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**Chair**

**The Honourable Judy Sgro**

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## Standing Committee on the Status of Women

Tuesday, October 24, 2006

•(1110)

[English]

**The Chair (Hon. Judy Sgro (York West, Lib.)):** Order.

This is meeting number 18 for the Standing Committee on the Status of Women. Welcome to our committee members, and to our witnesses this morning.

I'd ask the committee to ensure that you have on your desks the following documents: the government response to report number seven that was sent by e-mail to your offices last week; briefing documents from the Library of Parliament on report number seven; a brief submitted by the National Organization of Immigrant and Visible Minority Women of Canada, who are going to speak to us now; and you should have the committee calendar updated with confirmed witnesses in bold. We will have Minister Prentice come in to speak to us at noon.

I am now going to introduce our witnesses for this morning. From the Salvation Army, we have Danielle Strickland.

Welcome, Danielle. We're very happy that you're able to join us today, especially on such short notice for all of you. We really appreciate that.

From the National Organization of Immigrant and Visible Minority Women of Canada, we have Mirjana Pobric and Dr. Shandip Saha, researchers. Thank you very much for coming this morning.

Whoever would like to can take the lead.

Ms. Strickland, would you like to start off with your presentation?

**Capt Danielle Strickland (Captain, Salvation Army):** Sure.

Honourable members, this committee is in a strategic position to create a Canadian response to the evil of sexual trafficking. I believe you can bolster the fight for human rights on the globe and ensure the beauty, freedom, and value of all within its sphere of influence. And I want to assure you that we're praying for you.

All of the international leaders of the Salvation Army met in 2004 and identified the abolition of human trafficking for the purpose of sexual exploitation as an international priority for the Salvation Army and the world. With that international commitment, we've set our sights on Canadian soil and how we can fight this thing in our own country. And our paths meet here.

We've set out to combat sexual trafficking on the ground. Several obstacles and persistent questions have emerged that I'd like to

discuss with you, and I want to suggest some potential answers for this committee.

On a special note, I've noticed that everyone I've met who seems to work at a grassroots level and in policy on ending sexual trafficking—in the RCMP, victims services, and grassroots NGOs on the ground—suffer from an assault of paralysis when it comes to this issue. It seems so complex, hidden, and secret—really just evil—and this great paralysis tends to happen. I wanted to assure you that the time for paralysis is over. We don't have that option anymore. This is a prevalent issue in the world, and it's an evil that I believe Canada is in a position to stop. So I want to tell you that I believe we can progress on this thing, we can attack it, and we can actually take some ground. I don't believe it's hopeless.

So I want to suggest that the struggle itself is worth having, and I also want to come to you with a strong conviction. I often work in desperate places, and I have this strong conviction, as does the Salvation Army, that light is more powerful than darkness and that God is on our side. So be encouraged; we've employed heaven. I've gone straight to the top on this one and asked the Lord for His strength. You are not alone in this.

For the specifics, there will be a formal written paper, but my comments will be a bit more informal. It tends to be what I do.

But without oversimplifying, I think this monster has two heads. I want to suggest that we can attack both of those heads separately with a one-two punch.

So the first head of the monster of sexual trafficking in Canada is the actual victims, the actual survivors of human trafficking, and the provision for those survivors, both internationally and domestically. Trafficked victims are currently, in our country, being sexually exploited every day. We know this for a fact; this is happening right now.

Because of their intrinsic value, we must provide a place where survivors of sexual trafficking have access to their basic human rights. The UN Palermo Protocol, which Canada signed, has already made it clear what that looks like. In article 6, it recommends “implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons”, including appropriate housing; counselling and information; legal rights; language translation; medical, psychological, and material assistance; and employment, educational, and training opportunities.

In Canada, we are not fulfilling this protocol. But there are several ways we can honour the protocol and provide these basic human rights with expertise and expedience. This isn't hard.

Punch number one on this head is to create immediate federal funding for safe and supportive structures for sexually trafficked survivors. We can't do this too soon. There are many traffic victims who do not have the safety or security that they require in Canada, and this has multiple effects. I won't go into all of them, but one effect is it can re-victimize the trafficked person. Another effect is that it gives power to the traffickers, because they offer provision that we don't. So the traffickers actually have power, and we give it to them by not providing reasonable things.

On the ground in Vancouver where I work, through partnerships and grassroots initiatives, including—and catch this, it's exciting—faith-based communities and feminist movements working together on this issue. This is how important it is—our coming together on this common issue to offer provision for the survivors of human trafficking in Canada.

We lack the funding to secure even the basic level of response right now. We have the will, we have the expertise, but we don't have the funding to do it. These victims deserve more than this.

●(1115)

Because of the nature of sexual trafficking and the desperate effects on its victims, it's critical to respond with specialized and culturally appropriate care. Right now, if a human traffic victim who's been sexually exploited surfaces, which has happened many times, the only option that exists for them to is to find shelter in existing shelter situations.

The problem with this, particularly in my city, Vancouver—and I can't speak to all the rest of Canada on the grassroots—is that there's no room. There's just no room in the shelters. There's a lack of funding, so that I can't even hold a bed in a shelter because that negates the funding for that shelter. So there's no place for the victim to go. I've been housing victims in people's homes, literally, because there's no place for them to go. The shelters that do have room aren't appropriate for victims of sexual trafficking. They're simply not appropriate.

So this kind of thing makes it even more difficult to get to the hidden places of trafficking. What happens is that these sexually trafficked victims, particularly, are so traumatized and they've been controlled by fear and violence for so long that they don't have any trust issues, and by nature they are suspicious of any kind of authority, or any kind of structure, or of even any kind of governmental support. If we provide adequate care and provision for those traffic victims, I believe we can free some of them enough

that they would begin to share some of the secrets of the trade, which would benefit us in combating sexual trafficking more than we could ever imagine.

So provision is the left punch, if you would.

The right punch of this monster, and of this head, is to create a new piece of federal legislation that is specifically designed to give victims of sexual trafficking visa classification in our country. In March of this year the CIC announced that trafficked persons are eligible for a temporary resident permit. While we're glad they're making an effort, on the ground we've found the TRP inadequate.

First, while it would regularize a person's status in the country, it gives them access to nothing beyond interim federal help. So they're given status in Canada, but no means to survive. They're not eligible for work unless they're granted the longer permit option of six months, which has never happened. Second, the minimum of 120 days under the visa is too short a time for a survivor to recover and plan the next steps of her life.

Third, the women are still being criminalized in the very classification of this permit. It's designed for those in violation of IRPA and it serves to criminalize them as violators rather than as victims. Victims of human trafficking are victims, not criminals, and we need to recognize that legally. In order to make this happen, we'll need a new piece of legislation that creates a specialized visa for trafficked persons.

Additionally, on the ground level—this is just an aside—it's virtually impossible to find anyone who knows the TRP guidelines or how to go about applying for this permit. Literally, basic questions like how I apply, what's covered, and who do I contact cannot be answered. And anyone I have found with the expertise, which is one person in all of Vancouver so far, recommends not using the TRP because of its inherent lack of provision. Clearly, I think we could do better, and we must.

The Salvation Army is committed to partnering with you to ensure the proper safe and supportive care needed for the survivors of human trafficking. That's one head of the monster, this victim approach, the survivors and provision for survivors. It's a two-handed punch, right? The left hand is provision for their basic needs, as the protocol suggested, through release of funding federally; and the right hand punch is legal status and a new piece of federal legislation.

The other head of the ugly monster is the area of demand. What I mean by demand is the men who buy and profit from the sexual exploitation of women and children. There are two essential left-right punches we can do for this head.

The first is to recognize that prostitution is a form of sexual slavery that allows trafficking to flourish and to grow. This is essential.

The latest UN special report of the Special Rapporteur, Sigma Huda, on the human rights aspect of the victims of trafficking in persons makes it very clear that legalizing prostitution is intimately connected with likely increases in human trafficking. I quote:

...we should consider the link between trafficking and prostitution and recognize that prostitution is in itself a form of trafficking as defined in the Palermo Protocol since it is a form of sexual exploitation. Even if no visible external force is used, the consent of the victim as stated in Article 3 b of the Protocol is irrelevant. It cannot be said that prostitution is a voluntary process with no compelling or propelling factors such as the question of survival or of no other options being available to women that recruiters, traffickers and pimps take advantage of.

● (1120)

I've lived and worked on the streets of Vancouver's downtown east side for several years. Along with other organizations, we befriend women and children and youth who've found themselves victimized and sexually assaulted and who find themselves selling their bodies on the streets. I can tell you that story after story, woman after woman, they have all come to desperate and horrible places in their lives. They've been coerced, tricked, persuaded, beaten, and threatened to keep doing what they do. They live a degrading and horrific reality every single day. Let's stop using terms that normalize prostitution and that cast prostitution as just a form of work. Do you want sex work to be something young females should aspire to? Do you want your own daughters to contemplate sex work as a career choice?

As a committee, please do not make the mistake of separating prostitution from the equality of women. The condition for women who find themselves in sex slavery on our streets will not improve by moving them inside to turn their tricks or by setting up cubicles outside to do their business. They deserve more than a change in terminology and a quick external fix. We have to restore the dignity they were created with, by calling prostitution what it is: a sex crime against women. They have value. I tell them that daily, but I wonder if my country will agree.

The UN report frames this position in a context of human rights. I quote:

It has been wrongly assumed in some quarters that a human rights approach to trafficking is somehow inconsistent with the use of the criminal law to punish prostitute-users. This conclusion can only be based upon the assumed premise that men have a human right to engage in the use of prostituted persons. This premise should be rejected. Men do not have a human right to engage in the use of prostituted persons. In some domestic legal systems, men have been granted a legal right to engage in the use of prostituted persons, but, as suggested above, this right...[is] in direct conflict with the human rights of persons in prostitution, the vast majority of whom have been subjected to the illicit means...and are, therefore, victims of trafficking.

To combat demand, it is imperative that we make it culturally unacceptable to buy women for sex. Men who buy women for sex need to be arrested and specific programs for male sexual offenders be increased.

In the Salvation Army one such program exists already and has for ten years. Prostitution offender programs are commonly known as john schools across the country. We consider them a success in educating and therefore reducing the demand for purchased sex from those who participate in the program. It's here again that prostitution

and sex trafficking cross paths, as we find that those who purchase sex are buying women from domestically trafficked places as well as internationally. The message must continue to get out that buying sex for money, food, or shelter is exploitation and is therefore not acceptable on any kind of level.

Men who have sex with a child in prostitution are committing child sexual abuse and need to be prosecuted to the full extent of the law. If we are serious about the rights of women and children who are sexually exploited in our country, we need to raise the age of consent from 14 to 16, at a bare minimum—if we're serious about rights for people in Canada.

That's the first punch. It was a big one; it might have been the right.

The second punch at this monster is to criminalize prostitute users and decriminalize victims of sexual assault. Make no mistake, this action is about the equality of women. The UN recommends that while prostitute users be criminalized, prostitutes not be; that they be treated as victims, not as criminals. Sweden has adopted this model because of their commitment to the value of women and children in their society, and their success on this issue is something that Canada, as a progressive nation ourselves, could easily adapt.

I quote from Gunilla Ekberg, a Canadian who helped form the Swedish policy:

As with all laws, the Law has a normative function. It is a concrete and tangible expression of the belief that in Sweden women and children are not for sale. It effectively dispels men's self-assumed right to buy women and children for prostitution....

Consider this statement by a former prostitute, now an advocate for women's rights:

We, the survivors of prostitution and trafficking gathered at this press conference today, declare that prostitution is violence against women.

Women in prostitution do not wake up one day and "choose" to be prostitutes. It is chosen for us by poverty, past sexual abuse, the pimps who take advantage of our vulnerabilities, and the men who buy us for the sex of prostitution.

The Salvation Army is deeply committed to the intrinsic worth of women and is committed to the abolition of sexual slavery.

● (1125)

I'll end with one final quote. At one time, Martin Luther King, Jr., ignited a nation with this quote:

Cowardice asks the question, "Is it safe?" Expediency asks the question, "Is it politic?" Vanity asks the question, "Is it popular?" But, conscience asks the question, "Is it right?" And there comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right.

I believe that time has come for Canada. We can choose to do what is right for the survivors of sexual trafficking by providing safe, supportive, and legal refuge for them in Canada. Let's do what's right for Canada by choosing to call prostitution what it is: sexual violence against women. Let's stand up as a nation to say we won't tolerate the sexual exploitation of women and children in our country any longer. God grant it that in Canada women and children are not for sale.

**The Chair:** Thank you very much, Ms. Strickland.

I appreciate that, and I must tell you that I am the founder of the John school program. I did that in partnership with the Salvation Army, and we continue to go forward with it. It's a great program.

Ms. Mirjana Pobric and Dr. Shandip Saha, I will now turn it over to you. If you can, please keep your presentations down to about ten minutes. The committee has many questions, and we need sufficient time to get those questions asked.

Thank you.

**Ms. Mirjana Pobric (Project Coordinator, National Organization of Immigrant and Visible Minority Women of Canada):** Good morning, and thank you for having us here.

My name is Mirjana Pobric, and I'm project coordinator for the National Organization of Immigrant and Visible Minority Women of Canada.

My organization takes a broader view of human trafficking, given the experience and issues that our population of immigrant and visible minority women in Canada face, and the issues that we came up with in the twenty years of the existence of this organization. As you know, we are an equality-seeking organization of and for immigrant and visible minority women within officially bilingual and multicultural Canada. We have functioning networks in all immigrant-receiving provinces, and have been working on problems facing immigrant women for over two decades.

We have a broader view of human trafficking. Our particular focus is on fraudulent arranged marriages as a form of human trafficking. They very often finish with violence for women who have been sponsored and brought to Canada as sponsored spouses.

Our definition of human trafficking, as I said, is broader. We define it as any action that involves the process of using physical force, fraud, deception, or other forms of coercion or intimidation to obtain, recruit, harbour, and transport people for the purpose of profit. That's why we maintain that fraudulent marriages are a form of human trafficking.

My colleague, researcher Dr. Shandip Saha, will give more details on this point.

**Dr. Shandip Saha (Researcher, National Organization of Immigrant and Visible Minority Women of Canada):** In Canada, the issue of fraudulent marriages frequently comes up in the South Asian community. Arranged marriages are often the norm within Hindu, Sikh, and Muslim communities back in India. The practice of arranged marriages, one needs to stress, is not the same thing as a forced marriage, even though there is always a danger that women may be coerced into an arranged marriage.

The logic upon which arranged marriages rest is that the close matching of a couple's linguistic, educational, and religious background will make for a much more enduring marriage. Marriages in South Asia are considered to be a union not only between two individuals, but between two families as well. The choice of a proper bride and groom is of great importance for families, because it reflects directly upon their social standing in their larger community.

Marriages in India are usually required to be registered, but this practice is not always followed, particularly in small cities and in rural areas. Consequently, when there is no registration, there is no valid proof that the marriage took place, outside the oral testimony of witnesses to the marriage, who can be easily bribed or threatened. Other forms of proof of marriage include photographs or video records, which can be damaged, doctored, lost, or even erased.

Arranged marriages in South Asia usually involve some sort of monetary transaction between the two families. For example, in a Muslim marital context, an essential feature is the wedding dowry, which is a predetermined amount of money given by the husband to his wife. In Hindu marriages, the financial transaction that occurs between both of the families is usually known as a dowry, which is defined according to Indian law as any property or valuable security that the bride has given or agreed to give, directly or indirectly, to the groom's family. The payment of a dowry is illegal under Indian law. It's punishable by fines and imprisonment. But grooms and their families often pressure the brides on the eve of the marriage to pay dowries that can go as high as \$20,000 to \$30,000 Canadian. Brides and their families frequently agree to these amounts, even at the risk of going into debt, because they do not want to face the social stigma associated with a cancelled marriage.

Fraudulent arranged marriages are now becoming increasingly common within the South Asian community in Canada. We maintain at NOIVMWC that these marriages should be considered as an act of human trafficking.

There are two reasons for this. First, members of both sexes, men and women, enter into marriages purely for securing Canadian immigration status in order to attain the benefits associated with being a landed immigrant and eventually a Canadian citizen. Marriages are arranged between a Canadian and an Indian citizen based on the assumption that marriage to a Canadian citizen will result in a higher standard of living and that relatives living in India will be able to come to Canada at a future date. NOIVMWC is convinced that this can lead to many instances of men and women marrying expressly for the purpose of entering Canada.

The second reason that NOIVMWC considers fraudulent marriages to be acts of trafficking is that many these marriages are arranged for and by men who are either Canadian citizens or landed immigrants, who travel to India expressly for the purpose of getting married, and who may on the eve of the marriage demand exorbitant dowries from their brides and their families. Once the marriage is performed and consummated, the man usually returns to Canada, stating that he will sponsor his spouse's entry into Canada as soon as possible, only to sever all contact with his wife upon arrival in Canada. Sometimes he will serve them with divorce papers. Sometimes he will disappear from sight. Since no formal registration of the marriage is required back in India, there's never any formal proof that a marriage has taken place, or that a dowry was given or obtained. Therefore it is impossible to prove that an act of extortion took place.

● (1130)

Even it were established before the Indian courts that the individual in question did engage in such an act of dowry extortion, that individual is able to evade justice in Canada because, as a Canadian citizen, that person has not committed an extraditable offence. What is common to both of these instances of fraudulent marriage is that Canadian laws are being manipulated to secure financial gain and that Canada is also being used as a safe haven for people who have broken Indian law.

It is difficult to determine the frequency with which fraudulent marriages occur within the South Asian community. Although the information that that NOIVMWC has is anecdotal, the frequency with which fraudulent marriages are occurring is enough cause for alarm. NOIVMWC can and would address this issue positively by conducting research on the many dimensions of this problem, by engaging in consultation with the various South Asian communities in, for example, Toronto or Vancouver. NOIVMWC, on the basis of this, would be able to provide training modules for immigration officers, settlement workers, and counsellors and provide appropriate policy advice to relevant government departments. The recent budget cuts, however, to Status of Women Canada and Social Development Canada have hampered NOIVMWC's ability to address this issue in a substantive way.

We realize this is a difficult issue, and that is why we also believe there must be a collaborative, proactive effort between CIC, Justice Canada, Foreign Affairs, Status of Women and Multiculturalism to resolve both these issues of fraudulent marriages.

NOIVMWC feels that the Government of Canada can and should take a number of immediate medium-term and long-term steps to prevent these types of marriages. These have been outlined in our brief. Among these are the following: requiring a certificate of registration for the marriage to be included as part of the sponsorship documents; ensuring that immigrant-serving agencies and prominent leaders in faith communities be aware of this requirement; being able to develop visitors' visas for women who may want to pursue their absconding husbands who are back in Canada; developing an extradition treaty with India to return men accused of abandoning their wives after collecting dowries; and developing better coordination between CIC, Justice, and bar associations.

This whole issue of fraudulent marriage, I think, does not necessarily reflect well on Canada for two reasons: number one, because we are becoming a safe haven for a number of individuals who are breaking Indian law; and two, because, we believe, it tarnishes Canada's image internationally as a defender of human rights, generally speaking, and of women's rights in particular.

NOIVMWC believes that the Standing Committee on the Status of Women is in a unique position to speak to government about these egregious practices and in so doing, we hope, restore the confidence of South Asian women and their families in it as a defender of their rights here in Canada and in the subcontinent.

Thank you.

● (1135)

**The Chair:** Thank you both very much. You certainly raise some extremely important issues that many of us on the committee are equally concerned about.

We'll start on our speakers list. We've time for only five minutes rather than seven, to try to make sure everybody gets representation here.

We'll start with Ms. Minna.

**Hon. Maria Minna (Beaches—East York, Lib.):** Thank you, Madam Chair.

What I will do, if I can have the indulgence of the witnesses, is ask some questions and then get quick answers so I can ask you more questions. I've lots, so bear with me.

Madam Strickland, one of the things that were discussed here before with previous witnesses was the idea of providing visas. In your presentation you talked about a visa for those women who've come here as sex workers or dancers, or what have you, that would allow them to stay once they're here. My question to you is broader than that.

If we were to review our whole immigration process and actually allow and change the requirement for visas for people who come to work...because the root cause is economic. Women come to Canada for economic reasons, and they take whatever route they can, because the current point system really makes it difficult for them to enter the country. I'm wondering if you could, in addition to the visa for those who are already here, instead of deporting them, provide additional programs and services. I'm assuming that you're saying we do not deport them. In terms of our point system, have you looked at all at the whole immigration structure and how it allows people to come in who need economic help?

**Capt Danielle Strickland:** I haven't. The only thing I've looked into is, particularly, sexually trafficked survivors and, just on the grassroots level, the inadequacy of what exists already. So I'm not a refugee or immigration expert, sorry.

● (1140)

**Hon. Maria Minna:** But at the minimum, you're saying we should provide visas. That's fair. I appreciate that.

**Capt Danielle Strickland:** Yes, and that might not be visas that are forever, but at least for a time where their basic needs and provisions could be met properly, at the very least.

**Hon. Maria Minna:** I like your comment with respect to considering this is a form of slavery, both for children and for women, and that it's a sex crime.

I raised the issue the last time with respect to charging men, decriminalizing the women but charging the users, as in any other crime. If it's a drug crime, you charge the possessor as well the trafficker, right?

**Capt Danielle Strickland:** Yes.

**Hon. Maria Minna:** We were told by the witnesses that this would not work because it just goes underground.

I still like the idea that you've suggested. Now you're seeing the same thing, but in Sweden it's working well.

**Capt Danielle Strickland:** Yes, it's working amazingly. Actually, it's one of the best models we have in terms of decreasing prostitution and human trafficking in their country.

**Hon. Maria Minna:** Has it gone underground, though, to a degree, as well?

**Capt Danielle Strickland:** Well, there is always an underground element, but in terms of prostitution use and the amount of prostitutes actually on the street, from what they can count, it has decreased by half, 50%.

**Hon. Maria Minna:** So you're looking at several hits. It's not just one, but a multi-approach—

**Capt Danielle Strickland:** Right. They have strong sentences for repeat offenders, which is another part of their plan.

**Hon. Maria Minna:** And you're right, it is an equality issue and it is a human rights issue, because it's children and women. I agree with your presentation. Thank you very much. I appreciate that.

Because my time is tight, I want to go over to NOIVMWC for a minute.

I have a couple of questions. I understand the issue of fraudulent marriages. I have a lot of immigration cases in my own constituency and have dealt with this issue. The difficulty is in how you prove it. You said that maybe we need to start demanding certificates, and that's proactively what Canada needs to do, but I have a question. I watched a documentary where—you mentioned the Muslim community—the marriages were being blessed by the imam for a short period of time. Maybe it was three months, maybe it was 12 weeks. In one case, I think it was in Afghanistan, they called it a *sigha*. That was sort of it. Somewhere else, in Iraq, they called it something else, but they facilitate. It's a form of prostitution; it's just that it's done under the guise of marriage.

Is any of that happening in Canada, do you know?

**The Chair:** You have one minute left for a response.

**Dr. Shandip Saha:** Not that I have heard of. That's something that, from my understanding, happens a lot between the Shia, within the Shia branch of Islam. These are temporary marriages that occur. I have not come across any examples of that as of yet, which doesn't mean it may not be happening, but we just don't know about it.

**Hon. Maria Minna:** I have one very last question.

You mentioned funding. When was that cut? Your funding has been lowered, you said, funding to NOIVMWC.

**Ms. Mirjana Pobric:** Yes, we are not in a good situation for the moment, but we'll deal with that.

**Hon. Maria Minna:** So that's a problem?

**Ms. Mirjana Pobric:** Yes.

**Hon. Maria Minna:** Okay. We need to address that.

**Ms. Mirjana Pobric:** We need that to proceed with our research on this issue and many others, and also integration of immigrant women into the Canadian labour force commensurate to their skills.

**The Chair:** Thank you very much.

Ms. Mourani.

[*Translation*]

**Mrs. Maria Mourani (Ahuntsic, BQ):** Thank you for joining us today. I have two questions, one for Ms. Strickland and one for Mr. Saha.

Ms. Strickland, you've given us a very interesting overview of the situation. You've established a link between prostitution and human trafficking. As noted by another witness, sexual exploitation is the reason for 92% of human trafficking around the world. Another interesting point is that you spoke about charging customers with a crime. You're the first to do so and you mentioned the Swedish model.

Admittedly, the black market is as much a problem in countries that have legalized prostitution as it is in countries that consider it a criminal offence. Consider the Swedish model. The black market is still a problem, regardless of the codes used. I know what I'm talking about, given my background as a criminologist.

Could you clarify your comments about visas? I'm not sure I understood what you said about this. Are you talking about visas issued to victims, and not visas issued to persons in order to come to this country and work in the sex industry, which would make ours a country in which prostitution is viewed as legal? Were you in fact talking about helping victims temporarily by issuing them a special visa? Is that in fact what you meant?

● (1145)

[*English*]

**Capt Danielle Strickland:** Yes, that's exactly right.

[*Translation*]

**Mrs. Maria Mourani:** So then, you weren't talking about creating a state that welcomes persons of all kind wishing to indulge in sexual exploitation. Is that correct?

[*English*]

**Capt Danielle Strickland:** That's right. One of my recommendations is that it would be a criminal thing to use a prostitute, that would be inconsistent with the law.

[*Translation*]

**Mrs. Maria Mourani:** Thank you.

Mr. Saha, I admit that I didn't quite understand your comments, and I apologize for that.

First of all, it's important to point out that not all Muslims and Shia agree to arranged marriages.

Moreover, I don't quite understand the connection you're making between human trafficking and arranged marriages. I imagine that there are cases of immigration fraud and theft as far as dowries are concerned, but how is this connected with human trafficking? You speak of fraudulent arranged marriages. Are you implying that so-called husbands buy young girls in Asia and once they arrive here, sell them off to bikers, street gangs or the mafia?

[*English*]

**Dr. Shandip Saha:** In terms of the first question, you're absolutely right. I did not want to leave the impression that all members of the Muslim community engage in arranged marriages. I singled out the Shia because that is what came to mind at the moment from my own research in terms of temporary marriages.

Again, I don't want to make a blanket statement about that, and I'm glad that you corrected me. Thank you very much.

When it comes to the second issue, I think in terms of the way we have broadly defined this, people are being promised or lured to Canada, in a sense, by the promise of a better life. They come here with high expectations, but when these women get here, they find they're completely dependent on their husbands, who start to physically abuse them, and then they're thrown out on the streets for whatever reason. They don't have any recourse, but these gentlemen, being Canadian citizens or landed immigrants, are protected, especially if they also have \$30,000 as a dowry in their pockets.

I'm not an expert, by any means, on the way that arranged marriages themselves work. I know that sometimes there are agencies that will act as go-betweens. You can see any number of these things on the Internet. As to the potential legitimacy of these things and how much they operate in Canada, I am not sure about that.

The very notion that people are sometimes simply being deceived into coming here, then being let out for no other reason than to get their money—

**The Chair:** Thank you very much.

Ms. Smith.

**Mrs. Joy Smith (Kildonan—St. Paul, CPC):** Thank you.

I would like to thank the presenters today for their very insightful presentations. This is indeed a very important topic that we are studying here on the status of women.

Often you hear that prostitution or trafficking is an industry and that it's something in Canada we should accept—it happens. I don't agree with that. I think it's something that needs to be stopped, and stopped very quickly. But I have very good reason to believe it's growing.

I want to hear each of you, but I would ask Ms. Strickland to start. My question to you is, have you heard this kind of thing in your

travels and through your experience, and if you have, could you please make comment on it?

• (1150)

**Capt Danielle Strickland:** Sure, I hear it all the time. I live in Vancouver's downtown east side. It's a big voice there, and in the press there is a lot of advocacy toward legalization of prostitution. I'm baffled by it personally. I live there. I work there. I meet women all the time who live in horrific situations.

I think there's a lot of money to be gained by legalizing that, and I think there are people who have some motivation besides the dignity and rights of women in Canada, and those motivations are monetary, I believe. I don't see any other potential reason, and I think all you have to do is meet someone who has been sexually exploited to realize that it is not a reasonable line of work.

I'm baffled by it personally, in terms of close proximity and watching what that looks like, not only on the streets in downtown east Vancouver but also in brothels. I've visited a couple of brothels, simply to pray with and visit women trapped in that sort of situation, and even inside these so-called reasonable places, it's horrific. I don't get it.

**The Chair:** Ms. Grewal.

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

Thank you to the witnesses for your time and your presentations. My special thank you goes to Captain Strickland, because she's from my riding and she came here on such short notice. Thank you, Captain, for doing great work on behalf of all us and for making this place a better place for all of us.

My question is, what do you think this committee can do to improve Canada's efforts to fight human trafficking?

**Capt Danielle Strickland:** Release federal funding for provision for victims; create a visa, a federal legal way for victims to get the right provision in Canada for a long enough time; recognize prostitution as a form of sexual slavery, which would include stopping language about it being a trade—that's very important—and criminalize prostitute users and decriminalize prostitutes. Those are things you can do right away that would really begin to aggressively attack this issue in Canada.

**The Chair:** You have a minute and a half.

**Mrs. Joy Smith:** Thank you. This question is direction to Dr. Saha.

What do you think is the fastest way any government can address this issue of the arranged marriages? What concerns me is that you say there is no registration for these marriages, so someone can supposedly think they are married and, when they get to Canada, find out there is no proof there. Yet if something happens to the woman involved....

What do you think should be done so this can be quickly addressed without further victims being a part of this?

Either Mirjana or Dr. Saha, whoever would like to address this issue, I'd be very pleased to hear it.

**Ms. Mirjana Pobric:** I'm just trying to find my papers on long-term, mid-term, and short-term recommendations.

In the past I've worked with abused immigrant women, and most of them were sponsored brides who came to this country under the sponsorship program to get married. They live in a form of segregation outside their ethnocultural community—a small community—in total dependence on their husband. They have nobody else. They don't know how to reach out for help.

Very often, we've said let the sponsor pay. There is a problem, because immigration and sponsorship programs are a federal jurisdiction while any kind of assistance or help is provincial. Sometimes there is a conflict or gap. That's why we call this a form of human trafficking in the broader definition. Women are left—

• (1155)

**The Chair:** I'm sorry that I have to interrupt. We want to get one more opportunity for questions. We have the minister coming at noon today, so our time is tight.

Ms. Charlton.

**Ms. Chris Charlton (Hamilton Mountain, NDP):** Thank you very much.

I'll limit myself to one question for each of you, if that's okay.

I'd like to suggest we're breaking new ground here by recognizing that human trafficking is an important issue, but we're not the first parliamentarians who have thought about this issue. We haven't made very much headway. We have a UN protocol. We have sections in the Criminal Code that address this issue. Yet, as you suggest, Ms. Strickland, there's paralysis here.

I wonder if we can explore that a little bit longer, because it seems to me that some of the issues you were talking about, particularly on the victims' side, really speak to a disconnect between what the federal government is and should be doing, what provincial governments need to be doing, and what municipal governments need to be doing. What I worry about is that each time we address this issue we allow different levels of government to point fingers.

So when we say yes, we need changes to the way the temporary residence permit is thought about, and we need a different way of conceptualizing what we do for training, for education, for housing, right down to what we do with shelters at the municipal level, how do we get around the systemic paralysis so that we're all doing our bit to assist victims in a more effective way?

**Capt Danielle Strickland:** I think someone needs to take the lead, and we need to create a model. I think where the breakdown happens is that we haven't really been here before in this specialized way. So although it's an issue we've talked about, we haven't gotten to a grassroots level of actual provision. So there is no safe house for women who have been sexually trafficked, who have survived that. Those infrastructures don't exist. They're all conceptual things, without any actual tangible stuff, and I think someone needs to just lead the way. I suggest that the federal government lead the way in creating a model, and then perhaps once the model has been created, that they begin to hand it over to provincial jurisdictions.

That's one suggestion. It might be naive, I don't know, but I'll throw it out there.

**Ms. Chris Charlton:** Thanks. I'd like to ask you a lot more, but I recognize the time limits, so I'll be quick.

Dr. Saha, when we talked about fraudulently arranged marriages, and correct me if I'm wrong, first you said that they were on the increase in Canada. And second, I was under the impression that you very much link them to the newcomer experience in Canada. You talked about arranged marriages being both a means of immigration and a vehicle for financial gain.

So if we're talking about the newcomer experience and an increase in the incidence of arranged marriages, does that not suggest that somehow we, as a country, when we allow immigrants to come in, are actually also at fault by fraudulently advertising what the immigrant experience will be like here? We're leaving immigrants with not enough money to actually make Canada their new home. What do we need to do in terms of our immigration policies for there to be better means of family reunification, for example? Are those some of the roads you're leading us to, or was I incorrect in understanding that you were linking this very much to the newcomer experience?

**Ms. Mirjana Pobric:** Yes, that's what we would ask in order to protect these women. If you want to immigrate to Canada, there are other ways, not through fraudulent marriages, to reach this country. Many immigrants are doing it in regular ways.

**Ms. Chris Charlton:** Are you suggesting that the problem would go away, though, if we actually had adequate reform of our immigration system and if we made sure newcomers had the kind of financial support they need to start their lives over?

**Dr. Shandip Saha:** That's right.

Just to quickly answer the question that was asked before, the quickest way to deal with this issue, I think, based on our recommendations in our brief, would be legal empowerment for these women so they feel they have some legal way, through an extradition process and visas, to pursue these individuals who are defrauding them of their money and then just leaving them out in the cold.

**The Chair:** Thank you very much.

To all our witnesses, thank you so very much for taking the time to come in and give us some additional insight into what is an extremely important subject, I believe, for all of us at this table, and for Canadians overall. So I thank you for the good work that you all do. We appreciate it. Thank you very much.

If you have anything in writing, Ms. Pobric—you mentioned that you had some long-term and short-term recommendations—would you send it to the clerk and we will ensure that the committee members receive it?

• (1200)

**Ms. Mirjana Pobric:** I already did. Thank you.

**The Chair:** Oh, you did. Wonderful.

All right, I will move suspension for a few minutes until Minister Prentice arrives.

•(1200) \_\_\_\_\_ (Pause) \_\_\_\_\_

•(1205)

**The Chair:** I will reconvene the 18th meeting of the Standing Committee on the Status of Women.

I'm very pleased this morning to welcome the honourable Jim Prentice, Minister of Indian Affairs and Northern Development.

Mr. Prentice, we truly appreciate the fact that this is your second visit to our committee. Every time we've asked you, you have responded in a matter of days or weeks. Knowing how busy you are, we very much appreciate your availability.

You also have with you, from the Department of Indian Affairs and Northern Development, Sandra Ginnish, director general, treaties, research, international and gender equality branch; as well as Holly King, acting director, women's issues and gender equality directorate. From the Department of Justice, we have Christine Aubin, legal counsel. Again from the Department of Indian Affairs, we have Wendy Grant-John, ministerial representative.

I believe it's your first time joining us, Ms. Grant-John.

We're very pleased you're all here. I will turn it over to the minister.

Again, thank you very much for coming.

**Hon. Jim Prentice (Minister of Indian Affairs and Northern Development):** Thank you, Madam Chair, for having me here today, along with some of the fine people from the department, Sandra Ginnish and Holly King from our department, and Christine Aubin from the Department of Justice, all of whom are integrally involved in this file.

It's also a real pleasure to be here not only with you as parliamentarians but also with Wendy Grant-John, who I know you'll enjoy having an opportunity to speak with today. She is one of the most respected leaders in first nations communities across Canada and certainly one of the most respected women in this country. I was honoured when she agreed to take on this task and to lend not only her personal commitment but her integrity and reputation to what we're trying to do. I know you'll have an excellent chance to talk with her.

Thank you for your kind words about my responding quickly. It would be more a tribute to my staff than to me in making this happen, but I'm delighted to come any time.

I appreciate the opportunity to appear before the committee.

•(1210)

[*Translation*]

I appreciate this opportunity to address the Standing Committee on the Status of Women.

[*English*]

I'd like to begin by thanking all of the members for the work on this difficult issue of on-reserve matrimonial real property, which I will describe in shorthand as MRP.

Your report, the committee's seventh report, really highlights the issue and provides some valuable insight into what needs to be done and highlights the legislative void that currently exists in this country.

[*Translation*]

I agree wholeheartedly with the committee's view that this void effectively violates the human rights of many First Nations people, particularly women. The issue is also closely linked with other social ills, such as violence against women.

[*English*]

This is something that I know Wendy will speak to you about.

The complex nature of MRP is well documented in a number of reports of the Senate and by parliamentary committees, by officials in my department, and by independent and international groups that have explored this issue and various aspects. I agree with the committee's contention that enough study has been done and immediate action is now required.

Our government has begun to take action on this issue. I'm pleased to report that the consultation process, the consultative process that Wendy is leading, has begun. It will be a well-informed, effective, and sustained solution for on-reserve matrimonial real property, and Wendy will speak about this. I think we are seeing a very high level of engagement and commitment from the national aboriginal organizations and from chiefs and councils across the country.

The matrimonial real property or the family home is normally the most valuable piece of property that a couple on reserve owns. In that sense they are the same as any other Canadian family. Upon the breakdown of a marriage, the division of this property necessarily affects everybody who's involved, both spouses, male and female, their children, their families, and by extension the broader community.

The principles and rationale guiding our forward momentum on this issue and our commitment to resolving it are really pretty straightforward. We want to ensure the legal rights and remedies that are available to other Canadians off reserve are also available to first nations citizens, men and women, living on reserve. We wish to ensure there is a framework in place to ensure there's a fair division of property upon the unfortunate breakdown of a marriage.

[*Translation*]

The stories we have heard over the years are heartbreaking, and by now, all too familiar.

[*English*]

We need to make sure we address this legislative void in a manner that is acceptable to those who will be affected, and this, I agree, is an issue that is not without its complexity. First nation individuals—particularly women and children—and first nation committees must, however, be the focus of this initiative.

[*Translation*]

That is why I believe the consultative process currently underway will achieve what we are hoping to achieve: a balance between individual and collective rights.

[English]

We've heard concerns during the consultation process to date that many first nations people are afraid that the underlying objective of this process will be to lead to an erosion of reserves. The goal of this process, I want to be clear, is to address the long-standing human rights issue. It is not the Government of Canada's intention to extinguish reserve status or to damage the collective status of reserve holdings through MRP legislation.

One of the principles my department has stated throughout is that reserve lands shall not be alienable. Let me assure you that reserves shall remain for the use and benefit of the first nations for which they were set aside. This process is led by Ms. Grant-John, a respected leader, a successful entrepreneur, and a skilled negotiator, in partnership with the Native Women's Association of Canada and the Assembly of First Nations. I'm very confident that this process will lead to innovative and effective solutions, solutions that will help ensure that matrimonial real property rights on reserve are protected while respecting community interests and protecting reserve lands for future generations.

Christine Aubin can speak to this, but the common law is infinitely capable of both protecting matrimonial property and ensuring the continuity of first nation reserves and the status of reserve lands.

Although it is far too early to predict exactly what legislative options will emerge from this process, the substantial research and analysis already conducted suggests a range of possibilities. At one end of the range lie a few amendments to the Indian Act itself, amendments that would see existing provincial laws on family and property apply on reserve. At the other end of the range is legislation that would grant individual first nations complete control over matters of family and property law on reserve.

•(1215)

[Translation]

Given the difficulties posed by each of these options at the extremities, I believe a sensible solution lies somewhere in between.

[English]

With all of the key stakeholders engaged, I am optimistic that the process will succeed. My optimism, as I said earlier, is also fuelled by the abilities of Ms. Grant-John, our representative.

[Translation]

Madam Chair, I am confident that the process now underway will not only lead to a legislative solution, but will also foster the support needed to implement that solution effectively.

[English]

Furthermore, to help address the often difficult situations faced by first nations women, I am announcing that an additional \$6 million will be made available this year to help ensure that the network of 35 INAC-funded family violence shelters are better equipped to provide much-needed services to women and children on reserve. This amount will include funds to support resources, such as staff training, and direct costs to clients, such as food and clothing.

Thank you for the opportunity to appear before you today, Madam Chair. I'll do my best to answer your questions.

**The Chair:** Thank you very much, Minister Prentice. We will move on into our question and answer portion.

Ms. Neville, you have seven minutes in the first round.

**Hon. Anita Neville (Winnipeg South Centre, Lib.):** Thank you very much, Madam Chair.

Minister, I appreciate very much your being here. I particularly appreciate Ms. Grant-John's appearance before the committee.

I concur with the words you have expressed to us today. I think a solution must be found, and I appreciate that the consultation process is going on.

I have a number of questions, and some of them relate to the consultation process. I would like more information from you or Ms. Grant-John on how that is being conducted and who is participating.

But I also have a question that I would welcome a response to. I went through the consultation document on the web, and one of the alternatives you are proposing to deal with matrimonial property is provincial legislation. We've had Supreme Court decisions that have indicated that provincial laws cannot apply to reserve lands. Why are you proposing these kinds of solutions? Are you concerned that potential laws may be subject to challenge, and would it not be better not to propose unenforceable solutions?

So my questions are on the provincial jurisdiction and the consultation process.

**Hon. Jim Prentice:** If I might, Ms. Neville, I'll respond in an overview way to the provincial legislation question. I think Wendy is probably the appropriate person to respond on consultation, because she's been leading the process.

First, I've asked Wendy as my ministerial representative to bring a legislative recommendation to me as minister. I have not prejudged anything. I have no favoured position on a personal basis as minister. I'm waiting to see what Wendy brings to me as her recommendation.

One of the options that have been considered in the past by other committees is provincial legislation.

•(1220)

**Hon. Anita Neville:** I'm aware of that.

**Hon. Jim Prentice:** My reading of it is not that provincial legislation in and of itself would apply on reserve, because there would not be jurisdiction for that. Rather, the suggestion has been that the provincial law could be incorporated by reference, on an interim basis, pending a first nation addressing the issue.

That is one of the solutions. It's not the one I particularly favour, but my understanding is that there is a way it can be made to work legally. It's not unusual. There are some other areas of jurisdiction, including industrial development on reserve lands, where a first nation community not wishing to reinvent the wheel is adopting provincial laws by reference, and even provincial administrative regimes. It's not without precedent to go down that road, and it could be quite workable. But again, that's not my recommendation or preference, it's simply one of the alternatives.

**Hon. Anita Neville:** If I can comment, it's concerning that it is presented as an alternative when it is potentially not enforceable. But that's another discussion.

**Hon. Jim Prentice:** Well, it is enforceable, and it has been assessed as an option by other parliamentary committees.

**Hon. Anita Neville:** Thank you.

With respect to my questions on the consultation process, I'm interested in knowing the nature of the consultation process and the timelines. We've had information that this legislation will be forthcoming early in 2007. Is that adequate time for the fullness of the consultation process? What else you can tell us, Ms. Grant-John?

**Ms. Wendy Grant-John (Ministerial Representative, Women's Issues and Gender Equality Directorate, Department of Indian Affairs and Northern Development):** I'd be happy to answer. We started the consultation process, and September 29 was the launch. The Native Women's Association, the Assembly of First Nations, as well as the Department of Indian and Northern Affairs are out there as we speak.

The Native Women's Association has been ahead of everyone. They've had three consultation sessions across the country so far. What they're doing is breaking it up into three different areas. They have focus groups, then they have open sessions, and then they have a support session for the women who come.

The Assembly of First Nations is just starting. They're going to address the 630 communities across the country. They've decentralized their consultations, so each of the regions will consult in the manner they want in their region. They will be starting this week in Vancouver.

The Department of Indian and Northern Affairs will be consulting with any one of those groups that are not represented or that purport that they do not want AFN or NWAC representing them. That's the Congress of Aboriginal Peoples, the provincial and territorial governments of course, and the Indigenous Bar Association.

The sessions I've attended so far have been very productive. Of course, they have all been Native Women's Association, because the AFN isn't on the road yet. But they have been very informative with a lot of discussion about exactly what you've brought up. There are a lot of informed women who are coming forward and expressing their opinions on the three options that have been presented, as well as bringing other options that might be considered.

**Hon. Anita Neville:** My question is to the minister, and it focuses on legal aid.

We know that many issues relate to the fact that individuals don't have a high enough income, nor can they access legal aid when there is a need for dispute resolution. And you and I both know of a

number of instances where women's groups and women have been left out in the cold. How do you see this matter being resolved in the dispute resolution process? And do you see it being resolved through this consultation process?

**Hon. Jim Prentice:** The consultation process really is focused on how we can arrive at a legislative solution that's workable. How such a legislative solution would be enforced, how it would be applied, how it would administratively operate—that is all proper discussion at the table in terms of the consultation process. Obviously it's not a consultation process on the legal aid system and how it's functioning, and cost sharing between the provinces and others; we're staying focused on the debate and the dialogue that needs to happen about the form of a legislative response so that we can deal with this. Clearly, once the legislation is in place, we all, as parliamentarians, will have to make sure it's working effectively. But we need to take the first step, which is to get a law in place that is workable.

●(1225)

**The Chair:** Ms. Mourani.

[Translation]

**Mrs. Maria Mourani:** Thank you, Madam Chair.

Thank you for joining us today. I also want to thank all of the women who came here to share their stories with the committee.

The Standing Committee on the Status of Women held consultations on this issue. It became apparent that we were dealing with a very complex subject. Perceptions and viewpoints vary widely. Some argued that the Indian Act was a colonialist act and not the right solution. Others maintained that resorting to provincial legislation was not the right option either. Still other maintained that this issue should be addressed by First Nations themselves. Some women told us that turning this issue over to First Nations would be tantamount to giving powers to chiefs who, in their opinion, may not necessarily have any intention of ruling favourably toward women. Moreover, I read in the October 3 issue of *Le Devoir* that several band chiefs were reluctant to grant more power to women.

I agree that this is a very complex issue. No doubt you realize that too. However, will this option truly serve to defend women's rights or will it merely appease everyone? What measures are being proposed by the government?

[English]

**Ms. Wendy Grant-John:** Thank you.

I asked the minister if I could address it, because being a first nations woman who's lived in my community for 57 years this year, I think I've had the experience that you've described.

I've also travelled across the country since I've come on, and talked to individuals who have experience and expertise, whether they're lawyers or judges, first nations, who have been working in this area for a number of years, and I have to say that without exception I am being told that the issue of the power struggle that is being presented is something we need to be very careful about. In fact, when you look at the traditional forms of government in first nations communities, women had a position of equality and equity in the community. And when we go forward with any legislative approach, we need to ensure we capture this, that we do not in any way diminish the ability of women to take their rightful place in the community from a traditional government perspective—and that's when we talk about our collective rights—and that we are aware that the problem has been created by the imposition of a government that is not something we are comfortable with. And if we are going to change this, we have to acknowledge the work that needs to be done to ensure that the traditional values are put in place.

Let me just quote one woman, an elder, quite elderly, in a community who said, "Why would I want to have any legislation to guarantee me my rights in the community, when if I took those rights I would be a lesser woman than I am in my culture as it stands today?"

So I think we have to have a lot of sensitivity around that and we need to ensure that as we bring these forward we understand that the issue of the Indian Act and the elected chief and council is something that is still being struggled with in the community. And when we get to a solution—a self-government solution, a jurisdictional acknowledgement of that—we have to guarantee that those communities are allowed to let this happen in whatever timeframe they think is necessary.

[Translation]

**Hon. Jim Prentice:** Thank you for that question. I agree with you that this a difficult, and rather complex issue. However, we are in the process of finding an effective solution. By that, I mean a solution that will not only restore equality between women and men, but also protect women and children who make up families.

• (1230)

**Mrs. Maria Mourani:** I have a question for Ms. Grant-John.

By legislative approach, do you mean including new measures in the Indian Act, or drafting an entirely new piece of legislation?

[English]

**Ms. Wendy Grant-John:** On what I'm talking about, the minister is saying he's going forward with legislation, and that's something the communities are coming to accept. But in any legislation model, we need to have a discussion around implementation that supports the traditional government system within the communities. So go ahead and fill the gap in the Indian Act, but ensure that it doesn't continue the struggle between the powerful men and the women who supposedly are not able to get into that system. When we do that, it will probably be at the other end when we talk about implementation. How is that going to look for those communities as they build their self-government models?

I hope that answers it.

[Translation]

**Mrs. Maria Mourani:** I'll leave it to my colleague to ask you a question.

[English]

**The Chair:** Just over one minute.

[Translation]

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** Minister, I'd like to discuss a very specific case. I'd like either you or Ms. Grant-John to answer my questions.

A married couple opened a service station on a reserve. They subsequently separated and got a divorce. When the divorce became final, the wife was unable to recover her half of the business. This incident occurred in Quebec.

My question is this: as part of your consultative process and in keeping with your plans to draft new legislation, did you or do you intend to take into account the laws that apply in Quebec?

You stated the following in your address, "Reserves shall remain for the use and benefit of First Nations for which they were set aside." What exactly do you mean by that? What implications does this statement have for my client? I did in fact act as legal counsel in this matter. Will this case be settled sometime in the next 20 years, or will we have to wait even longer, as people have been doing for many years already?

**Hon. Jim Prentice:** These are difficult questions to answer. Regardless, it's critically important that we discuss Quebec and other provincial legislation.

[English]

On the specifics of the case, as minister I have heard of similar situations involving family-owned and -operated businesses where, upon the dissolution of marriage, the males ended up taking all of the property. In fact, one of the women who spoke on September 29 at the official launch had been in exactly that circumstance. So that is part of what we are trying to remedy.

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

Ms. Smith is next.

**Mrs. Joy Smith:** I'll share my time with Mr. Stanton.

Very briefly, Minister, we're so happy that you're here today and so pleased that this issue will finally have a place in Canada law where matrimonial property rights will be encompassed.

I'm also very interested in what Wendy Grant-John had to say about the traditional values. Our son is married to an Ojibway girl—he's in the RCMP—and this kind of culture is very important to the roots and the foundation of any aboriginal family.

Could either the minister or Wendy Grant-John speak a little bit more about the importance of this and why we have to be very mindful of some of the things that are presented to us in this legislation that will come forward?

**Ms. Wendy Grant-John:** I'd be more than happy to.

When we look at our communities as they are today, there is a huge struggle because of a lack of understanding on the part of the non-aboriginal community about where we were as communities and about our ownership of land. We'll just deal with ownership of land. I can't go into the whole big picture.

In fact, before the imposition of the Indian Act women did hold land collectively, but it wasn't the kind of ownership we look at now, which is fee simple, and you can trade it around or sell it. The ownership and the value of it was held by the family, with the women having as much say as anyone about how it was distributed, how it was broken up, and what it was used for. Once the Indian Act came into effect, there was, of course, the Westminster model, and the lands were broken up. I know that in a lot of communities, they only gave them to the male heads of the family.

I want to make a little bit more of a comment with respect to the place of women. I've done a lot of research in this area, and it reinforces what the elders are saying to us, that the women did hold.... As a matter of fact, I think the women held a higher place in our communities in a number of areas than did the men.

When you do your research, you see in a number of writings that when the non-aboriginal people came into our communities, one of the first things they said is this. What you need to do in order to—and these words I don't agree with—civilize the Indians is break the relationship between the men and the women. You need to instruct the men on how to treat their women, because their women have too much power. The women have too much of a place in the community and in decision-making; therefore, we need to ensure that the European men teach the Indian men how to treat the women.

The women in our communities know this, and they are still holding on to all the culture, all the history, all the stories. The women hold those, and as the givers of life, they hold a very high position. That's what we're talking about when we talk about returning to those traditional values and ensuring that when we build our communities from the ground up, which we want to do, we have the place of women, which is at a much higher place than it is in the non-aboriginal community, I'm sorry to say.

• (1235)

**Mrs. Joy Smith:** Thank you.

**The Chair:** Mr. Stanton is next.

**Mr. Bruce Stanton (Simcoe North, CPC):** Thank you, Madam Chair.

At a very practical level, in the non-native realm and through provincial law, when there's a marriage breakdown, the real property is often sold and the value of what is deemed to be the real property or other family assets is divided so that the couple can take the value of those assets and move on with their lives.

In a case in which there needs to be respect for things like land tenure within and on reserve, ultimately when there's a marriage breakdown and the woman may wish to go on and make a different life for herself—or the man, for that matter—there needs to be some reconciliation of the value of the property. Through this process, has there been any discussion thus far about the monetary remedy? If a monetary-type remedy comes to the table in a case like this, how

would that typically be funded, in a case in which real property can't in fact be sold?

**Hon. Jim Prentice:** Christine Aubin, a lawyer with the Department of Justice, is working on this file.

**Mrs. Christine Aubin (Legal Counsel, Legal Services, Department of Justice):** The Supreme Court of Canada has taught us through two cases, one being the case of *Derrickson v. Derrickson* and the other one being *Paul v. Paul*. They were twin cases.

The one more on point is the *Derrickson* case. It looked at the situation of Mr. and Mrs. *Derrickson*, who were in that very situation that you are pointing to. The court first concluded that in effect provincial laws relating to the specific issue of matrimonial real property within family law could not apply on lands set aside as reserves. Then, after going through an analysis of the conflict that would have with the Indian Act, the court turned around and identified the remedy of the compensation payment, or the payment in lieu of division of assets. It found that there would be no conflict, as there were no provisions in the Indian Act dealing with compensation payments, and that it was a remedy that might be applicable in the case of *Derrickson v. Derrickson*.

**Mr. Bruce Stanton:** If there is then compensation deemed in the case of a marriage breakdown, or if there's a resolve that compensation is owing to one or the other—if one person is to stay on reserve, for example—how would that be funded? Would the band, in this case, need to allocate resources? In a practical sense, where would those dollars come from?

• (1240)

**Mrs. Christine Aubin:** When there is a marital breakdown, the division of property or the compensation in lieu of the division of property is a dispute between two individuals, whereas if one spouse owes, as part of the compensation payment, a balance of moneys to the other spouse, it's certainly up to that individual to come up with those funds. However, there will be a valuation of that spouse's assets in order to, first, determine the compensation payment, and second, effect the compensation payment.

**The Chair:** Thank you very much.

Ms. Crowder.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** Thank you to the minister and staff and to Wendy Grant-John for coming today.

I looked at the INAC website, and there are lessons learned from the U.S. experience. In a nutshell, it talks about the resolution of real property disputes under tribal law and by tribal courts tending to be more successful than dispute resolution under alternative regimes. It's much more complicated than that, but that's it in a nutshell. I heard Wendy Grant-John say that it is becoming more acceptable in communities to look at legislation, so I assume implicit in that is that perhaps not all communities are there.

My question is a two-part one, one to the minister and one to Ms. Grant-John.

To the minister, given the range of proposals that were in your presentation, are there minimum standards that you would like to propose that legislation or bylaws might need to meet? If yes, what would those minimum standards be?

Ms. Grant-John, could you expand on that comment about it becoming more acceptable? I assume there are people who are saying legislation by the Canadian government is not acceptable.

**Hon. Jim Prentice:** I'll do the best I can, Ms. Crowder, to answer that question.

In terms of what's happening out there and the legislative void, I noticed, in the media coverage that surrounded the September 29 announcement to start the consultation, that one channel at least had described this as a loophole in the law. I think it's a lot more than a loophole in the circumstance where we have 250,000 Canadian citizens, first nation citizens, women, who are living without the protection of the same matrimonial property laws as apply to other Canadian women. I regard this as a very serious human rights issue that needs to be addressed and remedied quickly. I said this before when I was here and I'll say it again: I appeal across party lines to every single parliamentarian who's at this table to help us make sure this initiative works, because it is not acceptable in Canada in 2006 that we have a quarter of a million women who don't have the same rights as other off-reserve Canadian women.

At present, there is some limited progress being made. There are 630 first nations across Canada, and as I recall, 11 have adopted matrimonial property regimes that are consistent with laws of provincial application. Most of the current modern self-government regimes that are being negotiated as part of land claim settlements deal with the issue of matrimonial property, but not even all of those actually deal with the issue. Some of them deal with it by reference to provincial laws, some deal with it just by silence, frankly, and some of have adopted first-nation-specific codes.

So there's a range of alternatives being pursued, but at the end of the day, what we're looking for in this step forward is a law of general application that will apply, pending first nations putting in place their own matrimonial property regime that's consistent with the charter and consistent in a general way with the equilibrium and balance that we see in provincial matrimonial property legislation.

**Ms. Wendy Grant-John:** Thank you for raising that and having me qualify what I did say.

Concerning the acceptance of the legislative models, what I was talking about—and I didn't underscore this—is that when we look at the gap, or the void as it's being called, I'm talking about that kind of acceptance within the Indian Act itself. People want to ensure that there's something there, but the key point is that it's only a step towards jurisdictional recognition for their own models. That is very clear everywhere we go: we will accept going through the legislative model until we have our own in place.

• (1245)

**Ms. Jean Crowder:** Do I have time left?

**The Chair:** A minute left.

**Ms. Jean Crowder:** Ms. Grant-John, what I'm hearing you say is that it looks like an interim solution until first nations communities are prepared to step into it with their own codes.

**Ms. Wendy Grant-John:** Well, there needs to be something done immediately, and this is an instrument we have that's ready to go. People are saying yes, we need to ensure that...because it's mostly women and children who are affected, even though there are men,

and I can give examples of that. It's about the underlying jurisdiction in the end, but right now let's put whatever we can in place to ensure that these women and children are protected through this process.

**Ms. Jean Crowder:** You specifically referenced changes to the Indian Act versus the provincial legislation.

**Ms. Wendy Grant-John:** Well, there are the three models out there right now, but there are other ways of going at it as well. There might be other options.

**The Chair:** Ms. Minna.

**Hon. Maria Minna:** Thank you, Madam Chair.

First, I know something that exacerbates the whole issue here is the shortage of housing on reserves, and I wonder whether that was part of the equation. I know we are looking at the consultation and possible legislation, but I'm wondering if the underlying cause that exacerbates the situations on reserves is also part of the policy development.

**Hon. Jim Prentice:** It's certainly part of the policy development in the department, but the consultation is directed to the legislative model by which we can protect women and children with matrimonial property rights. It's not dealing with many of the other issues that the former government addressed, which we are addressing.

**Hon. Maria Minna:** I understand. I guess what I'm saying is that the shortage of housing is the main problem that causes this issue to become that much more difficult. What I'm asking the minister is what housing plans there are, in terms of housing on the reserves, to alleviate the situation.

**Hon. Jim Prentice:** Well, first, I don't agree that housing shortage is the issue. I accept your point that it exacerbates the situation, but the fundamental issue we're dealing with here is that women in Canada, in 2006, have no matrimonial property rights, and that needs to be remedied. It needs to be remedied in a way that respects the long-term jurisdiction of first nations to pass laws that deal with that problem, but it needs to be remedied, as Wendy says, in an immediate way, so that first nation Indian women have the same protection, and their children have the same protection, as other Canadians.

Part of the problem at the moment is that, frankly, in the event of a matrimonial breakup, in many circumstances the first nation mother takes her children, leaves the reserve, and goes to the city and lives in poverty. That's a consequence of this and it's not acceptable, so we have to deal with it.

**Hon. Maria Minna:** I understand the importance, and I'm not making light of the importance, obviously, of the matrimonial rights, the debate that we're discussing, but it doesn't take away from the housing shortage, which is an issue.

I want to go to another item, Minister. When you appeared before this committee on June 22, you stated that, "Consultation is a process on the road to decision-making. It is not a process to achieve unanimity...", and basically you're talking about bringing legislation into the House of Commons and fighting to have it adopted in the House, and that's where we're going as far as legislation is concerned. What happens if the consensus comes out that legislation is not the best way to go, or is that a given at this point?

I guess what I'm asking is this. If the consultation that is out there now comes back and says that a legislative solution is not the preferred solution, is there a backup?

• (1250)

**Hon. Jim Prentice:** All of the committees that have looked at this, including this committee and the committee of the Senate, have essentially said it's not an acceptable situation that first nation women do not have property rights. The only way to remedy that is through a legislative mechanism. There is no other way to confer human rights or property rights on women short of the legislative assembly, the Parliament of Canada, being prepared to move forward and to deal with the issue.

What I've said, as the minister, is that I intend to deal with it. I intend to introduce legislation. If there are those who are going to vote against it, then they will be accountable at the end of the day. On my watch, we are going to take steps to protect first nation women and their children and to give them the same rights as other Canadians have. It will be introduced to Parliament, and people can make their own choices at that point, as parliamentarians. But there will be a solution. The consultation is to explore the different alternatives on a medium-term and long-term basis, but there will be legislation introduced.

**Hon. Maria Minna:** I presume that along the way—

**The Chair:** Ms. Minna, your time is up.

Ms. Smith.

**Mrs. Joy Smith:** My question is for the minister. I'm pleased to hear that this government is taking the lead in making sure this issue is addressed. There's been study after study for so many years through different parties on all sides. I commend you and heartily agree that this matrimonial rights issue needs to be addressed. Could the minister please give this committee some idea of when we might see this legislation, and when the consultation process will take place?

**Hon. Jim Prentice:** Wendy will be consulting through the fall in the way that has been described. She and I will have discussions. We speak regularly about the progress that's being made, and that will carry on through Christmas and into the new year. It's our hope that as soon as possible in the spring Wendy will have reached the point in a consultation process where she's confident in bringing forward a recommendation. We'll take as long as it requires to sit down, digest what we've heard, come up with a recommendation from Wendy, and introduce legislation in the spring.

**Mrs. Joy Smith:** I think I can speak for all of us when I tell you how exciting that is to hear. Maybe I'm a little biased—I have a family member who is an Ojibway girl. But I've heard about this over and over again. We talk about equality for women and bringing down the barriers, and this is certainly one barrier that we're excited to see addressed.

Do you have any further comment? Is there anything more you'd like to say, Minister Prentice?

**Hon. Jim Prentice:** I have full confidence in Ms. Grant-John. I'm sure you'll be meeting with her again, but I think you all have a sense of the quality of person who's shepherding this process along. I know that she'll do a wonderful job and that this will result in a legislative solution that protects women and children.

I would implore all members to work with us across party lines. In my time in opposition in Parliament, and as a minister, one of the groups that moved me most has been the Native Women's Association of Canada, who describe themselves as representing the poorest of the poor in our society. The Native Women's Association of Canada, along with the AFN and people in the communities, really want to see this issue addressed. So it's about them. Moreover, it's about this Parliament having the courage to move forward and pass legislation that provides human rights protection to first nations women and children.

• (1255)

**The Chair:** Minister Prentice, we thank you and your officials for taking the time to come and discuss with us an issue we all want to see resolved.

We will move for adjournment. I advise the committee that a notice of motion has been circulated by Ms. Minna. Please note this for the next meeting.

Ms. Mourani.

[*Translation*]

**Mrs. Maria Mourani:** Madam Chair, I'm wondering if at our next meeting, we might get a copy of the agenda and new witness list. I'd like to know when these witnesses are scheduled to testify. I submitted some names and I'd like to know what's happening with these prospective witnesses.

[*English*]

**The Chair:** Yes, thank you, Ms. Mourani.

I'll move adjournment. Thank you all.





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