources available to them. The bill aims to protect women and children from acts of violence and repression. I think that it would completely miss this goal if it did not include any measure to inform women of this.

You will tell me whether this is the right place for the amendment to be proposed. If you deem it in order, I would be pleased to debate it further.

• (0855)

[English]

**The Chair:** I think you have been advised, madam, that we will be ruling this out of order. Part of Bill S-7, an act to amend the Immigration and Refugee Protection Act, the Civil Marriage Act and the Criminal Code and to make consequential amendments to other acts amends the Immigration and Refugee Protection Act by adding a definition of polygamy. The amendment seeks to amend the same act by proposing that the minister provide specific information to certain categories of people, which is not envisioned by the act. *House of Commons Procedure and Practice*, second edition, states on page 766:

An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill.

Therefore, this amendment brings a new concept that's beyond the scope of the bill as adopted by the House at second reading. It's therefore ruled inadmissible.

[Translation]

**Ms. Lysane Blanchette-Lamothe:** Thank you for carefully considering my amendment. I accept your decision, but I would still like to point out that I hope the government will not delay — if it isn't in this bill, may it be in the next one, perhaps even before the end of the House's work — so that these women may be provided with the information on their rights and the resources that may help them.

Thank you.

[English]

**The Chair:** Thank you.

Shall clause 2 carry?

(Clause 2 agreed to)

(Clause 3 agreed to)

(On clause 4)

**The Chair:** Mr. McCallum, you have the floor.

**Hon. John McCallum (Markham—Unionville, Lib.):** Thank you.

On the provision of the age of marriage being 16, we have concerns, as some witnesses did, that parental consent alone may not be a good idea, because that could involve forced marriages among people who are 16 or 17 years old. The effect of our amendment is to create a provision whereby the minimum age would be 18, except in provinces that have established a regime for some sort of judicial oversight for marriage involving 16-year-old and 17-year-old people. That's our proposed amendment.

**The Chair:** Madam Blanchette-Lamothe.

[Translation]

**Ms. Lysane Blanchette-Lamothe:** Thank you, Mr. Chair.

I would like to thank my colleague for proposing this amendment.

The witnesses often raised this before the committee. I am happy that we can discuss this and debate it together today. We have even seen a report from UNICEF, I believe, that proposed reviewing the possibility of establishing 18 as the minimum age to marry. It's interesting because it might be more in keeping with the international treaties that Canada has signed.

Actually, it is difficult to understand why the bill proposes the age of 16 years. Perhaps my colleague can explain why it is age 16 and not age 17 or 18, as is the practice in many other countries. I would especially like to point out that this amendment would allow 16- and 17-year-olds to marry.

It would be very important for young people who want to marry to be able to do so, but they must also be able to express their free and full consent, rather than have it be the parent, for example, who can give consent for the marriage of a minor. The experts who testified often made that comment, and I think it is a very important one. So I am somewhat in favour of this amendment.

I would like to know what the government's opinion is on this and why it chose age 16 rather than age 18.

• (0900)

[English]

**The Chair:** Mr. Menegakis.

**Mr. Costas Menegakis:** Mr. Chair, the government will not be supporting this amendment. The constitutional jurisdiction of the federal Parliament is to set the absolute minimum age for marriage for all Canadian residents. The proposal would result in several different absolute minimum ages. It is unclear whether the age restrictions would apply according to the province or territory where the marriage takes place or the province or territory where one or both of the couple ordinarily reside. This would lead to legal confusion for Canadians and in particular for young people who wish to marry. For those Canadian residents who marry outside of Canada, there would also be legal confusion as to which minimum age applies.

The Government of Canada agrees with the apparent intention of the proposed amendment, which is to provide additional protections to the young people who marry between 16 and the age of majority, but the government prefers to achieve that goal through the cooperation of the provinces and territories. Age 16 is also the absolute minimum age for marriage in like-minded countries, with only limited exceptions, so we're not supporting this amendment.

**The Chair:** Madam, you have the floor.

[Translation]

**Ms. Lysane Blanchette-Lamothe:** Thank you, Mr. Chair.

I would like to ask Mr. Menegakis a question.

Before setting the age at 16, were there any consultations, public debates or even consultation with the provinces? Could you explain the consultation process that resulted in this measure of Bill S-7?

[English]

**Mr. Costas Menegakis:** We've heard from witnesses at this committee. We also heard from wide consultations the minister held across the country. We're not prepared to support this amendment. I'm just going to leave it at that for now.

**The Chair:** Mr. McCallum.

**Hon. John McCallum:** Mr. Chair, I would just note that the amendment we're proposing is a mechanism similar to how the government tried to regulate the payday loan industry, and also the Minister of National Revenue mentioned in her remarks at second reading that the Minister of Justice is already working with his provincial counterparts to ensure that such protections are brought into marriage law. I think there is a real issue of parental consent alone for 16-year-old and 17-year-old people leading to bad outcomes. We heard that from witnesses. It strikes me that the government is being excessively timid in not accepting this amendment, especially given that such discussions, we've been told, are already under way.

**The Chair:** Mr. Menegakis, go ahead.

**Mr. Costas Menegakis:** I think I can add to what I said earlier, Mr. Chair, that we are in constant contact with the provinces. We work very closely with them, and we'll certainly take their input into

consideration in the drafting of this particular element and other elements of the bill.

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** Ms. May is next.

**Ms. Lysane Blanchette-Lamothe:** Mr. Chair, can we vote on clause 4?

**The Chair:** We still have another amendment.

**Ms. Lysane Blanchette-Lamothe:** Oh, sorry about that.

**The Chair:** That's okay. I have so much paper. We'll muddle through all this together somehow, but thank you for your assistance.

We have an amendment proposed by Ms. May which is PV-2. If this is defeated, amendments PV-3 and PV-4 cannot be proceeded with.

You have the floor, Ms. May.

**Ms. Elizabeth May:** Thank you, Mr. Chair.

I hope it would be considered acceptable to you as chair if I speak to all three at the same time, because they work as a package. I know they go out of other clauses, but I think it would be more efficient, if that's all right with you.

**The Chair:** Sure. I don't know whether that means you get three minutes, though.

**Ms. Elizabeth May:** Oh no, that's all right. I'll do it in one or one and a half.

I just want to make one brief point. I really wonder if the drafters have considered—which I don't have in an amendment at this point—what “free and enlightened consent” will mean for two people. I note parenthetically that this could save Britney Spears all kinds of trouble if she tried to get married in Canada. In any case, I find that this is a new definition for contracting marriage, and I wonder if it will cause us trouble down the road.

With these amendments, PV-2, PV-3 and PV-4, I am trying to get to the same issue that Mr. McCallum just put forward, which is that there were a lot of witnesses before the committee, including UNICEF and the Canadian Bar Association, who said that we really don't know what the proper age might be in order to provide clarity and protection for young people and to ensure that they are not forced into marriages.

The reason I'd like to present all three at once is that they work together. The idea is to create some time, as this bill is coming into force, within which the government can do further consultations and study to figure out the best federally mandated minimum age of marriage in order to pursue further “evidence-informed analysis, and consultative processes with children and youth and other relevant stakeholders...to determine what course of action will best serve the best interests of Canada's children and youth”. That was a citation from the UNICEF brief.

The way the three amendments work together is essentially to put the same provision that you find in the bill now at a different point in the act so the entry into force can be postponed to allow this section to be clarified.

With that, Mr. Chair, I conclude presentations on three of my amendments at once.

• (0905)

**The Chair:** Thank you.

Mr. Menegakis, go ahead.

**Mr. Costas Menegakis:** Mr. Chair, the government does not support this amendment. The amendment makes no substantive change and is unnecessary.

The amendment moves proposed section 2.2 of the Civil Marriage Act, which sets out a new national minimum age for marriage, to a new section 2.4 in a separate new proposed clause 4.1 in order that it not come into force until a House of Commons committee, a Senate committee, or a joint House of Commons and Senate committee submits a report on the proper minimum age for contracting a marriage. This approach leaves a lack of uniformity in the law in Canada with regard to the absolute minimum age for marriage. It would leave the minimum age for marriage at 16 in the province of Quebec only; in other provinces and territories, the common law would apply. As mentioned, this would deny legal protection to minors who are Canadian residents not residing in the province of Quebec.

We will not be supporting this amendment.

**Hon. John McCallum:** Mr. Chair, I have a question for my colleague. If I understand this correctly, it seems this amendment would totally eliminate a minimum age for marriage. If that is correct, I would not agree with that.

**Ms. Elizabeth May:** The intention here.... It's a convoluted way to try to create space for the minimum age for marriage to be consulted upon before being nailed down in this law. The further amendment extends the period of time for coming into force. The three work together as a package. One by itself wouldn't make sense.

(Amendment negated [See *Minutes of Proceedings*])

(Clauses 4 to 6 inclusive agreed to)

(On clause 7)

**The Chair:** We have amendment PV-5 from Ms. May.

Ms. May, you have the floor.

• (0910)

**Ms. Elizabeth May:** Mr. Chair, this deals with a very controversial part of this bill, as all members of the committee will know.

Let me confess that I find the zero tolerance for barbaric cultural practices act strange to begin with, in that it basically makes illegal a lot of things that Canadians know to be illegal, such as killing in any form. It's already illegal. Making an honour killing illegal and saying we certainly want to thump our desks about that, to me, is more gimmickry than law-making, but in going forward with gimmickry,

one shouldn't do damage to fundamental legal principles, such as access to the defence of provocation.

You did know from the evidence of the Canadian Bar Association and particular members of the bar... Mr. Michael Spratt, a partner at Abergel Goldstein, spoke very forcefully, as you'll recall, about the risks with the way this section now works, where the allegation in some of the testimony, even from the minister, was that it was common practice to try to use the defence of provocation to reduce the severity of the crime from first degree murder to manslaughter on the part of someone who conducts an honour killing. This was described by Mr. Spratt as "reckless mischaracterization".

We have not seen the defence of provocation succeed in honour killings, ever. We've seen it attempted only three times. The risk here is that in shutting this down, essentially shutting the door on a straw man, we might actually make it more difficult to have access to such a defence in cases when we would want to.

That's why my amendment puts forward a deletion.

**The Chair:** Thank you.

All in favour of PV-5?

I'm sorry, Mr. Menegakis, you have—

**Mr. Costas Menegakis:** I saw Ms. Blanchette-Lamothe put her hand up.

**The Chair:** We'll put you on first.

**Mr. Costas Menegakis:** Well, if you're taking it to a vote, we're ready to vote.

**The Chair:** No. If I have missed hands, we're going to have some discussion.

**Mr. Costas Menegakis:** Okay.

**The Chair:** You're first.

**Mr. Costas Menegakis:** Ms. Blanchette-Lamothe's hand was up first, but I'll take it.

**The Chair:** All right, I'll play that game.

Go ahead, Madam Blanchette-Lamothe.

[*Translation*]

**Ms. Lysane Blanchette-Lamothe:** Thank you.

I agree with eliminating this clause, Mr. Chair, for the reasons mentioned. We were here and we heard the witnesses speak. If I'm not mistaken, everyone who testified and who were experts in law and the Criminal Code raised sincere and serious concerns about this clause.

Given their profession, these people are very familiar with the Criminal Code. They see how it is used and applied. Yet they tell us that this clause, in addition to being useless because an honour killing has never been excused by reason of provocation, is dangerous because it eliminates the discretionary power of judges. It also eliminates the possibility of invoking the notion of provocation in other cases where it might be relevant.

When we have testimonies that are as clear, strong and unanimous in committee, ignoring them becomes an act of total stubbornness. They need to be considered. If the government is truly interested, it could remove the clause, do better work on this, gather some data, some facts about the usefulness of such a measure and rework it. Regardless, we cannot move ahead so quickly when so many experts have expressed their disagreement and concern.

This clause may be one of the most troubling points of Bill S-7, which is why I support the amendment and oppose clause 7.

I hope the government will take into account the concerns expressed by the witnesses.

[English]

**The Chair:** Mr. Menegakis.

**Mr. Costas Menegakis:** Mr. Chair, the government will not be supporting this amendment. This amendment would leave the defence of provocation intact and would therefore permit persons accused of murdering their spouses or other family members who provoke them through lawful words or actions to continue to raise the defence.

In some cases or in some types of circumstances, depending on the evidence, the defence could be successful. In many cases, even if the defence is ultimately unsuccessful litigating whether and how the defence applies in these cases, it is likely to be costly and time consuming for all parties.

The amendment therefore runs counter to the objectives of Bill S-7, which is to modify the law so that it clearly excludes provocation on the basis of law conduct.

Criticisms of the defence of provocation have been made in all jurisdictions with a legal tradition similar to Canada's that have the defence. In the past decade, such jurisdictions have either abolished or limited their provocation defences. Three Australian states and New Zealand have abolished the provocation defence entirely.

In 2014 the Australian state of New South Wales passed legislation similar to Bill S-7 that limits the provocation defence to conduct by the victim that amounts to a relatively serious criminal offence. Three Australian states and the United Kingdom have limited the provocation defence in other ways.

The reforms proposed in Bill S-7 would bring Canada's law of provocation into line with those of similar countries. We are therefore opposing the proposed amendment.

● (0915)

**The Chair:** We will call the vote on PV-5.

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** We have a further proposed amendment to clause 7, which is called LIB-3.

Mr. McCallum.

**Hon. John McCallum:** It was obvious at our first committee meeting that the minister didn't really understand this provision regarding provocation. Limiting the provoking act under this partial defence to only criminal offences that carry a maximum sentence of

at least five years in prison doesn't achieve the goal that the government is claiming that it is achieving.

It took only a little bit of research by my office to figure this out, that many non-violent property offences are included in this new definition. It does not limit provocation to serious violent offences as the minister claimed. In fact, he had to be corrected on this by his own officials.

Our amendment would clarify that the provoking act would need to be a criminal offence or some other form of discrimination, that it would deprive a normal person of control. This is an important change as it would serve to ensure that those who face extreme and continuing discrimination may avail themselves of the defence, for example, a Jewish person who encounters incredible anti-Semitism or a gay person who is subjected to very homophobic remarks.

That is the rationale for our proposed amendment.

**The Chair:** Mr. Menegakis.

**Mr. Costas Menegakis:** The government will not be supporting this amendment. It is not clear whether the amendment means that conduct must be discrimination that is contrary to the Canadian Human Rights Act, for example, specific practices described in the CHRA relative to the workplace and the marketplace, or whether discrimination is used in a more general sense, which is not defined in law, and only the grounds of discrimination in the CHRA are invoked. However how it is interpreted, it would broaden the existing defence of provocation for the list of prohibited grounds in the CHRA which are tailored to discrimination in the workplace and marketplace, and are inappropriate to the criminal context.

No other common law jurisdictions have amended the provocation laws to include discrimination. For instance, New Zealand and the Australian states of Victoria, Tasmania, and Western Australia have abolished provocation. New South Wales renamed it defence of extreme provocation and now limits it to criminal offences punishable by at least five years in prison. The United Kingdom abolished provocation and replaced it with a defence of loss of control that is available where the accused either had a fear of serious violence from the victim, or where the victim did or said something of an extremely grave nature that gave the accused a justifiable sense of being seriously wronged.

The government does not support the amendment for those reasons, among others.

**The Chair:** Thank you, Mr. Menegakis.

Madam Blanchette-Lamothe.

● (0920)

[Translation]

**Ms. Lysane Blanchette-Lamothe:** Thank you, Mr. Chair.

I simply wanted to say that this amendment doesn't go far enough, in my opinion. For the reasons I mentioned earlier, clause 7 must be completely eliminated. That's why I will vote against it and why I oppose clause 7.

[English]

**The Chair:** We will now vote on LIB-3.

(Amendment negated [See *Minutes of Proceedings*])

(Clauses 7 and 8 agreed to)

(On clause 9)

**The Chair:** There is a proposed amendment by Ms. May, and it's PV-6.

Ms. May, you have the floor.

[*Translation*]

**Ms. Elizabeth May:** Thank you, Mr. Chair.

People don't always know what "PV" stands for. It stands for "Parti vert".

[*English*]

This again is an amendment suggested by the evidence of UNICEF. The amendment is to clause 9 of the bill, but changes the act in proposed sections 293.1 and 293.2 and expands the scope of offence and criminality to those who participate, celebrate, or aid in any way at this event. The concern of UNICEF, of course, and I'll just quote from their brief:

If a child can be forced into marriage, they can also be forced into celebrating, aiding, or participating in a forced marriage. We recommend that children and youth be exempt from the measures set out in the proposed new sections 293.1 and 293.2 of the Criminal Code, and the proposed amendments to subsection 14(2) of the Youth Criminal Justice Act.

What my two-part amendment does is exactly as UNICEF suggested. I've inserted a minimum age into proposed section 293.1 where there wasn't a minimum age before, and I've changed the minimum age in proposed section 293.2 from 16 years to 18 years in an attempt to protect children from being inadvertently scooped up in criminality by participating in a larger family event for which one cannot imagine that they should have any criminal consequences.

Protecting children is the goal of my last amendment.

**The Chair:** Thank you.

Madam Blanchette-Lamothe.

[*Translation*]

**Ms. Lysane Blanchette-Lamothe:** Thank you.

Although I agree with my colleague that children should not be charged and criminalized for acts like the ones set out in clause 9, this amendment does not solve the problem that this clause raises. I will speak to this clause a little later. That's all I wanted to say about this amendment. I will oppose it because it does not resolve the main issue with clause 9.

[*English*]

**The Chair:** Mr. Menegakis.

**Mr. Costas Menegakis:** Mr. Chair, the government will not be supporting the amendment.

The Criminal Code sets out offences that have general application and proclaim standards of socially unacceptable behaviour. It is important to underline that youth under age 18 who are accused of a criminal offence are subject to a separate regime in relation to charging, criminal procedures, sentencing, rehabilitation, and reintegration pursuant to the Youth Criminal Justice Act, YCJA. It recognizes that youth must be held accountable but in a way that takes into account their greater dependency, reduced level of

maturity, and the principle that youth are presumed to be less morally blameworthy than adults.

For instance, the YCJA requires police officers to consider using alternatives to charging or extrajudicial measures in all cases of youth offending. If extrajudicial measures are deemed to be inappropriate, charges may be laid. Whether charges proceed to trial will be based on the prosecutor's assessment of the public interest and whether there is a reasonable prospect of conviction in each individual case.

Studies on forced marriage indicate that multiple family members can take part in the use of force for the purpose of compelling a person to marry against their will. Siblings may be tasked by parents with a job of enforcing or assisting with the enforcement of a marriage. Excluding youth from the ambit of these offences might result in parents' increased reliance on their minor children to force another child into an unwanted marriage, and may fail to hold accountable individuals whose conduct is blameworthy and directly contributed to the victimization of another.

Similarly, providing immunity for anyone under age 18 who marries another person knowing that the other person is marrying against their will or is under the age of 16 fails to take into consideration that the social harm and impact of the victim is the same regardless of whether the person they are forced to marry is above or below the age of 18.

Finally, Mr. Chair, it would be inconsistent for the law to hold these youth accountable for general offences committed in the course of forcing someone to marry, such as assault and forcible confinement, while exempting them from the specific offence of active participation in the forced marriage ceremony.

We are opposed to the amendment.

(Amendment negated [See *Minutes of Proceedings*])

• (0925)

**The Chair:** Madam Blanchette-Lamothe.

[*Translation*]

**Ms. Lysane Blanchette-Lamothe:** Thank you.

Before we vote on clause 9, I would like to speak to it, Mr. Chair.

Another aspect of Bill S-7 has given rise to controversy. Many witnesses said they were against the clause. First responders who deal with victims expressed their concerns. They fear that clause 9 will marginalize and further isolate victims. It's a risk.

Throughout the study, everyone agreed on the intent of the bill, but the intent is not enough. We need to look at the repercussions that each measure of a bill may have. If the true intent is to protect women and children, we have to vote against this clause and do a more in-depth study of the repercussions it may have before the bill is implemented.

I am not saying that I'm against criminalization. Of course, when a crime or an unacceptable act like a forced marriage occurs, a sentence must be imposed and punishment must occur. We need to demonstrate that such an act is unacceptable.



As for forced marriage, it is clear that one of the biggest problems with this is the secrecy surrounding it. Very few victims speak out and go through the legal system. What could we put in place to ensure that victims will be protected and obtain justice in court? That is not the outcome of clause 9 as worded.

If it were a clause that did not have a major impact, I would not oppose it. A number of witnesses said that the Criminal Code already contains all the provisions required to incarcerate individuals who commit an offence related to forced marriage. However, not only is clause 9 not without consequences, but it could very likely further marginalize the victims. These questions need to be raised. There is cause to discuss this again in greater detail.

We heard from a witness from the United Kingdom who had experience with these kinds of measures and legislation that had been implemented a few years ago. She told us that not only did these measure not have any impact on the number of denunciations or on the criminalization process of individuals committing an offence related to forced marriage, but there was also a drop in the number of individuals who denounced forced marriage.

What's even more important is that other countries have different measures than the ones set out in clause 9. The victims of these other countries have the choice between a civil path and a criminal path. Giving them this power provides them with more confidence to make a denunciation. The purpose is not necessarily to incarcerate the family and friends, but to protect the victim. We must always keep that in mind when studying a bill like this. It's not the intent that counts, but the potential impact on the victims. Will this clause make it possible to fight against forced marriages? Perhaps, but it will very likely harm the victims. I hope that the government has heard all these testimonies, that it is willing to come back to this debate later, and do a consultation and a more extensive study.

Such a bill must not be aimed at simply pleasing a voter base. The goal is not to show that we are concerned and that we are doing something about it. We need to be serious, which is not the case here. The only studies and consultations that took place were in the Senate committee and here. The experts shared their concerns with us. If we want this consultation to be of some use, we need to listen to these experts and do other, more extensive studies before moving forward with this bill.

I hope the message has been understood and that this study will serve a purpose. If this study were to serve a single purpose, it should be to ensure that this bill will not harm victims further. I am sure that this is not the government's goal. I am convinced that the government party does not want to marginalize, stigmatize or make victims more vulnerable.

● (0930)

That is not what I'm saying, but I hope that they have listened and have seriously considered the concerns that have been raised. This might be the right approach, but it might not and perhaps it will be harmful. So if we have even the shadow of a doubt that a measure like this might be harmful, we need to study it further.

[English]

**The Chair:** We are having a debate on clause 9.

Mr. Menegakis.

**Mr. Costas Menegakis:** Mr. Chair, of course, I beg to differ with my colleague on a number of things she mentioned, and I'll get to clause 9 in a moment. The statement that the government does not take matters seriously and did not hold wide consultations is false. I stated earlier that the minister had consultations across the country, including discussions with provinces. It's false to say that the only consultation that was done was by this committee. Comments like that certainly serve nothing but to inflame partisan positions.

This clause, Mr. Chair, amends the Criminal Code to introduce two new offences of celebrating, aiding, or participating in a forced marriage ceremony and celebrating, aiding, or participating in a marriage ceremony of a person under the age of 16. These new offences, sections 293.1 and 293.2, parallel the existing offence related to participating in a polygamous marriage ceremony at paragraph 293(1)(b) of the Criminal Code and would have the same maximum penalty of five years' imprisonment.

These new offences denounce behaviour that actively provides social legitimacy to a harmful practice that creates an unwanted and/or harmful legal bond within which sexual assault and other offences are expected to take place. The offence would not capture attendees at a ceremony unless they engage in some action intended to help the marriage take place. As the courts have made clear, criminal liability cannot be based on passive presence at the scene of a crime.

Obviously, we're very much in support of this clause, and obviously we'll be voting in favour of it.

**The Chair:** Ms. Mathysen.

**Ms. Irene Mathysen:** Mr. Chair, I would support deletion of this clause, because I think in so many ways it could easily do far more harm than good. There's a punitive mentality at work here. If we are indeed looking to protect women and children, why is there this incredible sense to punish, punish, punish? Let's step back and look at it dispassionately. First of all, it says "everyone" in these clauses. Everyone is guilty. As Madam Blanchette-Lamothe pointed out, it fails to take into account that women and children in this circumstance are vulnerable. They're part of something that may make them feel uneasy.

Now instead of the government, the law, the entity that's supposed to protect them from this, is saying "we're going to get you for this". It makes no sense to me, particularly since the Criminal Code already covers situations with regard to the prevention of kidnapping, forceable confinement, threats, assault, sexual assault. It's there in the law already. I do not see that this adds anything, except to make the vulnerable more vulnerable. I think it should be given consideration in that light.

● (0935)

**The Chair:** We'll vote on clause 9.

**Ms. Lysane Blanchette-Lamothe:** I would like a recorded vote, please.

(Clause 9 agreed to [See *Minutes of Proceedings*])

(Clauses 10 to 14 inclusive agreed to)

(On clause 15)

**The Chair:** Madam Blanchette-Lamothe.

[Translation]

**Ms. Lysane Blanchette-Lamothe:** I simply wanted to say that I oppose clause 16 because of the undesired and unexpected consequences, once again—

[English]

**The Chair:** We're on clause 15.

**Ms. Lysane Blanchette-Lamothe:** Sorry, I thought we were on clause 16. I agree with clause 15.

(Clause 15 agreed to)

(On clause 16)

**The Chair:** Madam Blanchette-Lamothe, you have the floor on clause 16.

[Translation]

**Ms. Lysane Blanchette-Lamothe:** Thank you, Mr. Chair.

I won't debate this at length, but I simply want to say that I oppose clause 16 for the reasons mentioned earlier. A number of witnesses told us that clause 16 might have unexpected and undesired consequences. So I will oppose this clause.

[English]

**The Chair:** Is there debate on clause 16?

(Clause 16 agreed to)

(On clause 1—*Short Title*)

**The Chair:** We are on to the short title.

We have a Liberal amendment first.

Do you have a point of order?

**Ms. Lysane Blanchette-Lamothe:** I'd like to present my amendment.

**The Chair:** You'll have to wait. I'm going to have Mr. McCallum go first.

**Ms. Lysane Blanchette-Lamothe:** As you wish.

**The Chair:** Thank you.

Ladies and gentlemen, if you could turn to LIB-1 in your package, Mr. McCallum is proposing an amendment to the short title.

Mr. McCallum, you have the floor.

**Hon. John McCallum:** Mr. Chair, our proposal is to change the short title to “Zero Tolerance for Barbaric Practices Act”. We want to remove the word “cultural”. As we've explained before, whatever the government's intent may be—it may be perfectly benign—certain communities have taken this as an attack upon them, even though these practices are common to all cultures. We do not think the inclusion of this word adds anything of substance to the bill. It is perceived as an attack on many communities, who have acknowledged this point. We think it certainly does more harm than good, and we should therefore remove the word “cultural” from the short title.

• (0940)

**The Chair:** Mr. McCallum, I'm going to rule the proposed amendment out of order. It seeks to make an amendment to the short

title. *House of Commons Procedure and Practice*, second edition, states on pages 770 to 771, “The title may be amended only if the bill has been so altered as to necessitate such an amendment.” It is my opinion as chairman that no amendment has been made to the bill which would necessitate a change to the short title. We therefore rule the proposed amendment of Mr. McCallum inadmissible.

**Hon. John McCallum:** I guess no amendment at all has been passed, correct?

**The Chair:** We're moving along, Mr. McCallum. I'd like you to hold back your comments for another time.

We're going to move to NDP-1. Please turn to NDP-1 in your package, which is a further proposed amendment to the short title.

Madam Blanchette-Lamothe, you have the floor.

[Translation]

**Ms. Lysane Blanchette-Lamothe:** Thank you, Mr. Chair.

I understand your decision concerning the previous amendment and the fact that my amendment will probably be out of order. However, I think it's important to present it anyway.

We have heard a great deal of testimony in this committee from Canadians who opposed the title of this bill. Some people are offended by the legislative proposal, while others are not. It's important to mention that. However, even if a small portion of the population is offended, that is too much. We must work with everyone to fight against forced marriages. But in the context of this fight, a title like this might unfortunately end up turning stakeholders in various communities against the government. The victims must absolutely not feel marginalized because they are associated with a barbaric culture or be afraid of reporting the fact that they are victims of a forced marriage, especially because their own culture and that of the people they love is seen as barbaric.

There have been many testimonies, and the message is very clear. Once again, if your purpose is to fight against forced marriage, why would you put up an obstacle to that purpose? Why would we not simply remove the word “cultural” if it would help us make new allies in fighting against forced marriage?

Mr. Chair, keeping the word “cultural” is obstination, and it goes against the main purpose of the bill, which is to fight against forced marriage. We need to do everything we can to find new allies in the fight on the ground against forced marriage. This means finding a title that clearly denounces unacceptable practices, here in Canada. We can describe them as barbaric, although I don't particularly like that word, since it has a range of other connotations, but it is not a problem for me.

In my amendment, I propose the following title:

[English]

“Zero Tolerance for Barbaric Practices Against Women and Children”.

[*Translation*]

It would make it possible to name the practices and condemn them in the title of the bill. However, if the title ends up alienating a part of the population that we need as partners to fight against forced marriage, we consider that unacceptable.

[*English*]

**The Chair:** Thank you, Madam Blanchette-Lamothe.

Unfortunately, I have to rule your proposed amendment out of order. I will not give the same rationale that I read out, but it's the same rationale that I gave Mr. McCallum on his proposed amendment LIB-1.

That proposed amendment is deemed to be out of order, and we now move to a vote on whether the short title will carry.

Shall the short title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the bill carry?

● (0945)

**Ms. Lysane Blanchette-Lamothe:** I would like a recorded vote.

**The Chair:** A recorded vote is requested by Madam Blanchette-Lamothe.

(Bill agreed to [See *Minutes of Proceedings*])

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

**Some hon. members:** Agreed.

**The Chair:** The chair will report the bill to the House, probably tomorrow.

Thank you very much, ladies and gentlemen.

To the staff members who are here this morning, thank you as well.

It seemed like a fairly non-controversial bill, but it wasn't. It was controversial, and I want to thank all of you for participating in a very civil manner. Thank you very much.

I'd like to thank the clerks and the analysts for all their help as well. Thank you very much.

This meeting is adjourned.

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