



House of Commons
CANADA

Standing Committee on Citizenship and Immigration

CIMM • NUMBER 033 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Thursday, February 8, 2007

—
Chair

Mr. Norman Doyle

Also available on the Parliament of Canada Web Site at the following address:

<http://www.parl.gc.ca>

Standing Committee on Citizenship and Immigration

Thursday, February 8, 2007

•(1100)

[English]

The Chair (Mr. Norman Doyle (St. John's East, CPC)): Good morning, and welcome.

I want to welcome the witnesses to our committee today, as we continue our study of refugee issues. I want to welcome, from Harvard Law School, Deborah Anker, clinical professor of law in the immigration and refugee program; Efrat Arbel, research assistant to Ms. Anker; and Francisco Rico-Martinez, co-director, FCJ Refugee Centre. Welcome to you.

I would imagine you have an opening statement.

We have from 11 until 12:45, at which time we will suspend to deal with other business. But right now I will pass it over to you, and you can make an opening statement if you feel so inclined.

Ms. Deborah Anker (Clinical Professor of Law, Immigration and Refugee Program, Harvard Law School): Thank you so much for giving me the opportunity to come here today. I very much appreciate it.

I'm Deborah Anker, clinical professor of law at Harvard Law School and the director of the Harvard immigration and refugee clinical program. I want to speak to you today about the safe third country agreement and comment as well on some aspects of the U.S. asylum system.

The safe third country agreement was entered into between Canada and the U.S. It went into effect on December 29, 2004. It was entered into effect in order to supposedly gain more control over the U.S.-Canada border. Under the safe third country agreement—I'll refer to it as the STCA—Canada and the United States recognize each other as safe third countries for refugee claimants, and each country is permitted to return to the other country individuals who have travelled through that country, with few exceptions.

I'm going to summarize a report that was issued a year ago, as well as give some updated information. The report was issued by our clinical program, the immigration and refugee clinical program at Harvard Law School, as well as the international human rights clinical program and the Harvard Law Student Advocates for Human Rights.)

The report, which is entitled *Bordering on Failure: The U.S.-Canada Safe Third Country Agreement Fifteen Months After Implementation*, was based on a series of fact-finding missions that we conducted to three ports of entry along the U.S.-Canada border,

as well as telephone interviews, cases and petitions, and legal scholarship and commentary.

I served as one of the faculty advisers to that study, and I also went on one of the fact-finding missions.

The report provides information and preliminary analysis of the impact of the STCA. Although since the report has been issued there is additional information that is consistent with this report, there's still only limited official information available regarding implementation of the STCA.

The report concluded that 15 months after implementation, the STCA not only failed to accomplish its stated goal of securing the border, but indeed made the border less secure, endangering the lives of refugee claimants and threatening the security of the United States and Canada. I'll go into detail here of the four principal conclusions.

First, the safe third country agreement endangers refugee applicants by denying them access to fundamental protections. Statistics collected from non-governmental organizations along the U.S.-Canada border demonstrate that the STCA has caused a significant decline in the number of refugee claimants legally crossing from the United States to Canada, disproportionately affecting the Colombian refugee community. Although both governments claim to offer generous systems of refugee protection, several aspects of the U.S. asylum system violate international legal standards. For example, in the United States, we have a one-year filing deadline, so that an individual has to apply for asylum within one year of entering the United States or he or she is barred. If he or she is barred, he or she is only eligible for a form of protection called "withholding of removal", requiring the applicant to meet a higher standard of proof.

Indeed, this is very present in my mind. Yesterday we filed an application for a stay and motion to reopen in a very compelling case of a Colombian refugee who had been denied asylum because of the one-year filing deadline and was told that he did not meet the higher standard on withholding of removal. He was picked up by immigration officials. He's on his way to be returned to Colombia. We're trying to stay that. He wanted to come to Canada to apply here at the border but was told that he would not be able to, which in fact is the case under the safe third country agreement.

There is no doubt in my mind that he is virtually dead on arrival, should he return to Colombia, because of very courageous political activities he was involved in, opposing the FARC and other guerrillas in that country.

Also, in the U.S., there's routine detention—he's detained—and in some instances inhumane treatment of detained asylum seekers.

After the STCA went into effect, the number of, for example, Colombian refugees who entered Canada from the United States declined by approximately 82%.

● (1105)

While the acceptance rate in Canada was 81% in 2003 and 2004 and 79% in 2005, the acceptance rate in the United States in fiscal year 2004 was 45% for those who applied affirmatively and 28% for those appearing before an immigration judge.

The safe third country agreement also makes the border more hazardous for refugee claimants by threatening the existence of NGOs along the U.S.-Canada border. Prior to STCA implementation, NGOs along the border worked jointly with immigration officers to move applicants through the inspection and application process. As the number of refugee claimants being processed and sheltered by NGOs has decreased since the STCA went into effect, directors of refugee shelters have started considering alternate functions for their shelters. If NGOs close their doors, the border will become increasingly dangerous for refugees, who will have fewer and fewer places to turn for information, food, and shelter.

The STCA also encourages individuals who would normally have entered Canada's refugee determination system to illegally cross the border or remain without status in the United States. Refugee claimants who are stranded in the United States are frequently statutorily barred from applying for asylum, as I've explained, and even those who are eligible for asylum have strong incentives not to regularize their status. For example, asylum applicants in the United States cannot receive work authorization for a period of six months after they apply for asylum. They cannot receive benefits or government-sponsored legal representation while awaiting determination of their claim. The lack of legal representation is an extremely dire issue in the U.S. There are no federally funded moneys available for representation of asylum-seekers, and indeed federally funded legal service moneys have been prohibited to be distributed to any organizations that are involved in representation of asylum-seekers. There are very few organizations available for legal representation, and legal representation makes a huge difference in the success of claims.

Individuals do not have any status and do not have any rights while they're awaiting determination of their claims, which sometimes can be months, if not years. Often, individuals are wary of entering into what is at times a dysfunctional and arbitrary system. I'm an expert in U.S. refugee law. I've been doing it for 20 years. If you ask me some basic questions about where the law stands on some critical issues related to gender persecution, even political opinion, how to establish a causal connection, I would have a very difficult time giving you a clear answer because so much of the law is up in the air, so it's very hard to describe to refugee claimants themselves.

I'd say these problems have been particularly exacerbated in the last two years, when legislation has been passed that now allows denial where applicants make any kind of inconsistent statement and allows immigration judges to deny applicants on the basis of a demeanour assessment. This is obviously problematic, but also

inconsistent with UNHCR standards, and it puts potentially a greater emphasis on applicants proving that the motive of their persecutor is to persecute them because of a protected ground. There have been exorbitant corroboration requirements placed on applicants that are very difficult, even for people who are represented to me, let alone people who are unrepresented and in detention.

I know I'm going over my time here, but I did want to really emphasize something to end my remarks.

For decades Canada has served as a model whose example raised the standards of refugee protection worldwide, and especially in the United States. In 1986 the people of Canada became the only nation to be awarded the Nansen medal, presented annually by the UN High Commissioner for Refugees to a person or group for outstanding service in supporting refugee causes.

● (1110)

During the 1980s—and I tested this, as someone who lived through that period and became a refugee scholar then—Canada served as an important safety valve for central American refugees, who, as U.S. policy-makers and courts later acknowledged, faced discrimination under the U.S. asylum system. Canada's example inspired major reforms in the U.S. system and even changes in U.S. policy towards central America, contributing to the end of civil wars in some countries of the region.

In 1993, Canada became the first nation to issue guidelines recognizing the eligibility of female refugees for status and the right of female refugees to fair and equal treatment. The publication of the Canadian guidelines prompted the U.S. to issue similar gender guidelines two years later in 1995. The world, especially the U.S., desperately needs Canadian leadership.

Now, despite the glaring disparities in burden-sharing between developed and developing countries—developing countries host 71% of the world's refugees—Canada has adopted the STCA and chosen to turn away one-third of the claimants who arrive at its border. Although beyond the scope of this particular talk, the implications of these kinds of agreements reach beyond the borders of the United States, as interdiction policies stretch to Mexico, to other parts of the Americas, and throughout the world.

The STCA is only one piece in a puzzle, where refugees are trapped in their countries of origin, unable to flee, and are denied fundamental rights. We are coming very close to the moment we came to in 1951, when the world ratified the refugee convention with a tremendous sense of guilt about what had happened in Germany regarding the Holocaust, involving so many people, because the countries of the world would not admit refugees. As a result, the world community came together to adopt the refugee convention to provide that protection.

These kinds of measures are bringing us back to ground zero in a sense. I think if we don't stop it—and we really need your leadership—history will tell and be harsh on us.

Thank you very much.

● (1115)

The Chair: Thank you, Ms. Anker, for that very interesting and informative presentation.

I think Mr. Rico-Martinez has a presentation as well.

Mr. Francisco Rico-Martinez (Co-Director, FCJ Refugee Centre, As an Individual): Good morning, and thank you very much for the invitation. It's always a pleasure to be in front of the standing committee, and particularly so on this issue.

I am going to avoid talking about theories or technicalities. We are front-line workers who work with refugees every day. We are privy to exhaustive and distressing evidence, both statistical and anecdotal, that the safe third country agreement between the United States and Canada is a disaster for the access of refugees to Canada.

As an example, in 2006, 20% of the claims made were made at the U.S.-Canada border, against 35% of the claims made in 2004; that's a reduction of 15% of the claims, which means that the border is closing for a lot of particular groups. In 2006, 71 % of ineligible claims were because of the safe third country agreement. This reason didn't exist before 2004; 71% of the ineligible claims are due to the safe third country agreement, which gives you another number on reduction of access.

I oppose, and we oppose as an organization, the agreement. As we monitor the agreement through the people we serve, it's confirmed in practical terms in the suffering of the people we serve. We are appalled by the reality of implementation—how difficult it is for people fleeing persecution to understand that the agreement goes against the vein of Canadian human logic. As you can see, my repulsion to the agreement is very deep, but I will try to put it clearly and logically to you in very concrete examples.

The first example is that we don't have any review mechanism for the safe third country agreement. What is happening is that we manage to find something that is really urgent, and you or the cabinet or the minister of immigration— someone—has to pay attention to that. We don't have any kind of mechanism to do it in a particular way. That's the first concern we have—how we can address the concerns we have, because there is no mechanism.

The lack of public and accessible clarity regarding the agreement is our second biggest concern. There is no available information on the agreement accessible to the people in need. CIC and CBSA have made some efforts to provide that information, but they provide it at the website; most of the time refugees coming into Canada don't have access to that information. In other words, there is an absence of mechanisms to inform them before they reach the border. This lack of information is behind the general confusion throughout the refugee communities about the agreement. The rumours that the U. S.-Canada border is closed are still flourishing. After years of implementation, the people still believe that the door is closed, that Canada has closed the door. That's because of lack of information.

Where do potential claimants in the United States go for information on how the agreement and the exceptions pertain to them? Where? They can go to the NGOs sometimes, the American NGOs, but not everybody there has the information to provide. They are not experts on the safe third country agreement. When the claimants are at the border in front of the Canadian authorities, it is too late to be informed that they don't meet the exceptions. If the claimant doesn't meet the exceptions, the person is sent back to the United States under serious threat, as you have heard, of being

detained, and sometimes just to be put on fast-track removal procedures. Then the person is gone.

How exactly do the criteria, according to our experience, work at the ports of entry? We have heard and we have seen in several cases involving the issue that the notice said they are rejected because there is insufficient disclosure of the reasons for rejection. Sometimes the people receive notice saying there is insufficient information. At other times the explanations they receive are so vague that you don't have anything to use in challenging the information.

• (1120)

The problem is there is nothing you can find in the agreement that allows for a review of that important decision. There is no appeal process and no meaningful access to judicial review. There is not a mechanism for a person to review that decision made by immigration workers at the border in Canada who send the person back. There is no time to do anything else, because the person is on their way back to the United States.

More urgently, human lives are demonstrably put at risk by this policy. Individuals are endangered in a climate of increased irregular border crossings and increased vulnerability to trafficking and dangerous smuggling practices. We know CBSA and the RCMP say they don't have data about these things. Well, of course not. They are illegal things, so there is no data to confirm them. But if you go to my office every day, you will see people arriving. They just crossed the border undetected, and they have sometimes paid up to \$10,000 to find a way to come to Canada.

A look at who is eligible or who is not under the exemptions of this agreement seems thoroughly arbitrary to me. It is unjust and very discriminatory against particular groups of people. For everybody in Canada, including the standing committee, it is unacceptable for you to accept those criteria.

This is unfair, and you have a say in it. This is not logical. The only group of people who are sustaining this as the way to go is the cabinet of Canada. This is a heritage that the Conservative Party received, and I don't believe you deserve it.

Why are only the countries under the deportation moratorium exempted? Why is the source country list not considered as an exception, for instance? Why are Mexicans allowed to come to our border and make a claim, yet Colombians are sent back? How do you explain that a Mexican is a yes and a Colombian is a no? I do not understand. Please help me to understand this illogical framework.

Can you help us to stop this nonsense, please? Can you help us to stop the discrimination based on origin, on where you come from? You are allowed to make a claim, but if you are coming from this particular country, you are out. Can you help us to stop these policies that put people at risk? Can you help us to stop the border of Canada from becoming like the southern border of the United States with Mexico, where the smugglers have the reins and are the kings of the whole border?

At our office every week we receive several phone calls from people who are living in desperate situations in the United States, due to their lack of status. Some of them have left their country due to persecution and there is no option to go back to their country, but there is no option for them to have legal status in the United States.

Believe me, the tone of voice denotes desperation, and the questions are always the same: "How can I go to Canada? How can we go to Canada?" Our first role as an organization is to try to calm them down, to ask them to try to trust a voice on the phone, a voice that is going to provide information about the agreement, that is going to ask questions about situations in order that we can provide the best advice we can give. But what can we say to someone when they call from Florida, Atlanta, or wherever, and we have to tell them that we're sorry, but there's no space in Canada for them because they don't meet the exceptions?

The sarcasm of the ineligible claimants is very appealing in the answers we receive over the phone. You will see how logic is not involved in this. They say, "Are you telling me that if I do not meet any of the exceptions and I go to the border, I will be refused because the United States is a safe third country, but if I manage to fly from the United States to any city in Canada or if I manage to arrive at any Canadian port, even though I have been living in the United States, I, the same person, will be eligible to make a claim and the United States is not a safe country any longer?" How do you respond to that?

• (1125)

In our office during the last year, at least five cases per month have contacted the office by phone, and we have seen these people in Canada later on. Some 62% of the claims are made inland. In 2004, before the safe third country agreement was implemented, only 45% of the claims were made inland, so we have had an increase. That clearly documents that some of these people have crossed the border undocumented.

The other question they ask us is, "Are you telling me that if I do not have relatives in Canada, I will not be eligible because the United States is a safe country, but if I somehow manage to produce a relative in Canada, I can go to the border, and even though I have been living in the United States, I, the same person, will be eligible to make a claim and the United States is not a safe country any longer?" "What does that have to do with what happened to me back home?", they ask. "What does that have to do with my seeking protection?" Do you know that at the border the exception based on families is the second highest used, at 31%. These people are producing relatives in Canada.

The other question is, "Are you telling me that if a member of my family managed to cross the border undetected and made an inland refugee claim later on, the rest of the family could go to the border, and even though they have been living in the United States, these same persons will be eligible to make a claim that the United States is not a safe third country for them any longer?" We have at least one case like that in our office. They were accepted by the IRB even though they were already refused by the asylum system in the United States. Now the whole family, thanks to the courage of their mother, is waiting for their permanent residence status in Canada.

"Are you telling me that if I already was determined to be ineligible by the Canadian authorities at the border but if I waited for six months in the United States and I crossed the border undetected, even though I have been living in the United States, I, the same person, would be able to make a claim for PRA and the United States is not a safe country any longer? How come?"

"If I were to enter Canada undetected without waiting for the six months to pass, I would be found ineligible even inside Canada and my claim wouldn't be accepted. I would be ineligible for PRA because I didn't wait for the six months, and I would be deported back to my country of origin, facing persecution, without any evaluation by the U.S. or by Canada of whether I have a well-founded fear of prosecution or not." We have at least four cases like that in Canada right now—one in Montreal, one in Winnipeg, and two in Toronto.

As you can see, the safe third country agreement breaks with Canada's historical international reputation for solidarity, in our opinion, in the most illogical way possible. It contravenes even the Canadian common sense of our moral and legal duties under international law. And let me say that the safe third country agreement particularly breaks with our Canadian commitment to increasing the protection of women against abuse and violence.

Please ask Immigration Canada how this safe third country agreement protects women, how the safe third country agreement increases the possibilities of women to access protection, and how this agreement increases the access of women to Canada. It doesn't.

• (1130)

In fact, the statistics on refugee claims for 2005 are totally clear. The land border claims show how male claims at 54% outnumber female claims. That has been the way the agreement has been going in the last two years.

I am asking the standing committee today to help us and to stop returning people to a country that may return them to persecution, without hearing what happened to that person. I am asking for more access for refugee women. If the United States returns an ineligible person to persecution, that, any way you put it, amounts to our returning them ourselves to persecution.

The Arar case set a clear precedent in this regard. The Arar report says loudly and clearly that it is wrong to send people to persecution. Do not allow this just because the claimants are not Canadian citizens.

Thank you very much.

The Chair: Thank you.

I would like just one little clarification. Are you saying that our Canadian officials are saying to a person at the Canada-U.S. border, "You cannot make application here, you have to go to the United States and do it", because the U.S. happens to be a safe third country? Is that the crux of it?

Mr. Francisco Rico-Martinez: No, but it is the borderline of the agreement.

The Chair: Is that part of it, that our Canadian officials at the border will say, "You can make your claim in the U.S.", because it operates under a safe third country agreement?

Mr. Francisco Rico-Martinez: Yes. And the question—

The Chair: It all seems so complicated, and hopefully—

Mr. Francisco Rico-Martinez: No, no, what I was reading here are the answers to the questions that we receive. When you say to people, “You don't meet the definition”, and you explain, “This is the agreement. This is— ” Do you know what I mean? The people, depending on their situation, start telling us.

The Chair: Yes, but what I pointed out there a moment ago— that's part of it, isn't it?

Mr. Francisco Rico-Martinez: Yes.

The Chair: It's part of it. Of course, there's a whole lot more to it. It's very complicated, and hopefully—

Mr. Francisco Rico-Martinez: Yes.

The Chair: —we can get our analyst to try to put something together, to sift through an awful lot of what you're saying there, because, quite frankly, I find it complicated as well.

Ms. Deborah Anker: Can I just—?

The Chair: Yes, sure.

Ms. Deborah Anker: That is what the agreement is: Refugee claimants get turned back at the Canadian border and have to apply in the U.S.

The Chair: Yes, that's a big part of it.

Ms. Deborah Anker: That's what the agreement is, and then there are some exceptions, yes.

The Chair: Yes.

Okay, let's see if our committee members can flush out a little bit more information for us.

I'll go to our seven-minute rounds. First of all, it's Mr. Alghabra.

Thank you very much, Mr. Rico-Martinez. It was very interesting, indeed.

Mr. Omar Alghabra (Mississauga—Erindale, Lib.): Thank you, Mr. Chair.

Good morning to all of you. Thank you for coming.

First, I want to say that the global crisis of refugees is really an indictment to the whole world, and it's a tragedy. I think Canadians acknowledge and accept their role in helping resolve this issue. I don't think they see it as an exercise in feeling good. It's a recognition of the importance of affording or providing refuge for people who are genuinely seeking help from persecution and looking for an opportunity to start a life.

There's no doubt that there are a lot of tragic cases and examples. It's always very difficult when you're dealing with the human dimension to try to be pragmatic. It's very difficult. You try, as government, as parliamentarians, as judges, as lawyers, to work with the human dimension, at the same time trying to be practical and pragmatic.

I accept a lot of the points you're raising, and we're trying to distill this issue. There were reasons for signing that agreement. There was some logic, but now we're hearing your feedback, and you are highlighting some flaws.

This is a very difficult thing for us to try to deal with, if I may speak on behalf of the committee. I'm trying to understand. First we learned there was a reduction of 55% of claimants in 2005, I think, after the agreement was signed.

Professor Anker, what do you think? Is that because of the agreement, or were there other reasons for the significant reduction in applicants?

• (1135)

Ms. Deborah Anker: That's because of the agreement. I think a small proportion of that is because in general refugees are not getting out of their countries of origin, but that decrease is largely attributable to the agreement, yes.

Mr. Omar Alghabra: There are some exceptions in the agreements, and the number I have is that there were about 4,000 applicants in 2005; 3,000 of them were qualified for those exceptions. So do you think the percentage is high because it really covered legitimate cases or do you think it's because the only people who applied were people who thought they'd qualify and the others just didn't apply?

Ms. Deborah Anker: I think mostly people who were qualified are under the exception. This doesn't have to do with substantive merits of their refugee claim, but only people who feel they are qualified under the exception are applying, and that's the information that I think NGOs are trying to communicate to people.

For example, the person I was describing, this Colombian who can be removed any day from the United States, got information that he should not try to apply in Canada because he did not meet any of the exceptions, and indeed he doesn't.

Mr. Omar Alghabra: And he never applied.

Ms. Deborah Anker: So he never applied.

Mr. Omar Alghabra: As lawmakers, we're trying to be as humanitarian and as compassionate as possible and at the same time be accountable to Canadians to ensure that we are as effective and as reasonable as possible.

Do you think this agreement should be abolished or should be modified? And if it should be modified, what types of exceptions or modifications would you propose?

Ms. Deborah Anker: Why don't we each answer?

Mr. Francisco Rico-Martinez: Before the agreement, we had a very organized system whereby the person went and made a claim at the border. Everybody went to identify to the Canadian authorities. You had a procedure. The process went to the Immigration and Refugee Board, the person was determined to be a refugee or not, and it resulted in their removal or their staying in Canada.

But the key thing here is that people were encouraged to go and present themselves to the authorities right at the border. Now, with the agreement, we have said to everybody, if you don't meet the exceptions, don't go to the border because you will be sent back. So they find their own way to cross the border undetected—I don't want to use the term “illegal”, but “undetected”—and they make a claim later on. So you have a period of time when people are not presenting themselves to the Canadian authorities, and they are in the hands, sometimes, of smugglers and the illegal activities around the borders when you put a barrier to them.

Our goal is to scrap the safe third country agreement because it doesn't meet any goal in terms of generating access to refugees and it is based on criteria that don't have anything to do with the genuineness or not of the refugee claim. If you feel persecution back in Colombia, what does that have to do with having an uncle in Canada? It doesn't have anything to do with it, and in that case what we are trying to do is to select people for reasons of familiarity, or family reasons or whatever, that don't have anything to do with the refugee designation we have. Therefore, we are suggesting the way to create access is to abolish the agreement as soon as possible and let people come to the border, present themselves to the authorities, and the authorities can fingerprint them. Let the people come into Canada, with medical exams, whatever. That is the way we were doing it for years and years before the agreement.

• (1140)

Mr. Omar Alghabra: Ms. Anker.

Ms. Deborah Anker: Let me answer also.

Under the agreement there has to be determination by Canada that the U.S. is a safe third country, that it is a safe place for asylum seekers. For many asylum seekers, that is not the case. Critically, I think, the information upon which Canada based its determination that the U.S. was safe was information from 2002. Major new developments have happened in the U.S. in the last five years, and I would say that most of the current problems in our asylum system have been precipitated by those developments.

There is no mechanism now. Canada has not taken its responsibility to evaluate again that assessment of whether the United States is a safe third country.

There's an article that just came out this morning, I think in the *New York Times*. It was a report by the U.S. Commission on International Religious Freedom. It's a U.S. congressional commission that came out with a report evaluating various aspects of the U.S. asylum determination system, and they were expressing enormous concern that none of their recommendations has been followed. So I would just alert you to that in terms of today's *New York Times*.

Mr. Omar Alghabra: I just want to know if you're suggesting scrapping it or evaluating it.

The Chair: We're getting to almost 10 minutes now.

Okay, go ahead.

I think Mr. Alghabra asked if you're looking at it in terms of scrapping it or—

Mr. Omar Alghabra: What is your recommendation?

Ms. Deborah Anker: I think the assessment has to be looked at.

The Chair: Thank you.

Ms. Deborah Anker: It has to be re-looked at, sorry.

The Chair: Thank you, Mr. Alghabra.

Mr. Omar Alghabra: Thank you.

The Chair: Madam Faille.

[Translation]

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): Thank you, Mr. Chairman.

I want to welcome you all.

I think you could very well be ironic today and tell us that you had warned us. As I read through the notes and the testimony of the various people who appeared before this Committee in 2002, it is very clear that what you told us in 2002, 2003, 2004, 2005 and 2006 did indeed happen. It is unfortunate.

The safe third country agreement rested on the premise that Canada and the United States offered sufficient protection. But your report documents weaknesses in the refugee determination system of the United States.

Could you tell us about the areas of concerns and the discussions that are taking place presently in the United States with regards to the refugee determination system?

[English]

Ms. Deborah Anker: The major areas of concern I have about the U.S. system are, first, as I mentioned, the one-year filing deadline. Under U.S. law you are barred from applying for asylum if you do not do so within one year of entering the United States. The only kind of protection you're formally eligible for is called "withholding of removal".

We, in violation, I believe, of international standards—and this has been the conclusion of almost every scholar in the field—require the person to meet a higher burden of proof to get that form of withholding of removal. To get in the U.S. what is equivalent to refugee status in Canada is not allowed unless the person applies within one year, and then they have to meet a "clear probability" standard of proof. That is something that has been instituted in the last few years. It's a major problem.

Somebody who is barred from asylum cannot bring his or her family with him to the United States, or cannot regularize their status in the United States. I can't emphasize how critical that is to people. People seek refugee status but cannot bring a child to the United States, cannot bring a spouse to the United States, cannot regularize the status of a spouse or a child who is there. It is excruciating; it is impossible; it is in violation of basic rights under the Convention on the Rights of the Child for that kind of family reunification to be disallowed.

I should say, under the U.S. system there are also, in practice, very high corroboration requirements demanded of asylum seekers, even of those who are asked to apply for asylum. People typically submit applications that are very thick. They are asked to corroborate events in their home country that are often very difficult to corroborate. As a practical matter, that's what happens. The REAL ID Act, which was enacted in 2005, underscored those requirements, unfortunately, and in practice have made it much more difficult.

So there's the one-year filing deadline.

There's a major detention policy in the U.S., for example, for somebody who was turned away at the border. Many of the people who are turned away at the border are going to end up in detention in the U.S. Once you're in detention in the U.S., your access to counsel, which is very limited even if you're not in detention, because of the number of lawyers who are able to do this work and are available, and because there's no right to legal representation.... In detention your access to counsel is extremely limited. You don't have access to this kind of documentation. Detention of asylum seekers has been found inherently problematic by the United Nations High Commissioner for Refugees, and especially for asylum seekers.

So detention is a huge problem—and the bar based on one year's presence in the United States.

Also, since 2002 the United States has virtually dismantled its administrative appellate process. In 2002, we had regulations that decreased the number of people on our appellate refugee board by 50% and required those members of the board of immigration appeals to approve decisions of immigration judges in the vast majority of cases.

There's now no effective administrative review of denied asylum claims. All of the claims where people are represented are going into federal courts. The federal courts—and I would refer you to some of this material—in the United States have been shrill, far shriller than I am being here, in their critique of what they're seeing of immigration judges' decisions and the quality of justice that exists now for asylum seekers.

I would say the other major problem in the U.S. is the lack of a right to legal representation. There are no publicly funded legal services programs for refugees and asylum seekers. It's very limited. There's a 400% greater chance of succeeding in your claim if you're represented, but there's no legal right to representation.

• (1145)

I would say those are some of the major problems.

The Chair: Thank you.

You do have a half a minute left. Go ahead.

[*Translation*]

Ms. Meili Faillie: In terms of the procedure as such, when a refugee is being examined, is it a more adversarial proceeding in the United States?

• (1150)

[*English*]

Ms. Deborah Anker: There is a non-adversarial stage, but people are going to be barred from that if they have not applied within one year of entering the United States. Anybody who is apprehended at the border after being refused in Canada is going to be denied that forum as well. So effectively almost everybody who is denied access to Canada is going to be only allowed an opportunity to apply in an adversarial proceeding.

[*Translation*]

Ms. Meili Faillie: Okay, thank you.

[*English*]

The Chair: Thank you.

Mr. Siksay.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Mr. Chair.

I want to thank all of the witnesses this morning for your testimony. It's been very helpful. I want to say that my party's original position on this agreement—that it shouldn't go forward—has been confirmed by what you have to say. Nothing has changed my mind about it. I think we're realizing some of our worst fears about what the agreement would mean to our refugee protection work. I certainly still feel that this is an agreement that we should be abrogating without delay.

I have a very specific question that comes out of the United Nations High Commissioner's monitoring report on the safe third country that we received back in June. One of the major issues that was noted in there—and maybe, Mr. Rico-Martinez, you could respond to this—was the UNHCR noted particular concern regarding the direct-back policy. This was the situation that when someone arrived at the border, made a claim, and Canadian officials couldn't deal with them, they were sent back to the U.S. with a time for an appointment to come back to Canada to make their claim, and sometimes they don't make it back because they're detained in the U.S. when they're sent back. There was an undertaking that the policy would end this past summer. I'm just wondering if it's your experience that that has indeed been the case, or if the direct-backs are still happening.

Mr. Francisco Rico-Martinez: I am glad to say that the direct-backs have stopped. Basically the authorities now make efforts to try to accommodate the person who shows up at the border and don't send the person back, for the reasons you just mentioned. We have always had some problems with that situation because sometimes the persons are detained for no particular reason of security to the public or anything. It's just because there is not an interpreter at that particular time. Do you know what I mean?

At every border that we are aware of, and particularly at the main borders of Ontario and Quebec, they are not doing the direct-backs any longer.

Mr. Bill Siksay: Professor Anker, I'm really glad you raised the question of the REAL ID Act because I know the Canadian Council for Refugees, in its recent submission to the Canadian cabinet on the issues around the safe third country, made a real point of the problems that arise out of that—the question of material support for terrorist organizations, the issue around trying to prove the motives of the persecutor, issues around corroborative evidence. Also, you mentioned the U.S. Commission on International Religious Freedom and their concerns about asylum seekers in expedited removals. All of those are very serious issues and I think give us clear evidence about that. Do you have any further comments about the REAL ID Act and how that has affected the refugee determination process in the U.S.?

Ms. Deborah Anker: I'm sorry, I completely neglected to mention material support for terrorism, but this was a provision of the REAL ID Act, which is that if you are found to have materially supported a terrorist organization, you are barred from asylum and any kind of protection is withheld. Material support under the U.S. definition—and this is recognized by U.S. officials—is any kind of support whatsoever. There is no duress and no *de minimis* exception to that.

One of the most pointed examples of the application of that has been the case of Colombian refugees. Guerrilla organizations, including the FARC in Colombia, often kidnap people and then extort from their relatives; that's how they raise their funds, by kidnapping people and then demanding that their family pay. The family, of course, has to pay the ransom or their relatives will be killed. But if they pay, they are now found under U.S. law to have materially supported a terrorist organization. The level of duress required by basic humanity, which everyone in this room would participate in, is a basis for an absolute exclusion under the material-support-for-terrorism bar. If you are a child and you live in a conflict area and you give a glass of water to an individual in that conflict, you will have supported that terrorist organization. That is where U.S. law stands.

A couple of weeks ago, authority was granted to immigration officials to exercise some discretion in allowing some refugees in under that authority. That discretion has been exercised for some Burmese refugees in overseas camps. It's not clear what it's going to result in, but discretion is completely unreviewable. I don't think the record we have so far indicates it's going to be sufficient.

• (1155)

Mr. Francisco Rico-Martinez: We are dealing with a Colombian case in which two brothers are making refugee claims here in Canada, and their mother is still in the hands of the guerillas in Colombia. They are forced even here to send money back to keep their mother alive in Colombia. The whole core of the case is a distortion, given how they have been forced to do this and their mother is back there. There is plenty of evidence about this. A lawyer in the United States advised them not to make a claim in the U.S., because if they mentioned the core of the case, they would be immediately banned and rejected. Here in Canada, the hearing will be in two months, and it's clear that these persons may be accepted by the Immigration and Refugee Board, because our rate of acceptance is almost 80% in the case of Colombia.

So the situation is very different between the two countries. Mandatory detention is also something we don't have here in Canada, and we don't have the one-year bar. Everybody agreed that it would not be possible, because the one-year bar is even worse for women, because they are the ones who.... The principal applicant is a man, and if a situation of domestic violence, or whatever, happens later on, they are banned, even though their first intention was to make a claim immediately when the situation happened. In that case, the differences are abysmal.

The Chair: Thank you very much.

You've got about 15 seconds, if you want—

Mr. Bill Siksay: I'll just thank the witnesses—and I'll hope to get a second round.

The Chair: Thank you, Mr. Siksay.

Mr. Komarnicki.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Thank you, Mr. Chair.

Thank you, witnesses, for your input and, Mr. Rico-Martinez, for the specific cases you raised. I'm sure there will always be a number of cases that will come forth. Of course, you're looking at it from the refugee perspective, and I just want to look at it from a little different angle and pose some questions.

I understand from Ms. Anker that you're not advocating doing away with the safe third country agreement but actually bolstering it or making it better. Was I correct in understanding that?

Ms. Deborah Anker: No, I don't think that's correct. What I was saying is that a fundamental requirement under the agreement is that a current and meaningful evaluation be made as to whether the United States is a safe country for refugee claimants. Canada has an obligation to assess that, and it hasn't done so since 2002.

Mr. Francisco Rico-Martinez: She's very respectful of Canada and she doesn't want to be seen as making a comment about our policies, but if you talk to her at another level, you will see the—

Mr. Ed Komarnicki: I noticed that the UNHCR's overall assessment of the agreement was that it was generally implemented by the parties according to its terms, and with regard to those terms, in accordance with international refugee law.

So when the United Nations High Commissioner for Refugees was here in Canada and appeared before this committee, he indicated that they considered the United States to be a safe country, otherwise they would not have agreed to do the monitoring, and they would have said so at the very outset.

Do you disagree with the United Nations High Commissioner's view?

• (1200)

Ms. Deborah Anker: Yes.

I really don't know what specifically the High Commissioner testified to. Their monitoring report was simply a report as to whether the terms of the agreement, namely, the implementation of the exceptions, was being fairly done, and they concluded that it was.

The UN High Commissioner for Refugees is under very real constraints as to their ability to criticize the U.S., especially in a very public forum like this. They have specifically found that detention of asylum seekers violates the 1951 convention.

Mr. Ed Komarnicki: There are certain improvements they suggested that have been looked at by the parties.

Ms. Deborah Anker: But that has to do only with implementation of the exceptions. It doesn't have to do with the fundamental underlying assessment and assumption of the safe third country agreement, which is that the U.S. is a safe third country.

Mr. Ed Komarnicki: Fair enough.

Part of the consideration you're looking at is the refugee application process, but one of the objectives or the policy behind the safe third agreement is to prevent what's commonly referred to as asylum shopping, or cases where I suppose asylum seekers pass up earlier opportunities to obtain refugee protection in order to claim refugee protection in a country of their choice, often for reasons unrelated to a need for protection against removal to countries where they face risk.

Now what's your understanding of asylum shopping? Do you think the agreement does address this? Is there an issue with respect to seeking protection in places other than in the country you first are able to make the application?

Ms. Deborah Anker: The safe third country agreement is an agreement between the United States and Canada, so if there's an issue of forum shopping, it's between the United States and Canada. It doesn't involve any other country. It's about only the United States and Canada.

Mr. Ed Komarnicki: There are other safe third country agreements in Europe and other countries where they deal with the issue of asylum shopping. Is that not the objective behind that agreement, even if it is between the two countries?

Ms. Deborah Anker: I don't think that basis for the agreement is grounded in reality at all between the United States and Canada. People who can't get protection in the United States because it has not been a safe third country for them have been coming to Canada. Canada has never had an overwhelmingly large number of refugees from the United States at its borders.

It has been an important refuge for persons from the United States who have not been able to get protection there. It was a critical safety valve for Central Americans. It was a critical safety valve for Colombians.

Generally, around the world, I think the reason we are having safe third country agreements, the reason countries are entering into them, is because they are disrespecting their obligations under the 1951 convention.

The worldwide trends are that the numbers of refugee applications that are coming to the countries of the north have gone dramatically down. The UNHCR is very concerned about this. And the vast majority of refugees remain in the developing world.

So, no, I don't think the reason for this is forum shopping.

Mr. Ed Komarnicki: Professor, I just want to draw your attention to another professor. David A. Martin, the professor of law at the University of Virginia, an internationally recognized expert on the U. S. refugee determination system, has taken issue with you and is diametrically opposed to your views on many of the issues you've raised. Would you agree with that?

Secondly, he indicates that in the period 2001 to 2005, 148,000 people were granted protection in the United States out of 205,000, or about 45% overall. Canada's rate of acceptance for the same period of time was about 43%. Wouldn't you agree that the overall acceptance rates, although there may be differences in application and process, are similar between the two countries? Would you agree with that?

Would you agree that Professor David A. Martin takes an opposite view to yours on most of the issues you've raised here today?

• (1205)

Ms. Deborah Anker: I think Professor Martin and I disagree about some critical issues. I don't think we disagree about everything. As to his statistics, the United States has been recognizing refugee claims for some groups of refugees and certain refugee claimants; it is not for many, and especially for Colombians.

Because the United—

Mr. Ed Komarnicki: Are you disagreeing with the rates being about 43% to 45% overall in between the two countries for that time period?

Ms. Deborah Anker: I think those rates are probably correct.

Mr. Ed Komarnicki: I also noticed that in the exception category, which many can use in their intent to come into Canada claim, the statistics show that of 4,000 individuals who requested refugee status at Canadian land border ports of entry, between December 29, 2004, and December 28, 2005, more than 3,000 were found eligible to make a refugee claim in Canada under the exception. It seems as though many refugee applications are proceeding through the exception category.

In the United States, I understand, you were favourably impressed with the asylum office of the Department of Homeland Security. I understand you said there's a lot to commend that office about. They've received about 75% of the asylum claims filed over the past five years, and many of those are proceeding in a reasonable fashion.

So would you agree that many are getting through using the exception class in Canada, and that in the United States, the Department of Homeland Security, which handles mostly asylum claims, is doing a fairly adequate job?

The Chair: We have time for a brief response. I have to go to the next round. It's seven minutes and 38 seconds now, so a brief response would be okay.

Ms. Deborah Anker: Four thousand represents only the number of people who presented themselves at the border. The great majority of people do not present themselves at the Canadian border anymore because they know they don't fit within the exception. That gives a very false—

Mr. Ed Komarnicki: Of the 4,000, though, 3,000 make it through.

Ms. Deborah Anker: People are generally well-informed as to the exceptions. That's half as many as came before the agreement. Most people are not presenting themselves at the border because they know they don't fit within the exceptions.

The Chair: Okay, thank you. That concludes our seven-minute round, so we'll now go to five-minute rounds.

We'll begin with Mr. Karygiannis.

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): Professor and esteemed members of the panel, thank you very much for coming. I find your testimony to be very moving.

One of the things we have seen over the years is that, be it North America, Europe, or other countries, they sort of come together and say that this is the one form of acceptance, if you want to call it that, that we're going to take. In Europe, for example, if you claim refugee status in one particular country, it will be similar in other countries. There are people who arrive in parts of Europe and they claim to be refugees. Then they turn around and come to Canada and sort of try to hide the refugee claim from Europe from Canada.

My overall question would be whether it would be beneficial for us to say, okay, let's set a standard right across the world. Take the lessons of Canada, take the lessons of other European countries that have accepted refugees that are successful, take best practices, and take what they're using as a determination factor, and then through one single body, be it the UNHCR or an ombudsman of the UNHCR, disseminate this information to other countries and say this is the standard you must follow. Take best practices, be it in the United States, Canada, or Europe, and then make a determination along those lines, and then have countries follow that determination. So we won't have people who could be refugee shopping.

I have seen cases, and I've worked on cases, where people have come from Europe and claimed refugee status in Canada. They've been found out to have been granted asylum in Europe. But because in Canada they might have family here.... They are under deportation orders. I've seen people in the United States who were there for a number years and things didn't happen, and they wanted to come up to Canada.

In order to go to one level above, wouldn't it be beneficial for us, as a country that the rest of the world looks to as a beacon of what happens in accepting refugees—and I'm sure people around this table have come to this country either as refugee claimants or as people seeking a better life or economic situation—to set a standard and ask our bureaucrats or our minister to go to the UNHCR and ask why we don't we set up one shop, if you want to call it that, that disseminates information and looks after something? There would be one practice, and if a country failed to meet those standards, then the ombudsman would talk to the country officials, so refugees could find a country and not have to go from one border to another border to another border. When you transcend those borders, you can certainly be hurt, and you can certainly cause difficulties.

If the determination that happens in Canada is something similar, if we can teach our American colleagues or teach the Europeans, or the Europeans can teach us to have a unified system, wouldn't that be something better?

• (1210)

The Chair: Mr. Rico-Martinez.

Mr. Francisco Rico-Martinez: That was the whole goal of the refugee convention of 1951. The whole goal was to set up a framework that every country would respect and implement.

Hon. Jim Karygiannis: It doesn't work, does it?

Mr. Francisco Rico-Martinez: It doesn't work.

Hon. Jim Karygiannis: Then is it time that we re-look at it?

Mr. Francisco Rico-Martinez: No, it is time to implement the convention. The convention is not implemented for every single country because it's interpreted in a particular way, and the definition

of refugees is applied according to national standards. The problem is that the convention also has an article that talks about the monetary mechanisms the UN has to develop to make this convention what you are talking about. But the problem is that governments and states are not interested in developing that mechanism, and they are not interested in being observed and being criticized and having a particular standard imposed.

Hon. Jim Karygiannis: Mr. Rico-Martinez, you're saying it hasn't worked, that countries are not willing to be shamed by it. Then wouldn't it be up to us to ask our officials, to ask the minister, to go to the UNHCR and push the right buttons to make sure this is vigorously looked at and that there is an ombudsman set out there who goes through the whole system and goes to different countries and monitors their decisions and sets a standard they have to meet? And if they don't have that standard, then....

Mr. Francisco Rico-Martinez: Feel free. Try.

We have been trained as NGOs to try to have these mechanisms, to try to have standards. The UNHCR has been trying to set up standards for everybody—lines of interpretation and different things. National realities create different definitions. For instance, the Canadian definition is way more expansive than any other definition we have under the refugee convention. So in that way, please feel free to try to impose—

Hon. Jim Karygiannis: Let me give you a scenario.

The Chair: Okay, you have 30 seconds. We're at 5:30 already.

Mr. Karygiannis, did you have a follow-up question?

Hon. Jim Karygiannis: Let me just give you a scenario.

Every September the foreign governments get together in the UN. Can you imagine our Prime Minister standing up and trying to set a goal for this, saying that it hasn't worked, we want it to work, and that we Canadians will take the lead in making sure it does work?

The Chair: Ms. Anker.

Ms. Deborah Anker: The way it is constituted, the UNHCR is not capable of being such an independent agency. Many people have suggested that a truly independent international body should make these determinations and that all countries be bound by it.

Let me just tell you what has been happening with UNHCR in the U.S. In critical cases now the United States government has been arguing against administrative bodies hearing the opinion even of UNHCR. We have a major case before the Board of Immigration Appeals for which the Department of Homeland Security has opposed UNHCR submitting a brief as to its opinion.

So can you imagine a case in which the—

Hon. Jim Karygiannis: Ms. Anker, the chair tells me I'm way over my time.

Ms. Deborah Anker: Yes, okay. I'm sorry.

Hon. Jim Karygiannis: However, I think you agree with the theme that there is an ombudsman or an outside body, be it the UNHCR...and that we have to make sure it works. You agree with that theme?

The Chair: Okay, a brief response, and then I'll go to Ms. Grewal.

Ms. Deborah Anker: I think so, if I understand you. Yes.

The Chair: That was brief.

Thank you, Mr. Karygiannis.

Ms. Grewal.

•(1215)

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you, Mr. Chair.

Thank you to the witnesses for appearing today and for your time and presentations.

My question goes to Ms. Anker.

Ms. Anker, in your testimony you offer considerable criticism of the American refugee system, suggesting it is in violation of international legal standards. I'm curious to know what steps, if any, have been taken to address these concerns.

Ms. Deborah Anker: I don't think steps have been taken to address these concerns, and I think the situation of refugee protection has deteriorated enormously over the last five years. That's really the most critical conclusion I would like to communicate.

Actually, our standards went up. The system that Professor Martin praises is the result of Canada's leadership and example during the 1980s and 1990s. It raised the standard in the U.S.

In the last five years, there has been a very marked deterioration, not that there weren't problems before that. The one-year filing deadline, the detention, and the corroboration requirements have all happened in the last five years.

As I mentioned *The New York Times* today has a report by a congressional committee, the U.S. Commission on International Religious Freedom, expressing enormous frustration that it made critical recommendations two years ago that have been completely unaddressed by the U.S. administrative authorities responsible for adjudicating asylum claims.

Mrs. Nina Grewal: Canada has many avenues for appeal with regard to a person who is refused refugee status. I am wondering whether the United States also has avenues of appeal that may be used by a failed refugee claimant at any level, be it administrative or judicial.

Mr. Francisco Rico-Martinez: I want to clarify that in Canada there is no appeal for refugees. The law has it, but it hasn't been implemented yet. I just want to clarify that.

You may talk about different programs to which a person may apply under different criteria, but the appeal hasn't been implemented by the government yet.

The Chair: Okay, thank you.

Ms. Anker.

Ms. Deborah Anker: The main administrative appellate body was decimated five years ago by regulations that were promulgated by the Attorney General at the time. Its membership was cut in half, and it was basically instructed that it had to affirm immigration judges' decisions, except under exceptional circumstances.

As a result, almost all these cases are now going to federal court. The federal courts are overwhelmed, and they are starting to shut their doors.

I just want to quote something. This is Judge Posner from the Seventh Circuit. There have been a barrage of these comments from the federal judiciary about the quality of justice at the administrative level.

Judge Posner is actually politically conservative on the U.S. spectrum. He commented:

—adjudication of [immigration] cases at the administrative level has fallen below the minimum standards of legal justice.

That kind of comment is echoed in similar comments of other members of the federal judiciary.

Mrs. Nina Grewal: Please, could you tell us what the acceptance rates are for asylum applicants in the United States and what the equivalent acceptance rates are here in Canada.

Ms. Deborah Anker: This is the UNHCR's 2005 report, and this is where I might dispute some of the statistics Professor Martin presents, which are not publicly available statistics. In Canada, the recognition rate was 50.4% overall; in the U.S., 34.7%.

Mrs. Nina Grewal: Mr. Chairman, do I have some more time?

The Chair: You have 35 seconds left.

We'll be a little bit flexible on that, but after that I'm going to have to strictly mark time, because we have four more people who want to get five minutes in and we have to suspend at about 20 minutes to the hour.

•(1220)

Mrs. Nina Grewal: I think I'm fine.

The Chair: You're okay? Okay, thank you, Ms. Grewal.

We'll try to stick to our five minutes, because I want to get everyone in who hasn't asked a question yet.

Madame Faïlle, go ahead.

[*Translation*]

Ms. Meili Faïlle: I believe the principle in play here is how we treat those who come here. This is also a reflection of our openness and generosity as a society. As for the implementation of the agreement, according to what I can see in the field, looking at organizations who deal with the settlement of Columbians in Quebec, the alignment of Canadian policies on those of the United States deprives Quebec and Canada of refugees who offer a great potential, who integrate very well into our society. If we consider, for example, the Latin American community, in Quebec, these people settle mainly in the regions. This is very important for our regionalization policies. We are excluding a community which integrates very easily into our society. This also means a loss of economic potential that these people bring with them. I find it very regrettable that the agreement allows fewer people to immigrate to our country.

As for family reunification, it is also a challenge here in Canada. You mentioned earlier the difficulty stemming from the one-year deadline, but we need also to look at the difficulty in bringing the family together. The definition of family is very restrictive, from what I understand.

Would you recommend a widening of this definition?

[English]

Ms. Deborah Anker: I'm sorry, what definition of family are you speaking of?

[Translation]

Ms. Meili Faille: What is happening presently is that people, unfortunately, choose a bad route and go via the United States. People try to bring over their family, a cousin, an aunt or a brother, but they face difficulties in doing so.

Would you recommending widening the definition of family in order to allow bringing in more easily a family member such as a cousin?

[English]

The Chair: The question is to broaden the definition of family so that a cousin or somebody else could come.

Ms. Deborah Anker: Do you mean under the safe third country agreement?

The Chair: Yes.

Ms. Deborah Anker: The exception now is a spouse, sons, daughters, parents, legal guardians, siblings, grandparents, grandchildren, aunts, uncles, nieces, and nephews. That would certainly be a positive move, but I don't think the safe third country agreement is salvageable by any expansion of the exceptions. I think it's based on a fundamentally problematic assumption that has not been investigated in five years, which is whether the United States meets the requirements of being a safe country for refugees.

The Chair: I think Mr. Martinez has a comment he wants to make.

Mr. Francisco Rico-Martinez: My concern is that the family definition that needs to be expanded in the agreement doesn't reflect the other definition of family that we have in other areas of law, because it is not possible to sponsor a niece or a nephew in a particular way, to bring that person to Canada. We have always been offering the idea of having a more flexible concept of family to include the de facto members of a family as well. We have discussions about how the concept we have in law of family is very limited in Canada and doesn't reflect the cultural realities for the refugee communities and immigrant communities.

The Chair: Ms. Faille.

[Translation]

Ms. Meili Faille: I have another question. Here, in Canada, decisions have been made by the Committee against torture.

Did the Committee against torture establish any precedents in the United States in terms of cases? I know that here, in Canada, there was the case of Mr. Enrique Falcon Ríos, among others, which still has not been settled. There is another case in Toronto which is still outstanding. The situation of these people here, despite the fact that international organizations have commented—

[English]

The Chair: Go ahead. I'm sorry.

[Translation]

Ms. Meili Faille: I would simply like a snapshot of the situation in the United States in terms of torture. Are there any precedents? Did the Committee against torture express any blame?

• (1225)

[English]

The Chair: Very briefly.

Ms. Deborah Anker: The crux of the issue I see before this committee now has to do with the U.S. obligations under the refugee convention. Unfortunately, U.S. compliance with the convention against torture has not been what it should be, and it has certainly deteriorated in the last couple of years.

The Chair: Thank you.

Mr. Devolin, please.

Mr. Barry Devolin (Haliburton—Kawartha Lakes—Brock, CPC): Thanks for being here.

The question I have is on safe third country agreements. I'd like to hear from each of you.

Do you believe in the principle of the safe third country agreements, or do you think there's a fundamental problem with them and that they are inherently unacceptable?

Mr. Francisco Rico-Martinez: In order to have safe third country agreements you need to have a standard for everybody, and the standard has to be respected, implemented, and enforced. In reality, right now each country decides on the definition and the procedure on detention, removals, and everything, and it's very difficult to compare. You are forced to compare your system to other systems.

The criteria used to define a safe third country are not fundamentally right. It is a country that has signed the refugee convention and has a process for refugees—there is this and there is that. So in a very superficial manner, every single country on earth could be a safe third country for refugees, but in a practical manner we know that every national reality has very clear implications.

Let me give you an example that in our reality would be totally unacceptable. A Cuban touches the shores of the United States and is accepted and protected. In Canada that would be totally against our law, because we don't have that kind of privilege for particular groups of people coming in. In that way there would be mandatory detention, and different things would happen. Issues like violation of international law, etc., would mean that comparing this to countries in a very superficial way wouldn't define a safe third country in reality.

Mr. Barry Devolin: You're saying theoretically they're fine, but practically, in virtually any circumstance I can imagine, they're inappropriate.

Mr. Francisco Rico-Martinez: Exactly. The convention is implemented nationally; therefore a totally different standard is set up from one country to another. There's no point of comparison.

The Chair: Ms. Anker wants to make a comment as well.

Ms. Deborah Anker: First of all, I would want to qualify the different standards. Every country that is a signatory to the refugee convention is interpreting the same standards according to an international treaty that is binding. That has been increasingly evident in the jurisprudence of—

Canada again was in the lead on this. The Supreme Court of Canada was in the lead in defining an international framework and leading many countries around the world—the United Kingdom, Australia, and other countries—in following international standards and interpreting the refugee definition. In principle we all have to be answerable to a common framework if we're all signatories to the same convention. I think the fundamental premise of safe third country agreements is false.

• (1230)

The Chair: Mr. Devolin.

Mr. Barry Devolin: Just to clarify, and not to be argumentative, but when you say “leading the world” in the interpretation, I take it that means “being the most generous” in the interpretation. Is that correct?

Ms. Deborah Anker: No, the most principled.

The Chair: Thank you, Mr. Devolin.

We have Mr. Siksay, Mr. Telegdi, and Mr. Wilson.

Mr. Siksay.

Mr. Bill Siksay: Thank you, Chair.

I want to come back to the questions of the U.S. compliance with the international convention against torture. Again, this is something the Canadian Council for Refugees has raised in relation to their very serious concerns about the safe third country agreement.

They point out that one of the key provisions of the Immigration and Refugee Protection Act in Canada is that a safe third country has to comply with article III of the UN convention against torture, which prevents removal to torture. Then they go on to outline a number of cases where the United States hasn't been complying with that prohibition. I think the most famous one for all of us is the Maher Arar case, when he was deported to Syria to face torture.

There's the practice in the United States to seek diplomatic assurances from other countries that people who are deported there won't be tortured, although even apparently U.S. officials have acknowledged their use and their limited value in actually protecting someone.

There's the whole question of renditions to secret detention facilities, which the European Union has strongly condemned. I think there was outrage around the world when we heard about that practice of the United States, and all of the concerns around Guantanamo Bay and what's been happening there as well.

Then there are two specific pieces of legislation in the United States that have rung the alarm bells for the CCR in particular. One is the Detainee Treatment Act of December 2005. Apparently, President Bush added a signing statement to the act saying that he could as, commander-in-chief, waive the prohibition on the use of torture or cruel, inhuman, or degrading treatment, which I think is a very serious concern.

Finally, there's the Military Commissions Act of 2006, which extends a retroactive immunity to military officials and others for past abuses related to torture and the commission of torture.

There are other issues that the CCR has raised, and I know they've raised them in court cases as well.

I wonder if folks could comment on the issue of compliance with the UN agreement against torture and the prohibition against returning someone to face torture.

Ms. Deborah Anker: I would just say I agree with those concerns that CCR has expressed.

Mr. Bill Siksay: One other question I had was around the comparative analysis of the protection accorded to women on gender-based claims in Canada and the United States. Can you say anything further about that? I know you said it was difficult to comment on the U.S. process itself. Is there anything further you can tell us about the way that has worked out?

Ms. Deborah Anker: Canada clearly recognizes violence against women as a form of persecution and gender-based persecution as a ground for protection. U.S. law is up in the air at this point. That's what I would say. In fact, we have a case before the board now that may decide the parameters of this.

In 1995 the United States had followed Canada's lead and promulgated regulations that were protective of women applying for asylum. It then fundamentally backtracked on that in a 1999 decision. Regulations have now been pending for seven years, since 2000, to basically rectify that decision. Those regulations have still not been forthcoming.

So it's very haphazard as to whether a woman will get protection based on those standards and the standards that are commonly practised in a lot of refugee countries.

The Chair: Okay, thank you.

I have to go back and forth—Mr. Komarnicki and then Mr. Telegdi.

• (1235)

Mr. Ed Komarnicki: Ms. Anker, on the issue of whether some countries are better or not in their record, obviously, at least in your view, Canada does very well. Isn't the standard in safe third country agreements that it's not whether they are exceptional but whether they meet international standards that would be considered acceptable as a safe third?

In other words, some countries will be better, some will be worse, but there are minimum international standards they would have to meet. Doesn't the United States and Canada meet those international standards?

Ms. Deborah Anker: I have two comments, and one is very basic. Canada's current assessment that the United States is a safe country is based on a 2002 assessment. I will certainly say this to Canadians: you are obligated to make that assessment again if you are going to continue to be a party to this agreement.

I point you to *The New York Times* article about the congressional commission that just issued a report, stating there were serious problems with the United States' compliance with the refugee convention. This is in an article that came out today.

Detention of refugees, which is common practice in the U.S., has been found unacceptable and in violation of the 1951 convention by the United Nations High Commissioner for Refugees.

I guess those are the things I would like to—

The United States is far better in its treatment of refugee claimants now than it was 20 years ago, but there has been a marked deterioration in the last five years.

The system that Professor Martin helped to set up has been drastically undermined in the last five years.

Mr. Ed Komarnicki: In fairness, Professor Martin had suggested a number of reforms, and I understand the Attorney General has launched a major departmental study, and—

Ms. Deborah Anker: We have not seen a single result of that.

I suggest that you look back at this morning's article and report from the U.S. religious freedom commission, expressing its overwhelming sense of frustration that it hadn't gotten a response to their recommendations.

Mr. Ed Komarnicki: There are recommendations in existence for improvement to the system. Indeed, the American system does have administrative and judicial reviews of administrative decisions made at lower levels. Those exist currently, even without the forms.

Ms. Deborah Anker: They've been severely undermined since 2001, so there's no effective administrative review in most cases.

Mr. Ed Komarnicki: Are you saying there isn't judicial review of lower administrative decisions?

Ms. Deborah Anker: It's not available to most people.

Mr. Ed Komarnicki: But the process exists and can be availed of, if one chooses?

Ms. Deborah Anker: It's not a question of choosing to avail oneself of it. One doesn't have access to that protection if one doesn't have a lawyer.

The federal courts are increasingly refusing to take on the job of administering the asylum system. As well they should be refusing, because it's not their job.

The Chair: Thank you.

I will now go to Mr. Telegdi.

We're hoping to get everyone in here.

Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.): Thank you very much, Mr. Chair.

One of the things they have in the European Union is standards for human rights, and all members that are part of the European Union have to adhere to them. They even have the European Court of Human Rights, which forced changes to the security certificate process for England. The same situation doesn't exist between Canada and the United States.

I've always had reservations about this, and I think it was very much driven by 9/11. Just to give a clear example of where we differ from the United States on norms, clearly we have the Arar case. We cleared Mr. Arar but the United States has not. They still have him on a no-fly list. That's a good example of the norms.

There's another thing I'm worried about, Professor. You mentioned Latin America. There's quite a bit of tension arising in Latin America, with what's happening in the various countries. Every time there are democratic elections there seem to be more tensions arising between the U.S. and Latin American countries, such as Nicaragua, Venezuela, Brazil, and the list just goes on.

If I look back in history, I look at what happened to the El Salvadorans. The U.S. government backed a particular junta for El Salvador. Most notably, there was what happened with Chile, where the democratic government of Allende was overthrown by Pinochet, who was found to be and condemned as a human rights abuser responsible for the deaths of very many people. I believe probably about 50,000 Chileans found haven in Canada. If they were captured in the U.S., the practice tended to be that they were sent back, and then they would be some of the people who disappeared under Pinochet.

With that in mind, I wonder if you could comment on some of the situations and experiences that you know of in the United States in terms of what happened to the Chileans. They ended up being very much a valued group in Canada. Heck, we even had a member of Parliament from that background. So could you comment on how the U.S. treats people they consider hostile, if you will?

• (1240)

Ms. Deborah Anker: This has historically been a major problem in the U.S. I would say the current problems are somewhat similar, but in many cases they also relate to a range of individual arbitrariness because of a lack of administrative oversight and a lack of a real rule of law regime in the U.S.

I completely agree with your description of the history. I would say the analogous situation now is that of the Colombians. Colombians are the largest group of refugees in this hemisphere, and they are effectively being either denied access to asylum—which does not happen in Canada—or denied protection in ways that are clearly in contravention of the refugee convention and clearly inconsistent with what's happening in Canada. Colombians are the new Chileans, the new Guatemalans, and the new Salvadorans. Colombians are not able to apply for protection in Canada under the safe third country agreement.

Hon. Andrew Telegdi: I see more problems coming with whatever develops in Cuba as well, following the succession to Castro. The problem seems to be growing, and its potential for abuse is increasing.

Ms. Deborah Anker: I agree.

The Chair: You have a couple of minutes, Ms. Grewal, and then we have a minute or two for Blair and a minute or two for Mr. Gravel. I want to try to get everyone in here.

I have four items to deal with after committee. I know the practice is to go back and forth for five minutes until the clock runs out. Anyway, I'm taking up more time than I need to.

Ms. Grewal.

Mrs. Nina Grewal: Thank you, Mr. Chair.

From the information that has been presented to us, it appears that the safe third country agreement is harming anyone, but the harm is suffered predominately by Colombian asylum seekers.

Ms. Anker, in your submission you stated that despite the continued existence of serious and widespread human rights abuses in Colombia, several aspects of the U.S. asylum system pose major obstacles to Colombian refugees seeking protection in the United States. Could you please elaborate on these obstacles and explain to us why Colombian refugee claimants have a higher acceptance rate here in Canada?

The Chair: Please be as brief as you can. Why do Colombians have a higher acceptance rate here in Canada than others?

Ms. Deborah Anker: Part of this relates to the failure to acknowledge the duress exception in the material support bar under U.S. law, which I was describing before. So people who pay ransom for their relatives are considered to have materially supported terrorism. Part of it has to do with arbitrariness and problems that are endemic now to the U.S. system: excessive corroboration requirements; excessive detention; requirements of proof of the persecutor's motives, in many cases; and the one-year bar.

• (1245)

The Chair: All right. Thank you.

Mr. Gravel and Mr. Wilson.

Mr. Gravel.

[Translation]

Mr. Raymond Gravel (Repentigny, BQ): I have a short question for Mrs. Anker. You said earlier that it might take an international body to enforce the agreement, that the agreement might be a good thing but that it needs to be reassessed.

How could we set up an international body that would be recognized by the United States, for example. Would that country accept an international body that might decide that the agreement needs to be amended?

It seems to me that Canadian policies are too much aligned with those of the United States at the present time. The climate deteriorates more and more. So would it be possible to improve this situation by establishing a body? And who would recognize such an international body?

[English]

Ms. Deborah Anker: I don't think the creation of an international body right now is really viable. I think in principle it is the right way to go, but the UNHCR is not in a position to be that body. It is too politically compromised; its funding is completely dependent on donor states; and the United States, frankly, has not shown its willingness to comply with the norms set by international bodies. As I mentioned, the United States right now is opposing the UNHCR even submitting briefs in cases before its own agencies, let alone complying with the interpretation of an international body as to what refugee law is. So until we can establish the independence of such a

body—real independence and real compliance of such a body—it's not realistic. I think maybe I wasn't clear on that before.

The Chair: Okay, thank you.

Mr. Wilson, please.

Mr. Blair Wilson (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): Thank you, and thank you, Professor Anker and Mr. Rico-Martinez, for your testimony today.

I want to go to what I think is the heart of the matter here. What I've heard from you today and from the questions that have been asked is basically that the safe third country agreement was put into place and came into force in 2004 in order to reduce the duplication in processing, and possibly to get through a backlog of refugees that Canada may have had. I think that was the intent when it was first put forward, and I believe it was based on the fact that at that point in time, Canada and the United States had roughly the same standards for allowing refugees to come into each one of their countries.

But since that time, your testimony is that things have changed with respect to the policies that the United States is following and that Canada is following, so that there should be an annual review of how consistent the two countries' policies are, and that provided we are applying our standards consistently, then a safe third party agreement would be fair to implement. When the two diverge, that's when we have the problem.

I think where we're at right now is that Canada, or the government of the day, is basically handing over sovereignty and the control of our refugee policy to the United States and basically saying, whatever your policy is, we're willing to accept it *carte blanche*.

Would that be a fair analysis of the situation?

Mr. Francisco Rico-Martinez: Let me say that the duplication is not solved by this agreement. Originally, 10 years ago, when the discussion started, it was to avoid duplication and to ban anyone who made a claim in the United States from coming to Canada and then making another claim here. But the agreement doesn't talk in any way about that. I'm not suggesting that you include it, but I am saying that asylum shopping as a very simplistic way of avoiding making a claim in two countries is not addressed by the agreement. Anyway, this agreement stopped the duplication of things.

The second thing is I think Canadian civil society made a mistake in 2004 because we didn't challenge judicially the safe third country agreement at that time. I think the situation at that particular moment with the United States was very different and was already changing because of the situation with September 11 and all that stuff. We didn't do it for different reasons—lack of resources, lack of vision.

Now it's even clearer than what we knew at that particular moment. You read all our documents opposing the safe third country agreements. They're clear. Now it's even clearer that the differences are abysmal and the situation is not possible to reconcile.

• (1250)

The Chair: Thank you very much.

I wish we had more time, because obviously people want to ask more questions. I do want to thank you for your submissions today. They were very interesting, indeed.

Of course, you're aware we'll be doing a report on refugee issues, and it'll be done under seven headings, one of which will be the safe third country agreement. I'm sure you'll look forward to hearing what our recommendations are when we issue our report.

Again, many thanks for coming. I'm sure we'll be hearing from you again. Thank you.

Do we need to suspend? We don't need to suspend. I'll just ask witnesses to move away from the table, and we'll get on with our business. Thank you.

The first item on the agenda today, one of four, is a motion by Mr. Karygiannis, giving notice to the following motion. Note that notice has been given that the committee visit the detention centre in Kingston to see the detainees and observe their health in the immediate future.

Mr. Karygiannis.

Hon. Jim Karygiannis: Having seen the detainees last Sunday on my own initiative—and I know when Mr. Siksay had put a question to the minister that the minister had said Mr. Siksay had not visited the detainees to see their condition—I would highly recommend that we do visit the detainees as soon as possible to see the condition of their situation, so that we are first-hand witnesses to what their deterioration and their health are like.

The Chair: Okay, thank you, Mr. Karygiannis.

Mr. Devolin.

Mr. Barry Devolin: I have just a couple of thoughts. First of all, regarding logistics of doing something sooner than later, I wonder if maybe a smaller group, maybe one person from each caucus, might be both easier to organize and easier to get permission from whips to travel for. It's a friendly suggestion.

Hon. Jim Karygiannis: You know what? If it's one person who chooses to go or if people can find their own way there—It's not too far from Ottawa, and a lot of us have cars. So besides limiting it to one person and saying this is firm and fast, if anybody else wants to go of their own accord, by all means.

The Chair: Yes, okay.

Mr. Telegdi.

Hon. Andrew Telegdi: Seeing that we had the whole committee go down before, I think it would be advisable if all of us went. I just found out, talking to Mr. Komarnicki, that the officials—the minister and the deputy minister—are not available on Monday, but they'll be available the subsequent Monday. Given the fact that we already had this committee meeting scheduled for February 12 to hear from them, we might use this as an opportune time to get down there as quickly as practical. That might be a good day, so let's just take that day and go.

I think it's an excellent motion.

• (1255)

The Chair: The clerk informs me that there might be a problem in doing that because we have to get the budget—

The Clerk of the Committee (Mr. William Farrell): If the committee approves the budget, you have to get the funding from the budget liaison committee, and then we have to get a House order to

go down. So I think the earliest we could get it done is—it might take us the next week to get the permission.

The Chair: It would take a week.

Hon. Andrew Telegdi: Mr. Chair, I think there is an urgency, given the length of time that the hunger strike has been going on, and I would hate to have somebody die because we're trying to go through some kind of bureaucracy. We all have travel allowances, so we can all find our way down. We have our own budgets.

The Chair: Okay, let's deal with the motion anyway.

Hon. Jim Karygiannis: I think we should deal with the motion, and should we have unanimous consent as to the date, then we can do it. But I think we need to deal with the motion.

The Chair: We'll deal with the motion first.

Mr. Siksay, did you have a word?

Mr. Bill Siksay: Thank you, Chair.

I think this is very important, given that we're now at days 77 and 66 of the hunger strike, which is a very serious length of time, and time is of the essence with this. I think it's important that the committee go as a whole on an official visit, rather than as individuals, even going down together, to make the statement that this is a crucial issue that needs the attention of the government and of parliamentarians.

The Chair: Our staff would not be able to go unless they had the appropriate order in council.

Mr. Bill Siksay: I also think it's important that staff accompany us in that situation. But I am troubled by the length of time the clerk reports it would take to have this approved, and I would ask that if there's any way of seeking an emergency approval of this, we undertake those measures or find a way.

The Chair: The clerk was just saying to me that if the members went to their respective House leaders and wanted to get this approved, then it's in our hands to do it. In any event, that's the side issue.

We'll deal with the motion—and you've seen it—that the committee visit the detention centre in Kingston in the immediate future to see the detainees and observe their health.

(Motion agreed to)

The Chair: That's done. It was unanimous.

Given that, we have a travel budget, which is \$9,066. Do we need a mover for that?

Mr. Telegdi, do you want to move that? You've seen the travel budget for \$9,066. Do you want to comment on it, or will I go on to Mr. Siksay?

Okay, Mr. Siksay.

Hon. Andrew Telegdi: This is to go to Kingston?

The Chair: Yes, that's what it is.

Hon. Andrew Telegdi: Well, can we get that done by Monday?

The Chair: Let's move this travel budget.

Mr. Bill Siksay: I'll move it.

The Chair: Okay, we have no shortage of movers. Since it's Mr. Karygiannis' motion, we'll have him move the budget.

Hon. Jim Karygiannis: I certainly move the budget.

Mr. Chair, may I add one thing—and I'm seeking unanimous consent.

A lot of reporters have shown interest in visiting the detainees. Unfortunately, there are all kinds of barriers put forward by CBSA. I was wondering, could we have unanimous consent to ask a reporter from each media source to go with us?

The Chair: That would require unanimous consent, because if it's a motion.... Is there unanimous...?

Mr. Karygiannis, we have to decide on a travel budget first. Let's do it in order.

It is moved by Mr. Karygiannis that the travel budget be approved.

(Motion agreed to)

The Chair: Now, you were asking—

• (1300)

Hon. Jim Karygiannis: Do you want me to submit it in writing?

The Chair: No.

Hon. Jim Karygiannis: I'm seeking unanimous consent that when we visit the holding centre in Kingston—

The Chair: That reporters—

Hon. Jim Karygiannis: —that we ask a reporter from different media to travel with us.

Right now, reporters want to visit the detainees. Unfortunately, they have to do it in the administration building, and the detainees refuse to come out if they are not accompanied by a supervisor from Correctional Service Canada.

So because that is not given them—

The Chair: Again, this is out of our purview, because we would have to go to CBSA first.

Hon. Jim Karygiannis: It's part of Immigration. The holding centre is under IRPA and CBSA.

The Chair: Yes, and we would have to get consent from the CBSA for—

Hon. Jim Karygiannis: Okay. I've asked for unanimous consent for the motion.

The Chair: Is there unanimous consent? No.

Okay, let's move.

Hon. Jim Karygiannis: Can I challenge the chair on that?

The Chair: No, you can't.

Hon. Jim Karygiannis: I'll give it in writing.

The Chair: Okay, let's go to the operational budget request.

This will cover the extra meetings we're going to have in the not-too-distant future, the ones the steering committee directed us to have.

The budget to cover the cost of witnesses is \$63,200.

Could I have a mover for that?

Hon. Andrew Telegdi: Which one is that, Mr. Chair?

The Chair: This is the operational budget for the witnesses to come to these extra meetings.

Hon. Andrew Telegdi: I move.

The Chair: Okay.

Mr. Bill Siksay: Mr. Chair, I'll move if it's \$65,200, not \$63,200.

The Chair: I've got to get my glasses done up here. Okay, it's \$65,200.

(Motion agreed to)

The Chair: Okay. That concludes our—

Hon. Andrew Telegdi: No. Don't we have a motion?

Hon. Jim Karygiannis: I can read it into the record.

In view of what we've witnessed today, and some witnesses having said that they clearly wanted to have an international body to overlook—be it the UNHCR or something else—I'm asking for unanimous consent—I'll read it into the record:

In View of STCA clearly not working and countries that are signatories to Refugee Protection under UNHCR having different measures and ways to determine Refugee Claimant determination be it in the Americas, Europe or other parts of the world, this Committee asks that the Minister of Citizenship and Immigration takes these concerns to the United Nations and asks for protocols to be set where guidelines and protocols be set for countries signatory to the UNHCR Refugee Protection to follow in a manner which is similar across the board.

Further the Minister to ask UNHCR for an ombudsman to monitor cases and provide guidance to countries and share the best practices with all countries involved.

The Chair: Okay, Mr. Karygiannis has taken the opportunity to read that into the record.

That completes our business.

Hon. Jim Karygiannis: I'm asking for unanimous consent, if I can do it today. If not—

The Chair: No.

Mr. Ed Komarnicki: I have a couple of points.

Mr. Telegdi, I take it that we agree on having the minister and department officials appear on the February 19.

Hon. Andrew Telegdi: We have to open it up, Mr. Chair, because the minister and the department officials will not be available to come until February 19. So I think what we should do is move everything—

The Chair: Instead of?

Hon. Andrew Telegdi: Instead of February 12?

The Chair: Instead of February 12. For the extra meetings?

Hon. Andrew Telegdi: Yes, for the meetings.

What I'm proposing we do is take February 12 to get down to Kingston. Then we start the meetings on February 19 and 26 and follow through.

Also, instead of having two meetings for witnesses—given their number, and we might even have some additions—we might extend the hearings. Right now, we're scheduled for three meetings; this would extend it to four.

We should be open to the possibility that since there's great interest around this issue, and we want to have adequate time with the witnesses, we would go from 11 o'clock until 1:30, until the hearings—

The Chair: Mr. Siksay.

Mr. Bill Siksay: Thank you, Chair.

I hear the suggestion, and I don't know when we're going to discuss that, but I also want to suggest that if we go on Monday to Kingston, we go first thing in the morning and come back that day. That way we'd maybe save some of the overnight costs that are in the budget.

I think we can probably do that in the same day.

An hon. member: I'm just curious to know where I am here—

• (1305)

The Clerk of the Committee: Mr. Chair, can I read this?

The Chair: Yes.

The Clerk: Andrew wants to have the officials on February 19. Then on February 26 we start our witnesses, after which we have a two-week break.

The Chair: Let's pay attention, members, so that we'll know what's going on here.

The Clerk: On March 19 we have witnesses and on March 26 we have witnesses.

Hon. Jim Karygiannis: Could you read it again, please, Mr. Chair?

The Chair: Yes.

On February 19 we will have the minister and officials, on February 26 we will have witnesses, and on March 19 we will have witnesses. We don't know if March 26 will be necessary, but we'll have four meetings if necessary. We'll monitor that and find out. We can do that.

Hon. Andrew Telegdi: Mr. Chair, I also said that if we extend the—instead of being here two hours. Because once the witnesses get here, we might want to sit until 1:30 instead of 1 o'clock.

I'm very confident, given the witnesses we have, that we will want to have that fourth meeting in there.

The Chair: Yes, and we probably will.

Hon. Andrew Telegdi: No, no, but we have to arrange it now. We want to have three meetings, which would take us up to March 26.

The Chair: There's an additional problem: will our budget cover that?

Hon. Andrew Telegdi: Oh, yes. We're paying for the people coming in. That's our cost. We want to get value for our money.

The Chair: Okay.

The Clerk: Mr. Chair, with regard to Mr. Siksay's request, I do not know how long it takes CBSA to approve people—

Mr. Bill Siksay: My understanding is that for MPs, they require only 24 hours' notice for visits.

The Chair: The second thing is—

Hon. Jim Karygiannis: Is this to visit Kingston?

The Chair: Yes.

[*Technical difficulty—Editor*]*—*leaders, the subcommittee on liaison would have to approve the budget. So you're saying that people should talk to their respective House leaders to see if that can be done.

Hon. Jim Karygiannis: On that, Mr. Chair, there is a motion for Tuesday that asks that we allow media to come with us. I'm wondering if Mr. Siksay would agree that we deal with that motion first on Tuesday, and possibly do something else.

It is important that not only we as individuals are able to see them; in view of what the minister has said and in view of their living conditions, independent witnesses must also—

The Chair: We need unanimous consent on that.

Hon. Jim Karygiannis: Well, there is a motion on the floor. There is a motion for Tuesday.

The Chair: No, there's no motion.

Hon. Jim Karygiannis: I just put in a motion.

The Chair: Oh, as a notice of motion.

Hon. Jim Karygiannis: Yes.

The Chair: Okay.

Mr. Barry Devolin: Mr. Chair, I think we've agreed that there's some urgency to get there sooner rather than later, so I hope we can get it approved for Monday.

The budget we've approved, which is a lot of money, must be based on hotel rooms for people. I agree with the notion that we don't need to be there overnight. My preference would be to go there early on Monday morning—quite frankly, I'll go there directly from my home—and come back here Monday afternoon.

The chances of your getting fast approval, I presume, are a lot better if you're asking for \$500 than if you're asking for \$6,000. So I don't know how—

Mr. Blair Wilson: It's not going to make a difference.

Mr. Barry Devolin: No, you have to make the application. My suggestion is that we go on Monday morning, do the visit on Monday, and come back—not go down and stay in a hotel, as we did last time.

The Chair: Yes, and I think that's what we're trying to arrange.

Madame Faillie.

[*Translation*]

Ms. Meili Faillie: I think exactly the same. Last time, this is what I did. I can go down there in the morning and come back to Ottawa the same day. This way, the Committee would not incur any additional costs.

[English]

The Chair: Well, just leave that to committee members. Some will want to go at one time, some at another. Let's not quibble over that.

Any other comments?

Mr. Siksay.

Mr. Bill Siksay: Chair, I wonder if we can have agreement that everybody will go to their House leaders to ask for expedited and emergency processing of the request for funding for the trip on Monday?

●(1310)

The Chair: I'm sure it's not a problem to get that.

Okay?

Some hon. members: Agreed.

The Chair: Okay.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.