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# Standing Committee on Citizenship and Immigration

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**Monday, March 31, 2008**

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**Chair**

**Mr. Norman Doyle**

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## Standing Committee on Citizenship and Immigration

Monday, March 31, 2008

• (1305)

[English]

**The Chair (Mr. Norman Doyle (St. John's East, CPC)):** I would like to call the meeting to order, please.

Good day, everyone. I want to welcome you all here today as we begin our cross-country deliberations. We are the House of Commons Standing Committee on Citizenship and Immigration, and we have been mandated to hold hearings on three very important matters, matters that we know are of interest to you and, judging from the number of people who want to meet our committee, of interest to quite a number of people right across the country.

We have approximately 52 panels that we will be hearing from between now and April 17. We're starting, of course, here in British Columbia and finishing up in St. John's, Newfoundland, some time around April 17.

If you're not already aware, our committee is made up of members from all parties in the House of Commons. After we complete our hearings, we will be presenting a report. Our officials here will be helping us to compile a report and make recommendations to government based on what we hear on these three very important topics that we are going to be hearing about, which are temporary and undocumented workers, immigration consultants, and Iraqi refugees.

Before recognizing the people we have at the table here, I have a point of order from Mr. Telegdi.

**Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.):** Thank you very much, Mr. Chair. There are two points I want to address.

First, we are undertaking, as you mentioned, a cross-Canada tour, and I think, Mr. Chair, that when I conducted hearings as the chair, going across Canada, the media were allowed to film. That's why they're public meetings. I really hope your opening comments are on the record, because I think it's important for Canadians to know that we are travelling across the country to discuss important issues.

That's one, and I'd like to deal with that first before going on to the second.

**The Chair:** I will ask the clerk for some advice on that.

I am advised by the clerk that the only reason we allow press at our meetings on the Hill is that they are governed by an agreement that allows the press to come to our meetings. I don't know if it would have been necessary to have agreement on that before we undertook our discussions.

**Hon. Andrew Telegdi:** Mr. Chair, I have done cross-Canada tours before in 2003 and 2005, and the reason for going across Canada is to raise awareness of the issues. With all due respect to the clerk, I don't think he knows what he's talking about. The clerk does not run the committee. The committee runs the committee. I think it's time the committee recognized that. Otherwise we could have stayed in Ottawa. There's a very definite purpose why we are going on the road, and if need be, I could move a motion that the media be able to film the committee. I so move.

**The Chair:** Well, it's not that the chair doesn't want to have the press here. It is that the clerk informs me that it's not a power that is delegated to the committee to have press at the meeting. Now, the committee is master of its own rules, and I don't know how all members of the committee would feel about that, but it's not a power delegated to the committee.

**Hon. Andrew Telegdi:** Well, I've put the motion. Let's put it to a vote.

**The Chair:** I'm not sure I can accept motions, because we did have a motion moved by Maurizio Bevilacqua before we left, saying that there would be no substantive motions put forward during these hearings. And of course that was agreed to unanimously, so I think that's in violation of what we already voted upon. It came from your party that we wouldn't have substantive motions—

**Hon. Andrew Telegdi:** This isn't a substantive motion.

**The Chair:** Yes, it is.

**Hon. Andrew Telegdi:** We didn't say anything about being filmed in front of the committee.

**The Chair:** That's a substantive motion.

**Hon. Andrew Telegdi:** I'd like to challenge the chair on that ruling.

**The Chair:** I don't think we can.

**Hon. Andrew Telegdi:** Mr. Chair, the chair can be challenged at any time by the committee.

**The Chair:** Well, let me just say—

**Hon. Andrew Telegdi:** You're not running a road show that you can shut down like a dictator.

**The Chair:** I'm not dictating to anyone. I'm reminding the committee what they have agreed to. And what they had agreed to at our pre-committee meeting was that Mr. Maurizio Bevilacqua of your party put a motion on the floor that we would have no substantive motions at these committee hearings while we went across the country. We agreed on that. I called for a vote on that, and everyone agreed and said unanimously that we would not have any substantive motions. Now this is what you have agreed to, and this is how we set up our meetings on this.

Mr. Karygiannis.

**Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.):** Mr. Chairman, I think the public knows that anybody can sit at the back of the room with a video camera and you can't throw them out. These are public meetings. I don't care what the clerk says, and unless you come up with something in Beaudette's that says the press can't be here, the press has just as much right to be here as any citizen that can walk in and listen to what we are saying.

If you want to shut the press down, sir, then why don't you start by shutting this meeting down?

**The Chair:** I'm not shutting the press down.

**Hon. Jim Karygiannis:** Oh, you are.

**The Chair:** I'm not shutting the meeting down; I'm just saying to you—

**Hon. Jim Karygiannis:** You are shutting the press down. You are refusing the democratic freedom of the press to report. You are refusing that.

**The Chair:** No.

**Hon. Jim Karygiannis:** You are.

**The Chair:** I'm just reminding you what the agreement was.

**Hon. Jim Karygiannis:** Mr. Chairman, this is not something procedural. It is a public meeting. The public is here. They have the right to record and the right to listen.

**Hon. Andrew Telegdi:** This is a procedural motion.

**The Chair:** Order, please. I wanted to get this meeting under way, but I'm having difficulty doing that.

Mr. St-Cyr, and then Ms. Chow.

[*Translation*]

**Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ):** Thank you, Mr. Chairman.

In my view, this is a procedural motion, but, as we are already running quite late, I simply move that we request the unanimous consent of the people around this table to allow the media to film our proceedings. If we have unanimous consent, nothing should stop us.

Do you want me to repeat what I said?

[*English*]

**The Chair:** I want the committee to know that I have no objection to any of this. The clerk says we should reserve our decision on that until we get some advice. Can we proceed until then, or do you want to suspend?

**Hon. Andrew Telegdi:** It is not a substantive motion; it's a procedural motion.

**The Chair:** Order, please. I'm going to suspend for five minutes until I can get somebody to sit up here so we can get moving in a reasonable fashion.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
- \_\_\_\_\_

**The Chair:** I apologize to the witnesses that we can't get started on time, but we will try to give you some extra time as we move along.

Okay, let's get back into session again.

Mr. St-Cyr.

[*Translation*]

**Mr. Thierry St-Cyr:** Thank you, Mr. Chairman.

I was saying that I also thought this was a procedural matter. In any case, since no one is opposed to it, I think we can simply request unanimous consent. I find it hard to see how a member could object to the media being allowed to view our proceedings.

[*English*]

**The Chair:** Ms. Chow.

**Ms. Olivia Chow (Trinity—Spadina, NDP):** I actually have one other point of order, which I will get to later on. Let's just deal with this one first.

Mr. Chair, let's not start off in such—

**The Chair:** An acrimonious fashion?

**Ms. Olivia Chow:** Either a meeting is public or it is private. There's nothing in between. If it's public, then anyone under the law has the right to do whatever they like—film, take photos—because it's public. If it's private, because of a personnel matter or a financial matter, then it is totally understandable that we would not have filming. But this meeting at this point is not private, so I can't see how we could say that the meeting could not be filmed.

I do have another separate issue, which we will come to later on. But in terms of the filming, I'm just letting you know how I feel.

**The Chair:** I would like to make perfectly clear that I have no objection to it personally. It's just that we had our meeting before, back in Ottawa, setting the ground rules as to what we would do. These things weren't talked about, and I have a duty and obligation as chair to ensure that everyone is heard on this matter.

Mr. Komarnicki.

**Mr. Ed Komarnicki (Souris—Moose Mountain, CPC):** I would just like to make a couple of remarks. I think we should get a clarification from the clerk who is making some calls. I think we should hold the meeting in abeyance until we get some appropriate instructions.

There's no doubt that there was a motion saying there would be no substantive motions. The question is whether this is procedural or substantive—

**Hon. Andrew Telegdi:** Oh, come on.

**Mr. Ed Komarnicki:** You had your opportunity.

**The Chair:** Order, please.

**Mr. Ed Komarnicki:** You had your opportunity to speak. Let me speak, and then you'll have your chance. There's sufficient time for that.

**The Chair:** Order, please.

**Mr. Ed Komarnicki:** I think there should be a decision first on whether it's a procedural or a substantive motion.

On the position on the press, it's certainly obvious from some of the comments that there may be a measure of grandstanding for political and biased purposes when we're here to hear from witnesses on what they have to say on specific issues, which we'll eventually write a report on. Certainly the press is there before and after to ask questions, but during the meeting it is as open for us to have the press in as not—

**The Chair:** Well, let me bring it to a close here. The clerk points out to me that Standing Order 119.1(1) of the House of Commons says:

Any committee wishing to have its proceedings televised, other than by means of those facilities provided for that purpose by the House of Commons, shall first obtain the consent of the House thereto.

Have we obtained that consent?

Okay. Let me go to Mr. Komarnicki to finish his remarks.

**Mr. Ed Komarnicki:** My remark is that there needs to be reason and order, and if that's indeed in the Standing Orders, then it needs to be abided by and that's how we should proceed. I know some members would like to take these hearings and these proceedings and turn them into something that might be of some advantage to them, but the fact of the matter is that there are some rules, and there are some procedures. As the Speaker of the House said before we adjourned, there needs to be respect for process and procedure, and they can still accomplish what needs to be accomplished.

So I think we need to wait for all of the information the clerk has and whatever other information he gets.

**The Chair:** As chair of this committee, I'm certainly governed by the rules of the House of Commons.

Are the cameras proceeding now?

• (1310)

**Hon. Andrew Telegdi:** Mr. Chair, before you finish the debate, I want to speak to what the parliamentary secretary said, because—

**The Chair:** I'm not shutting down debate on this; I'm going to continue. But I just want to draw the committee's attention to the fact that if anyone is interested—and you have a copy—it's on page 90 of the Standing Orders. It's Standing Order 119.1(1), that “Any committee wishing to have its proceedings televised...shall first obtain the consent of the House thereto”.

I'm governed by that.

Mr. Telegdi.

**Hon. Andrew Telegdi:** Mr. Chairman, the point I want to make is that there is a difference between reporting for the press, coming to a meeting and making a news clip, and having something televised. When we have something televised, we have a committee meeting and coverage of that meeting from start to finish. And this is not the case. This is no different from having somebody from a radio station

or any of the other media people coming in, taking some notes, talking about the issue, and dealing with it. This is not being televised. There will be a news story on it, but right now, we're not being filmed, and this is not playing on the air. When we're back in Ottawa, when we have televised meetings, then it goes from gavel to gavel, and that's televised. This is totally different.

Getting back to the motion, Mr. Chair, this is a procedural issue that we're dealing with, not a substantive motion. And I can tell you, Mr. Chair, the two times I chaired the committee, in 2003 and 2005, when we went from coast to coast, we never tried to shut down the media. I know there have been manuals written for the chairs of committees on how to frustrate the work of committees, but, Mr. Chair, I really hope you don't go down that road.

I have another motion I want to raise after this.

**The Chair:** Well, I'm not about to get into defining what is televised and what isn't. I can only tell you that we're governed by the House of Commons rules, and the House of Commons rules are very clear in the Standing Orders. As chair of the committee, I'm bound by the Standing Orders.

With respect to motions, I want to remind the committee again that we did have a motion before we came to the committee, saying that we would not have any substantive motions come before the committee while we were having these hearings, and we all unanimously agreed to that.

I would say to the committee that we're wasting valuable time here.

So the ruling is that I have to go by Standing Order 119.1(1) of the House.

**Hon. Jim Karygiannis:** Is the committee the master of its own decisions?

My question to you is very simple, sir. Are we the masters of our own decisions?

**The Chair:** We cannot alter the rules of the House of Commons when it comes to the Standing Orders. We can't adjust or ignore what the Standing Orders are. We're governed, as every member knows, by the Standing Orders.

**Hon. Jim Karygiannis:** With due respect, sir, is this being broadcast live?

I understand that the Standing Orders say that when we're in session, it should be broadcasted.

**The Chair:** No, it doesn't say anything about live or not.

**Hon. Jim Karygiannis:** Well, in the House of Commons we are being broadcast. Yes or no?

**The Chair:** That's irrelevant. We're talking about the committee.

**Hon. Jim Karygiannis:** It has relevance, sir, because if my constituents wanted to amend—

**The Chair:** I'm asking the committee to respect the fact that we have witnesses here today who want to present their views to us so that we can in turn present those views to the minister at some point.

Now, we're wasting valuable time, and I would ask—

**Hon. Jim Karygiannis:** Mr. Chair, I asked a question. I want an answer, sir.

**The Chair:** I will shut down this hearing if I can't proceed.

• (1315)

**Hon. Jim Karygiannis:** If you shut it down, then I'll challenge your shutting it down, sir.

**The Chair:** I will shut down this hearing if the committee can't proceed.

**Hon. Jim Karygiannis:** Sir, in the House of Commons, people can tune in and listen. Are we having the same capability here? Can anybody tune in and listen to what is happening to the committee—yes or no?

**The Chair:** I am not about to define what the standing order is. It's very clear. The standing order says that we have to have permission first of all from the House of Commons to do it.

Now, do you want me to proceed here, or do I have to say to these witnesses, who have gone through an awful lot of trouble to be here today, that we are not going to hear them and we're not going to hear the other people who have come here? Is this what you want me to do?

We have come thousands of miles to hear these people. Now, will you—

**Hon. Jim Karygiannis:** Mr. Chair, let's not play politics here. You got a request to let these people in. You ruled against it. The chair was challenged. Let's put it to a vote.

**The Chair:** No. This is a standing order of the House of Commons and we have to abide by it.

**Hon. Jim Karygiannis:** What does the standing order say about travelling?

**The Chair:** The standing order is very clear. We have to have permission of the House of Commons before we can allow—

**Hon. Jim Karygiannis:** Could you read that again, sir?

**The Chair:** It reads as follows:

Any committee wishing to have its proceedings televised, other than by means of those facilities provided for that purpose by the House of Commons, shall first obtain the consent of the House thereto.

It's very clear.

**Hon. Jim Karygiannis:** That states in the House of Commons; does it state when it's travelling?

**The Chair:** Look, I'm not going to entertain this any longer.

**Hon. Jim Karygiannis:** You're shutting down the press. That's what you're doing. You're muzzling the press.

**The Chair:** We have come a long distance to hear these people, who have very important things to put before us. We either respect that or we don't. I am asking committee members to be cooperative.

We set the ground rules before we came here, at a meeting in Ottawa...by your own immigration critic, Mr. Bevilacqua.

**Hon. Jim Karygiannis:** This is not a motion here. This is a democratic process. This is letting the freedom of the press, that you do not want to—

**The Chair:** Order!

Mr. Carrier, please.

[*Translation*]

**Mr. Robert Carrier (Alfred-Pellan, BQ):** Mr. Chairman, I was initially in favour of allowing the media to convey as much of the committee's proceedings as possible. I received some evidence earlier. People are very satisfied with the fact that we are travelling to Vancouver. My colleague and I have come from Montreal specifically to hear the people of British Columbia on a very important subject. Consequently, I was in favour of the media being able to broadcast our discussions as much as possible. However, if there is a Standing Order clearly indicating to us that we must have approval for that to be televised or filmed, I think we must comply with the Standing Orders of our own House of Commons. I think that the media here will nevertheless be able to take notes and to report in their newspapers or respective media on the good work we'll be doing. So it seems to me there is no reason to discuss the value of broadcasting or not, but are we—

[*English*]

**The Chair:** I agree.

[*Translation*]

**Mr. Robert Carrier:** —complying with the House Standing Orders or not? So if we hold a vote on the question, we'll vote in favour of the Standing Orders. That's clear.

[*English*]

**The Chair:** Yes. We're not voting because we've already agreed that there would be no motions on the road. There is no motion before this committee. I'm just outlining what we've already agreed to. I'm hoping the committee will respect that and will allow me to go ahead and hear these witnesses today.

Ms. Chow.

**Ms. Olivia Chow:** I have another point of order.

**The Chair:** I think we have to deal with this one first.

**Ms. Olivia Chow:** If he wants to finish his first, that's fine, Mr. Chair.

**The Chair:** Okay.

**Hon. Andrew Telegdi:** Mr. Chair, when I got up I said I had two points.

I would just finish off by saying that you're asking for respect from the committee. Then I'm asking you, as chair, to have respect for the committee. There's a difference between televising a meeting—

**The Chair:** I think we've been through that, Mr. Telegdi.

**Hon. Andrew Telegdi:** —and doing one for news purposes. I'm letting—

**The Chair:** I'm asking the committee to wait on this. Let me hear the witnesses today. We have a cross-country tour that's going to take us into 10 provinces. We can contact the House of Commons to see if that can be done.

**Hon. Jim Karygiannis:** Why didn't we do this before we started, Mr. Chair?

**The Chair:** We have a schedule—

**Hon. Jim Karygiannis:** Why don't you call the clerk's office and get a ruling?

**The Chair:** The ruling is right here, Mr. Karygiannis.

**Hon. Jim Karygiannis:** No. The ruling, the way you want to describe it—

**The Chair:** The ruling is right here in House of Commons Standing Order 119.1(1).

**Hon. Jim Karygiannis:** Mr. Chair, why don't you suspend for 10 minutes and call the clerk's office and find out?

•(1320)

**The Chair:** I think we have a clear ruling here. I'm going to proceed.

I want to welcome Mr. Collocott—

**Hon. Andrew Telegdi:** Mr. Chair, I had a point of order. The second one I wanted to raise—

**The Chair:** Ms. Chow is first on the list.

**Hon. Andrew Telegdi:** Mr. Chair, I said when I started that I had two points. We dealt with one, and I'm going to go and make a phone call on that to find out, because I think you are misinterpreting the rules.

But regarding the second point I was going to raise—and again, it's a procedural point, not a substantive point—the fact of the matter is that before this House adjourned for the two-week break, without this committee knowing anything about it, the government tabled Bill C-50, in which they brought major changes to the Immigration Act, an incredible change in the Immigration Act that would take away a right to—

**The Chair:** Order, please.

These hearings are not about the Immigration Act. They're about three matters that we agreed to and that I went to the liaison committee about. That is an all-party committee of the House of Commons, and I had to get approval to travel for those three items.

It's not about Bill C-50.

**Hon. Andrew Telegdi:** Can I just finish speaking before you interrupt me?

What I'm saying is that we have made such a huge change to the Immigration Act through that proposal that it will substantially alter the whole process of immigration and the right of people to come into Canada as immigrants. Instead of having the process that we now have guaranteed by law, we changed it into a capricious lottery. This so fundamentally alters the Immigration Act in this country that, quite frankly, sir, I should be back in Parliament debating the issue. It makes a joke of the travelling undertaken on cross-Canada consultation, because the Conservative government—

**The Chair:** Order, please. Order.

We are here today to discuss those three issues. That is totally irrelevant.

Ms. Chow, please.

**Hon. Andrew Telegdi:** If I can finish on that motion—

**The Chair:** No, you're not finishing, Mr. Telegdi. You're finished on that one.

Ms. Chow.

**Hon. Andrew Telegdi:** Mr. Chair, my motion on that is going to be a procedural motion, and it's something we can all agree on.

**The Chair:** We are not accepting motions. We agreed that we would not accept—

**Hon. Andrew Telegdi:** Mr. Chair, it's a procedural motion.

**The Chair:** The meeting is adjourned.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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•(1325)

**The Chair:** Order please.

Again, I'm asking the press to shut off the cameras. I'm asking committee members to get back to the table, please.

We do have a quorum, and I'm very anxious to get this meeting on the go again. As I said a moment ago, we've all come long distances, including our witnesses who are here to give us their views on some very, very important matters.

Ms. Chow spoke to me before the meeting adjourned. She had a brief comment she wanted to make, and I will go to her. Then I will go to witnesses to make your points, please.

•(1330)

**Ms. Olivia Chow:** I just beg your indulgence for the next three weeks. I think there will be some witnesses who will stray into the whole notion of what gets debated in the House. Rather than our getting into a debate each time when they stray into that, if it's within the seven minutes, let's not debate whether they should or shouldn't, whether it's in order or not in order. Sometimes it's very difficult for the witnesses to tell the difference. They get confused. I just want to make sure that's the case, so we don't get into a big fight each time, because I can just see it coming.

**The Chair:** We're going to be very flexible. I've indicated to the witnesses that it's their time. If they wish to go over, that's fine.

I would welcome witnesses and apologize again on behalf of the committee that this happens. You have briefs that you wish to distribute to the committee, and you've given them....

I want to welcome you again. I would ask you to make your opening statements, please. I'm sure committee members might have some questions they would like to ask you.

**Dr. Roslyn Kunin (Director, British Columbia Office, Canada West Foundation):** I'm Roslyn Kunin of the Canada West Foundation. I'm going to talk about temporary and undocumented workers, because my colleagues here can cover the other areas very thoroughly.

I want to paint a picture in the heads of the committee members of why we are having this issue of temporary workers and undocumented workers at a level that we have never had before in this country in living memory of anybody in this room. That is because, particularly in the west, we are facing a perfect storm of very, very high demand for workers. We have a very strong economy, which needs lots and lots of workers at every level, from entry-level workers to wash dishes, up through senior health professionals, and all the trades and technical workers in between. So on the one hand we have very strong demand, particularly in the west. When I say the west, I mean Manitoba through B.C., because all these areas are now really booming economically.

Second, along with this very strong economic demand for workers, we are facing the beginning of a demographic trend, which we all knew was coming, in that most of the people walking around in Canada now are baby boomers. They were born between 1945 and 1965. They are reaching retirement age, and they are leaving the labour force. So in addition to our need for workers to feed a booming economy, we desperately need workers to replace all those workers who are reaching retirement age and are retiring. So we have a very, very strong demand for workers.

It has reached a point...and as an economist, this is something I have never seen, and frankly, never expected to see. Businesses sometimes don't operate because they can't get money, and businesses sometimes don't operate because they can't get customers, and businesses sometimes don't operate because prices for their products aren't high enough for them to make a profit. But now, for the very first time, I am seeing businesses where all these conditions are met and they aren't operating because they can't get enough workers to do their particular business. So that is why we have unprecedented demand for temporary workers, that's why we're starting to have a problem with undocumented workers, and that's why we need to make a system as flexible as possible to meet the needs of the labour force.

One other change—before I run out of my seven minutes—that has occurred is the nature of work. The idea of work that most of us grew up with, that you grow up, you enter the labour force, you get a job, and you stay with that job for years, if not for your career, is long gone, and now in many of the most booming industries—construction, hospitality, technology, and many others—jobs are temporary. Not only do we need workers, but we need to give all workers, including temporary workers, foreign workers, and so on, the flexibility so we can say, “We need you because we need the work you can do; we don't need you just for one vacancy.” So if we do have temporary workers, we should say, “You can stay here as long as there's work for you in Canada, not just as long as the initial employer you came for needs you.” If he or she doesn't, there are an awful lot of other employers who do.

Those are the main points I wanted to make, Mr. Chair.

• (1335)

**The Chair:** Thank you.

Mr. Collacott.

**Mr. Martin Collacott (Senior Fellow, Fraser Institute):** Thank you, Mr. Chairman.

I would like to talk, first of all, about labour shortages in general, then go on to temporary foreign workers, and finish up with undocumented workers, very briefly.

I think you have to look at what constitutes a labour shortage. Certainly, we have them, as Roslyn just pointed out, in the construction industry. In B.C. it's very apparent, and in other parts of the country. Some people see the temporary foreign worker programs as the best way to deal with them. Some regard that as better than bringing in large numbers of people permanently who may not be needed. If you're in a cyclical industry, like construction, you may not need them in five or ten years. But we also have to look at the extent to which we can use the resources of people already in the country.

Let's say something about temporary foreign worker programs, first of all. In the words of Alan Green, who's a very prominent expert on immigration and labour markets at Queen's, in the 1960s, when we began choosing immigrants on the basis of their qualifications rather than their origins, we did not have the educational facilities in place to meet all our skilled labour shortages. According to Professor Green, we do today, although temporary shortages may occur until they're met by normal market forces.

This conclusion was reached by other people. Human Resources and Development Canada had two researchers who found that there was no reason to believe that globally Canada is suffering from a broad-based shortage of skilled labour or that its workforce cannot fulfill the economy's needs. The researchers found that although there's been an increased frequency of specific labour shortages in certain sectors and occupations in recent years, it doesn't appear that these gaps are more common today than they were in the past or in similar stages in the business cycle.

That's something on which we differ somewhat in our emphasis, Roslyn and I.

One of the issues that I think we have to look at is that employers naturally want to meet their worker shortages as quickly and inexpensively as possible, and if this involves bringing in workers from abroad, they will seek to do so. We have to look, though, at the impact this will have on Canadian workers, taxpayers, and the economy in general. In terms of productivity, for example, labour shortages lead to higher wages, which in turn leads to increased investment in human capital through education and training and through higher productivity levels.

A good case can be made that one of the reasons why growth in productivity in Canada has lagged behind that of the U.S. and other countries in recent years is that we have the highest immigration intake per capita in the world. On this point, a Statistics Canada study released last May reported that between 1980 and 2000, immigration played a role in a 7% drop in the real earnings of Canadians with more than a university undergraduate degree.

There was an interesting precedent for the guest worker programs. The Bracero program in the U.S was created to bring in Mexican temporary workers during the war years. Eventually, in 1964, it was discontinued. The agro industry said they just couldn't afford to do without the cheap labour. When it was discontinued, they made more investment in mechanization, and the productivity actually increased.

What we should be doing is making every effort to draw unemployed Canadians, including aboriginals, women, and older people into the workforce. It doesn't make sense to leave large numbers of people unemployed or underemployed and then bring in workers from outside the country to do work that could be done by people already here. As one senior American government official put it, "immigration fixes undercut efforts to improve public education, create better retraining programs and draw the unemployed into the labour market".

I'm not saying we shouldn't have temporary foreign workers, but we have to look at this carefully. The Quebec government, incidentally, announced less than two weeks ago that it's going to spend \$1 billion on incentives to get welfare recipients and unemployed into the foreign workforce rather than automatically bringing people in from abroad.

I would just make a couple more comments before getting on to temporary foreign workers. On the relationship between immigration and economic prosperity, there were periods in Canada's development when immigration was crucial—for example, the settling of the west before the Americans did it for us—but interestingly, immigration for the most part has not been a critical element in Canadian economic development.

The Economic Council of Canada, for example, found that most of the fastest growth in real per capita income of Canadians in the 20th century occurred at times when net migration was zero or even negative. We also do not require an ever-increasing population or workforce to ensure the prosperity of Canadians, nor will immigration have any significant impact on offsetting the aging of our population. Canadian prosperity depends on sound economic policies that increase productivity and make the best use of the existing workforce.

Now turning specifically to questions of temporary foreign workers, or guest workers, as they're often called, from 2001 to 2006 we saw a dramatic increase in the number of temporary foreign workers in B.C. They increased by 129%, from just under 16,000 to more than 36,000. For Canada as a whole, there was an increase of 76% in that period, from 87,000 to 166,000. We don't have the complete figures yet for 2007, but it looks as though the increase will be even larger.

Canada had a pretty good track record on its initial temporary foreign workers program. It's the seasonal agricultural worker program that began in 1966 to bring in seasonal agricultural workers from, first, the Caribbean and then Mexico in 1974. But in 2006, in response to requests from employers, we established comprehensive lists of what are called occupations under pressure, under which employers can apply for accelerated processing of permits for temporary foreign workers to come here initially for a year. That's now been extended to two years.

With these longer periods, though, we're moving into largely uncharted waters as far as Canada is concerned. Studies done in other countries on these programs have shown there can be a lot of major problems, particularly if foreign workers stay for more than a few months, if they come from countries with significantly lower wage levels, and if they're allowed to bring family members with them.

Some of these problems are that such workers are vulnerable to exploitation. In countries like the U.S., it's been discovered that there's a high level of fraud in the applications. I won't stop to tell you what kind of fraud, but I'll describe it later if you want. Then most people coming from poorer countries want to try to stay indefinitely when their contracts are completed, when their services are no longer required.

What is required to make such a program work is a very extensive system for administering and monitoring the entry and departure of such workers and the application of strict sanctions in the case of employers who hire those who no longer have legal status in Canada. There's now a list of 235 occupations under pressure that are eligible in British Columbia alone for temporary work permits.

In addition to obvious cases like a shortage of people for the construction industry, you also have a long list of occupations that you wouldn't think would be on the list. That includes writers, journalists, photographers, conductors, composers, arrangers, actors, comedians, announcers, broadcasters, athletes, coaches, and real estate agents.

What we have to do is look very carefully at how this program is working, do some research on it, and find out what other people have done.

I think there is a place for temporary foreign workers, but I don't think we have any idea of some of the problems that are coming up, and we should be looking at them.

I have one quick word on undocumented workers. We don't know exactly how many there are, but estimates are that there may be 200,000, and up to 500,000 if family members are included. Apart from the problems they experience of being vulnerable to exploitation, the basic problem is that if their status is legalized, you will have a lot more coming here.

In 1986, the United States granted amnesty to three million illegal workers in the hope of eliminating the problem, but once they got amnesty, there were a lot more coming in, because they expected that they would get amnesty eventually. There were something like 11 million or 12 million of them.

The McCain-Kennedy bill in the U.S. Senate last year included a provision for the regularization of the status of several million illegal workers. It was defeated by public pressure.

It's extremely unwise to give legal status to undocumented workers. If they want to stay here in Canada, they should go back and come here legally, either under permanent immigration or under the temporary foreign workers program.

Those are my comments.

•(1345)

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

We'll go to Mr. DeVoretz.

**Professor Don DeVoretz (Professor of Economics, Co-Director and Principal Investigator of the Centre of Excellence on Immigration and Integration, Simon Fraser University, Canadian Immigration Policy Council):** Thank you very much for inviting me.

It actually says that in the first line. These notes have been made available. If you don't have them, I'm sure you can pick them up afterwards.

I would like today to report to you on my 15 to 20 years of scientific research on temporary foreign workers in Canada. My goal, not only in these seven minutes but in subsequent minutes, is to tell you about the pluses and minuses. What do I think are success stories and the reasons why, and what are reasons for caution in other stories?

As an economist, and I am an economist—you'll hear from other people who are sociologists—I only look at one feature when it comes to the temporary foreign worker program: does it create a net economic benefit to Canada, to Canadians who are here?

What does that mean? It means the people or agents who are involved in this process, which are the migrants, who we've just heard about; the public treasury, which represents the Canadian government; employers who would like to have these temporary foreign workers; and resident Canadian labourers. In sum, all of these benefit from the presence of a new, temporary foreign worker. This does not mean that any one individual in this calculus might not suffer a loss. But on average, is it a net benefit? This has been the rule that's been more or less in place for evaluating the temporary foreign worker program in Canada for at least 25 or 30 years.

I have two success stories. Martin has already alluded to them on economic grounds. First is the agricultural workers program. All you have to do is contrast our program with any other agricultural worker program, whether it's in Israel or Germany, with Polish workers, or *Les États-Unis*. They are failures. So why is ours a success?

The first reason is that it's small. If you keep it small, both the costs of administration and the ability to enforce the rules inherent in those regulations, such as adequate pay, access to health care, and payment of taxes, are all able to be monitored.

The second program, which has been very successful economically and is not unique to Canada—it's very large in Southeast Asia—is the so-called nanny program. You'll hear from other people in the program that there are problems with the nanny program, and I agree. Those are social problems. But based on my role as an economist, it's been a boon for middle-class, well-educated women living in this country. There is no doubt about it.

It was put in place also to create some benefits for, largely, Filipino nannies in the form of having rights of conversion—that is, from temporary to permanent—and rights of reconciliation.

Based on my rule of net economic gain to those people here, those are two successful programs. What are the lessons? They're small

and they're focused, and part of those programs is a transition to some sort of permanent status if you contribute.

But those are small programs. The big programs for temporary foreign workers have not been mentioned. Those are the trade-related ones, the so-called TN visas, the NAFTA visas. We have agreements with Chile, Israel, and soon perhaps with South Korea, but certainly with the United States and Mexico, with mobility provisions built into trade agreements.

We really got snookered on that one; we really did. For every three Canadians who leave, one highly skilled American comes here. That has been an avenue of a large brain drain, especially prior to 2001. There's a lot of evidence on it, not just my own.

In addition, Canadians use that back door of a temporary visa to become permanent residents in the United States. Americans don't do that. When they're done working here, they go back to Cleveland, God bless them, or wherever they come from. But Canadians use that reciprocal program to remain in the United States, by either marrying or getting an E-visa.

The point about that program is that it was structured after the fact. It was a hang-on to trade, and many of our temporary foreign worker programs are like this—ad hoc. You can't change the content in that program. There are 67 occupations; you can't change them. Going in the direction of adding on temporary foreign worker programs to trade agreements, in my mind, is the wrong way to go, especially when you're doing it with an elephant living next door. They simply refuse to negotiate on it any more; they won't change the list or anything.

We have these success stories based on the “net economic gain” principle, and some very large, less-than-successful stories based on that principle too. So what are we going to do in the future? Roslyn has outlined conditions whereby we may need more temporary foreign workers; Martin has cautioned us that nonetheless, this is what we're looking at.

What would I do if I were queen for a day or immigration minister for a day on this? I would be sure that I took the lessons of the past and had a very well-focused temporary foreign workers program; not a list of 86, or whatever, but of ones that I'd know beforehand will present net economic benefit to Canada. Some of them are obvious, and you don't even have to talk about them: construction out here, more agricultural workers out here.

The second thing is, I would always provide a sunset clause. There would always be a sunset clause in any temporary foreign worker program. I'm not going to do this so that I penalize people and they go underground; I'm not stupid—I'm almost 66, but I'm not stupid. That would create a negative incentive. Everyone would become undocumented. They'd disappear, as they do in Toronto. What I would do is have a conversion path for them to become permanent residents in this country, so that if you continue to rely on temporary foreign workers to either prop up or maintain an industry, they have an avenue to permanent status, and you won't get the undocumented.

Finally, you keep the program small.

Thank you very much. I await your questions.

• (1350)

**The Chair:** Thank you very much. It was very informative indeed.

We'll go to some questioning by our committee members, for seven minutes for each member.

Who is first?

We have Mr. Telegdi.

**Hon. Andrew Telegdi:** Thank you very much, Mr. Chair.

To the witnesses, as you know, we have some exciting times going on in Parliament with this whole issue of Bill C-50. If you got part of a debate that you weren't particularly happy about, I apologize, but we will hear all the witnesses who came before that.

I have had a great number of problems with the whole issue of undocumented workers.

The reason is that when we changed the Immigration Act in 2002...I would love to say we did it because the minister came out with a vision of how things should go, but we essentially did it because the bureaucracy came up with a plan to cut the 800,000 people on the waiting list. What they essentially ended up doing is barring people this economy needed, such as was mentioned: construction workers, other folks. They could not come in as immigrants because they would not qualify under the new point system, which was set by regulations. If you didn't have the language, if you didn't have the education, you would not get in. The fact that we needed construction workers...well, that was too bad, and I think we saw a growth in the undocumented worker category. So there was a mismatch created by the Immigration Act to what the economy needed and what we got. That's a real concern.

The other concern I have, and maybe you can address it as well, is more and more our reliance on temporary foreign workers. We've had farm workers who have been coming to Canada for 30 years, and some even for 40 years. They come here without their families, and then they have to go back. They keep coming back. I have a worry that I see the number of temporary foreign workers rising. I'd rather have people who come to Canada and decide that this is the place they want to live, raise their families, and become Canadians. I don't think it's healthy to have a high population of single folks.

It reminds me of what happened when Canada built the railways. We brought in the Chinese, and then when the railway was finished, we wanted to send them back. We changed all that, where we had an open immigration program. Now I see an analogous situation. We want to bring in people to help build the tar sands or help build the Olympic facilities, and when we're finished with them we're going to send them back.

I wonder if Mr. Collacott and Mr. DeVoretz could respond to those points.

• (1355)

**Mr. Martin Collacott:** I will.

You raised a number of interesting points, Mr. Telegdi. I'll start with the last one and work back, because I remember it most clearly.

The Chinese labourers who built the railways came in as unskilled workers, and when the railway was finished, the thinking was that we didn't really require them any longer. The Chinese who are coming in today are mostly skilled immigrants and their families, so we're really dealing with a very different situation. I'm glad we've moved on, to not having any racial barriers. My wife is an immigrant from Asia, as I think I mentioned last time I appeared before this committee, so I'm all in favour of an open immigration program. But there is a difference there.

Also, on the question of construction workers, yes, we are very short of construction workers. In B.C., in particular, we have a deadline to meet in terms of the Olympics, so we have to get that done. However, construction is a cyclical industry, although we may keep building in B.C. for some time, and the tar sands in Alberta are a pretty long-term issue, both technically and for construction. We have to be very careful not to bring in so many people that we discourage Canadians—and by “Canadians”, I don't just mean citizens but landed immigrants, now called permanent residents. They're here, and we have to do the best we can by them.

If you bring in very large numbers, it's great for the employers, but you will push down wages, which has happened. You will discourage Canadians from getting training and you will basically leave people on unemployment; you will bring in other people and keep Canadians out of the job market.

So you really have to look carefully at how you're doing that. You can't have the kind of unlimited situation you have now.

**The Chair:** You have a minute and a half, Mr. Telegdi.

**Hon. Andrew Telegdi:** I'm waiting for Mr. DeVoretz to comment.

**The Chair:** Okay.

**Prof. Don DeVoretz:** I'll be brief, Mr. Chairman.

My sunset clause that I mentioned at the end was to address what you just said about using the temporary foreign worker program as an ever-expanding crutch for industries.

There are many anecdotal and real illustrations in the agricultural sector where technological change has been made to substitute for the crutch of temporary foreign workers, or their absence.

So if you put a sunset clause in, it certainly will give knowledge to the employers that they can't use this program indefinitely, whether for fruit pickers here or the wine industry on the escarpment. But more importantly, the sunset clause will force the bureaucrats, who were mentioned earlier, to think of alternative programs than the temporary foreign worker program.

• (1400)

**Hon. Andrew Telegdi:** I want to say one thing, just in closing.

This BlackBerry, one of the great Canadian success stories, was developed by Mr. Mike Lazaridis from Waterloo, who came to Canada in the mid-sixties as a Greek refugee from Turkey. His father was an apprentice tradesperson. If that person tried to get into this country today, he could not. This company employs something like 6,000 Canadians, and it's going to employ many more.

I think this is the kind of stuff we have to keep in mind, because if I look around today in my community, 95% of the people who came as immigrants would never be allowed in today. That includes Frank Stronach and Frank Hasenfratz, and the list goes on.

**The Chair:** Thank you.

Are there any closing comments?

Sir, you go right ahead.

**Prof. Don DeVoretz:** I just wanted to answer his second point, his major point, about the possible relationship between a mismatch in the permanent immigrant program and the rise of undocumented workers. I think that's a very good insight. I think the market—because I am an economist—will attempt to correct it.

If you have a points system that doesn't really reflect the demand for workers, you're going to have an unhappy world. You're going to have highly skilled Chinese coming here who can't practise their professions, because either they're not in demand or they lack credential recognition. And you're going to have employers who don't have enough workers, who will take a chance on hiring an undocumented worker to build a house, either here or in Toronto.

So this is the connection.

**The Chair:** Thank you, sir.

Mr. St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** Thank you, Mr. Chairman.

Thank you for being here, for being patient enough to stay. I'm sincerely sorry that you had to watch the somewhat pathetic spectacle earlier.

I would like to start by asking Ms. Kunin some questions. I understood that you were an economist at the Canada West Foundation, but I would like to know more about your organization. What does it do?

[English]

**Dr. Roslyn Kunin:** I am a labour economist and have been studying the economy of B.C. and Canada, particularly the labour market, for many decades. I have my own economic consulting business, and I'm facing shortages of labour. There might be a bias there.

Also, the Canada West Foundation is a 35-year-old non-partisan think tank...to build a strong and prosperous west in a vibrant, united Canada. We look at economic, political, and social issues.

[Translation]

**Mr. Thierry St-Cyr:** You talked about how important you thought it was for Canada to have foreign workers in order to meet labour needs, among other things. Many people have appeared before us and raised concerns about the working conditions of those individuals, not only those who are undocumented, but even those who have documents, who may be exploited by ill-intentioned employers.

What measures do you suggest to the committee should be taken to prevent foreign workers who come here from being exploited?

[English]

**Dr. Roslyn Kunin:** It's very important that undocumented workers and any worker in Canada, any person in Canada, not be exploited. We have labour codes, we have laws, and we have to use these existing mechanisms to enforce....

But if we can get systems going where we work better through temporary or permanent immigrants, or through developing the Canadian labour force through training and so on—and we need that too. I predict that the labour shortages will be tight enough that we will need all of these mechanisms; it's not a case of either/or. Then we can avoid that. There are always going to be some unscrupulous law breakers; they are going to exist. But right now in B.C., the labour market is sufficiently tight that the limited evidence we can get for undocumented workers is that they are already in the industries that pay low wages, like restaurants and hotels.

They are already earning more than the minimum wage because the labour market is so tight that even undocumented workers can now set their own terms and conditions, and they are rather hard to exploit, because if you exploit them, there are other employers who would want them.

[Translation]

**Mr. Thierry St-Cyr:** We heard the comments of two other witnesses on the fact that we wonder—I do as well—whether the massive influx of temporary foreign workers is a long-term solution to the labour shortage.

[English]

**Dr. Roslyn Kunin:** Hopefully it is not a long-term solution. I look more to developing Canadians, to encouraging Canadians to train in the areas that we need, to having permanent immigrants, to recognizing the immigrants' credentials, and to try to better hone the people we invite into Canada to meet our labour market needs. I see that the labour market is so tight, and I see it as a long-term demographic cyclical trend, not as a long-term secular trend because of demographics, and not just as a temporary cycle. So I think we're going to have to look at all possible answers to meet our labour market needs.

• (1405)

[Translation]

**Mr. Thierry St-Cyr:** Do you agree that we'll nevertheless have to proceed slowly, thoughtfully and carefully to ensure that doesn't become an easy solution and to encourage all stakeholders, government and entrepreneurs, to first make the effort of using already available labour?

[English]

**Dr. Roslyn Kunin:** I think most employers are already strongly in favour of using existing workers. They are only driven to temporary foreign workers or undocumented workers when there are no living, breathing bodies at almost any level, trained or untrained, who they can find to accept that work at all, at any price they can possibly afford to pay. The labour market here and in Alberta is so tight that in some places workers at entry-levels jobs in places like McDonald's and hotel cleaning and so on are being paid \$20 an hour. They still can't fill all their positions. Some of these basic restaurants are cutting services to the point where they will operate only a drive-through because they do not have enough bodies of any calibre at up to \$20 an hour to do their job. That is the shortage we're facing. I am saying it is going to continue right through the foreseeable future, for the next 20 years, as the demographic of no young people and lots of retirees happens.

[Translation]

**Mr. Thierry St-Cyr:** Mr. Collacott, in your presentation, you emphasized the impact of the massive influx of foreign workers on wages. That makes a certain amount of sense in view of supply and demand. From the moment more workers are ready to work for lower wages, one may think that wages might fall. Your colleague says that isn't a problem. In any case, wages are currently rising because the market is very tight.

Where do you stand on that?

[English]

**Mr. Martin Collacott:** I'll just comment on what Roslyn Kunin said in that respect. We do have a very tight labour market right now. I am not quite so convinced it will always stay that tight. We're having a boom. The American economy is doing well. I think we could well have changes. We won't before the Olympics, but I'm not at all certain that we won't have downturns. So I have doubts about the endless progression. That does not usually happen in most economies indefinitely.

I'm not sure I answered your specific question.

[Translation]

**Mr. Thierry St-Cyr:** If I understand correctly, you're ultimately saying that that may be a good idea in the short term, but that it's not a long-term solution for the labour market in Canada.

[English]

**Mr. Martin Collacott:** No, and furthermore, the idea that we're going to be perennially short of workers I think is questionable. A hundred years ago a British demographer said we had 14 workers for every non-worker. Most people died when they were 65. It's now down to four. It will be down to 2.6 as the population ages. But he pointed out that productivity advances—if we concentrate on that—have outstripped this changing relationship, so that when we get down to 2.6, if we can keep up our productivity, we'll probably be quite well off.

So the assumptions that we'll be perennially short of workers or that the economy won't tank at some point I think have to be looked at carefully. It doesn't mean we don't bring in temporary foreign workers to keep things moving, but I think we have to be more cautious and look for possible downsides.

**The Chair:** Thank you, Mr. St-Cyr and Mr. Collacott.

Ms. Chow, please.

**Ms. Olivia Chow:** My question is for the professor. Do you know of other countries that give foreign workers visas for their trade? Rather than the visa dealing with an individual employer, if, for example, a carpenter is to come into the country, the visa is for that carpenter to work in the carpentry trade. That person could work in company A, B, C, or D, as long as it's in carpentry. Have you seen such a practice? Do you think it's a good idea? If we do so, it's letting markets dictate. Then you introduce the element of competition from different companies. So it would rise to the highest level of employee benefits. Sometimes if you have the worker lock into one employer, it gets to the lowest common denominator. That would lead to what I've heard previous speakers talking about: cheap labour or a violation of labour rules and conducts, etc. Is that something you would support?

**Prof. Don DeVoretz:** You asked me whether I know of other countries, and then do I support. Yes, I know of other countries. You could look to Europe. Prior to the expansion of the EU, Polish workers were allowed into Germany under these conditions; that is, they had the right to convert their original visa to a secondary employment as long as it was in the same sector, the same general description. The Germans made sure this wasn't an indefinite procedure. They tied it very clearly to training, so the Polish workers had to be given training in the German sector. This was to get the goodwill of the Polish country as well as the Polish workers, but it was also very clever, because if you train them, there's an incentive for them to go back home.

The second thing, as I mentioned before, is there were always sunset clauses in these. You couldn't do this indefinitely for any one worker. I think it's worked in the German case, but it's very expensive to monitor.

• (1410)

**Ms. Olivia Chow:** Is it something you would support?

**Prof. Don DeVoretz:** Yes.

**Ms. Olivia Chow:** The second question is about the experience class, which is being debated right now. It is only 20,000, only those who have skills, who have degrees, who speak English or French. So out of 120,000, perhaps only 20,000 of them would qualify. The rest of the 100,000 would have no chance of becoming permanent residents.

You suggested you want to give them a sense of hope, so that they can upgrade, so that they can bring their families over, so that they can establish bonds in Canada. Is it fair to punish those who have lower skill sets? We need their labour, but because their skills are not the degree types of skills, we do not allow them to apply, or even if they apply, they do not have enough points and therefore they cannot become landed immigrants and therefore they would not be able to bring their families to Canada. I don't see that as being fair.

How do you think we should restructure the experienced class so that they have a fair chance, just like the live-in caregiver? If you go to school, you apply, and likely you're going to qualify. Should the experience class mirror the experience we have had with the live-in caregiver program?

**Prof. Don DeVoretz:** I'll get to the bottom line. Generally, I'm in favour of the experience class, but with some conditions. If you look to the current plans for the experience class, there are linguistic requirements. There are requirements about employment success, in the sense of being employed over a period of time. There are questions of minimal requirements in terms of having some attachment to Canada. If you put those in place, I doubt you're going to get all 100,000 temporary foreign workers applying in the first place. I think it would be more like 30,000 or 40,000.

When I interview temporary foreign workers in the Niagara escarpment, most of them say they want to go home at the end of the year to visit their families. So the key is whether they can bring their families or not.

**Ms. Olivia Chow:** Of course.

**Prof. Don DeVoretz:** That program doesn't have just unskilled workers; it also has graduate students and students. Generally, I'm very much in favour of it.

• (1415)

**Ms. Olivia Chow:** That wasn't my question.

**Prof. Don DeVoretz:** I misunderstood. I'm sorry.

**Ms. Olivia Chow:** My question is this. That program would only limit those who have degrees, who have very high skill levels. There are four categories, A, B, C, and D. If you are D, if you're general labour—i.e., you're a farm worker, or you work at a McDonald's in Alberta, in Fort McMurray—you will never get a chance to be able to come in or apply for landed immigrant status. Is that fair?

**Prof. Don DeVoretz:** I would have all skill levels have an equal chance of getting in. So I would say it's unfair as it's set up. But I would do it with a proviso, which is one for one. If you let in one more person in this experience class, then you remove one person out of the permanent class.

**Ms. Olivia Chow:** Why?

**Prof. Don DeVoretz:** Why? You have to have some sense of a balanced program here. You can't suddenly raise it from  $x$ . Let me just say that the country can only absorb so many people in the short run, in the economy.

**Ms. Olivia Chow:** What would that number be in your mind, since you raised it?

**Prof. Don DeVoretz:** A considerably larger number than we have now.

**Ms. Olivia Chow:** Maybe 330,000, one per cent of our population?

**Prof. Don DeVoretz:** It depends on who is coming in and where they're going. I'll just say a considerably larger number—I'm a politician.

**Ms. Olivia Chow:** Thank you.

**The Chair:** You're very good at timing, Ms. Chow. You only had ten seconds left.

Thank you.

Mr. Komarnicki.

**Mr. Ed Komarnicki:** Thank you very much.

Obviously we can talk about the numbers, and that's something that would need to be settled. My understanding is that you're saying there's sort of an optimum absorption number, and that's where you should start from and work from that point. Is that correct?

If I were to just go back to the undocumented workers, I think perhaps one or both of you mentioned that those individuals are here primarily because, as you indicate, there isn't some legitimate way for them to come in to meet some of the needs the country is facing on the economic stream. Would it be fair to say that what I'm hearing from you is that you're looking for some reform or change to the way we do things with immigration, to better align it with what the needs of the country might be economically, and of course apportioning that appropriately between the economy, family reunification, and our obligations with respect to refugees? I guess I'm asking you whether you are looking for us to come up with new means and ways to accommodate what the country needs. I'll ask you first, and then you can pass it on.

**Prof. Don DeVoretz:** For better or worse, I think the experience class, which I've promoted for the last 30 years, is one way of melding the two together. If you don't know precisely the exact number, like 386,441, you'll get some feeling from the labour market if you need more or less if you use the temporary workers program. I think the experience class, if run right, does the trick.

**Mr. Ed Komarnicki:** Roslyn, you had a point to make.

**Dr. Roslyn Kunin:** I definitely agree that we do need, we are going to need, and we can't absorb more immigrants than we're getting now. I think we often forget that it isn't just our choice that we are competing with the entire world for capable immigrants, whether they have the training and the skills we need or whether they're capable of acquiring that once they get here.

I had the privilege of working for Parliament, for the then-Minister of Immigration, to write a report about 10 years ago called *Not just numbers/Au-delà des chiffres*, which looked very comprehensively at the entire immigration program, including refugees. We looked at the idea of attracting a class of people we called the new pioneers, people who did not necessarily have a pile of credentials that would give them points under today's system, but who did have the set of hard and soft skills—and the soft skills are harder to measure—that they could be the new pioneers and could develop and contribute to Canada as previous generations did.

**Mr. Ed Komarnicki:** I'll just follow up from that, and I'll come back to Mr. Collacott. You said there is some competition for the types of people we might want to attract—that's between countries—and certainly, as you know, our system has had significant backlogs, great delays, and you would like to see some change in that to make it more competitive.

• (1420)

**Dr. Roslyn Kunin:** I have met some very excellent people in Europe, in Australia, in many other countries who, when they discover I'm from Canada, say, yes, I applied to come to Canada, but the United States responded first, or Australia responded first, or Britain responded first, so I went there.

**Mr. Ed Komarnicki:** So we need to get with it and become competitive, is what you're generally saying.

**Dr. Roslyn Kunin:** Exactly.

**Mr. Ed Komarnicki:** In terms of the temporary reform worker, I think I hear Mr. Collacott saying that it needs to be targeted and perhaps be more specific, and we need to be ever mindful of ensuring that those who do come in have certain protective rights, just as you mentioned under the nanny case where there are certain provisions. Is that where you're coming from?

**Mr. Martin Collacott:** That's certainly an element. I think people should be protected if they're coming in as temporary foreign workers.

I would like to comment, if I may, though, on a couple of points that have been made. Roslyn Kunin just said we need more immigrants. The fact is that immigrants haven't been doing very well on average. Some have been doing terrifically, like Mr. Karygiannis and Mr. Telegdi. But in fact their economic performance has been much lower than earlier immigrants or Canadians—higher poverty levels—so I think that whole issue has to be looked at.

The question that Ms. Chow raised—is it fair just to take highly educated people?—is an interesting one because our immigration policies aren't based on fairness. Humanitarian programs—refugees—are based on humanitarian considerations, but our programs should be based on what's good for Canadians. For instance, on tradespeople, we do need some right now, but we may not need so many once the current construction cycles are over. So I think we have to look at that carefully. We may find—

**Mr. Ed Komarnicki:** Excuse me. Perhaps you could close quickly because my time is running out and I have another question.

**Mr. Martin Collacott:** We may find we need some of them on a permanent basis, but I think we should be more cautious in that sense.

**Mr. Ed Komarnicki:** In taking off from that, it would seem we have had the Canadian experience class, which you referred to, Mr. DeVoretz, working in Canada for a certain period of time. I'm assuming they're able to become acclimatized and used to the circumstances under which we become part of the community. Would they not be a logical type of person to not only be here but to also bring their family here and settle perhaps in various communities, as the needs might present themselves across the country?

**Prof. Don DeVoretz:** The short answer is yes. I think, though, that it has to be broad. It can't be just directed toward graduate students and have high barriers and linguistic and educational barriers, or you'll get the same problems you have with the permanent class.

**Mr. Ed Komarnicki:** So what you're saying is we want to get it broader than it presently exists and ensure that it goes across various trades and occupations.

**Prof. Don DeVoretz:** As long as the “net economic benefit to Canada” rule works across these skill groups, yes.

**Mr. Ed Komarnicki:** So what you're saying is we have to realign things to fit the economic trends and needs of the country.

**Prof. Don DeVoretz:** Yes, from time to time.

**Mr. Ed Komarnicki:** How much time do I have left, Mr. Chair?

**The Chair:** Thirty seconds.

**Mr. Ed Komarnicki:** I know our population, just from census statistics, shows that we've increased approximately 1.6 million over the last five years, which was the amount of increase in population in five years, and 1.1 million of that was through immigration. Would all of you agree with me that if we want to meet our needs of a growing, expanding country, we're going to have to look abroad—in addition to training the best we can, with those we have here—and be competitive at the same time?

**The Chair:** Whoever wishes to respond....

**Dr. Roslyn Kunin:** If we agree—and Martin doesn't—that we need a growing population, and if we want to increase within the next twenty years, during which time all the people who are going to enter the labour force have already been born here, we're going to have to increase immigration.

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

I wish we could continue, because I know other people—Mr. Karygiannis—wanted to ask some questions, but we do have another group coming on the same topic: undocumented workers.

I'm reluctant...although I see people who are asking for a minute.

Okay.

**Hon. Jim Karygiannis:** I don't want a minute; I want a point of clarification. I was mentioned by Mr. Collacott, as well as Mr. Andrew Telegdi.

I do want to make Mr. Collacott aware of something, if he really wants to research a little bit of my background. It's not me who serves as a success story; it's my father. I came to this country as a refugee at the airport, and he claimed refugee status. So the success story does really belong to my dad and not to me. I had everything here. So if you can call him an undocumented worker, and if he's a success story, so be it. I certainly—

● (1425)

**The Chair:** That was a good minute.

We'll go to you, Mr. Carrier, and I think Nina wants a minute. Then we'll dismiss our witnesses and get on to our next group.

Mr. Carrier.

[*Translation*]

**Mr. Robert Carrier:** Good afternoon, ladies and gentlemen. I have to go quickly, unfortunately.

I draw a distinction between temporary foreign workers and immigration. As the expression indicates, a temporary worker comes here to meet a temporary need, whereas, in an immigration case, we apply stronger criteria than those for employment, such as culture, language and belonging to this country.

Ms. Kunin said earlier that temporary workers should be able to stay in the country as long as there is work for them. Ultimately, that constitutes back-door immigration. We'll keep them as long as we have work to offer them. That's not necessarily the kind of citizen we want to take in. We don't just want workers; we want good Canadian citizens.

I would like to hear what you have to say on that.

[*English*]

**The Chair:** Okay.

Ms. Grewal, you wanted a minute.

Again, I remind our members that the next group coming on is also on undocumented workers, and you'll get a chance, I'm sure, to make your points to these witnesses also.

Ms. Grewal.

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

First of all, I would like to thank each and every one of you for your time and your presentations. If you have a copy of your presentation, could you please give it to the clerk. Those were well informed, and all of us can really learn something from them.

I know all of us are talking about the shortage of workers here and there. Could each of you say in one, two, or three sentences what improvements you would recommend to the temporary worker program?

**The Chair:** Maybe a minute from each of the witnesses to also address Mr. Carrier's point, if you will, please.

Anyone at all—Mr. Collacott, Ms. Kunin.

**Mr. Martin Collacott:** Sorry, could you just repeat the essence of your point? I was preparing another comment.

[*Translation*]

**Mr. Robert Carrier:** I drew a major distinction between temporary workers, who meet a temporary need, and immigrants, who are selected on the basis of a number of important criteria for a country. So allowing temporary workers to stay as long as there's work for them is tantamount to back-door immigration, which is inconsistent with the government's objectives.

[*English*]

**The Chair:** Mr. Collacott.

**Mr. Martin Collacott:** I would have a problem with that too. There may be cases where a temporary foreign worker then qualifies for permanent residence here. I think there is some provision for that. But it's true, you can't let them stay indefinitely; you're going to have social and other kinds of problems. So that has to be dealt with.

Just to summarize my thoughts very briefly, we do need to do more research on this. We have to have a clearer picture. We should see what other countries have done and where it doesn't work, because we've suddenly gone into this massively expanded program, and I think there are problems. We really should be looking at them more carefully.

**The Chair:** Thank you.

Ms. Kunin.

**Dr. Roslyn Kunin:** First of all, on Mr. Carrier's point about being temporary versus permanent, I think we should look at the experienced worker program to give us an idea there. The temporary workers who we should invite, allow, permit, and sometimes encourage to stay as permanent citizens are the ones who, while they were here temporarily, learned the languages, adjusted to the culture, and became useful contributors to Canada. Those are the ones who should contribute, not the ones who otherwise have difficulty fitting in because they don't have skills or they don't have language and so on.

On the temporary foreign worker program, I do agree with Don DeVoretz's views on how we should best use that program, with sunset clauses and so on.

**The Chair:** Thank you.

Mr. DeVoretz.

● (1430)

**Prof. Don DeVoretz:** To answer Madam Grewal's question directly, as a resident of the Fraser Valley, the very first thing I would do in this province is to make sure the conditions under which temporary foreign workers work in the agricultural sector are enforced before any more are brought in. You and I know enough tragedies that we don't even have to talk about that any more. That could be done by simply enforcing these orders against employers.

To respond to Monsieur Carrier's question, I think the experience class, with its linguistic requirements, employment requirements—showing good employment history—and attachment to the country, is exactly the kind of thing you want to do, coupled with my idea of a sunset clause. Not everybody is eligible. If you keep repeating it, you've got to put them forward.

**The Chair:** Thank you.

Thank you very, very much. Thank you for your presentations. I'm sure you've been very helpful to us in compiling our report and making recommendations to government.

I will call our next groups. The Independent Contractors and Business Association, B.C. and Yukon Territory Building and Construction Trades Council, and also the Trade Union Research Bureau are coming to the table. I'll give them a moment or two to get here.

Mr. Karygiannis is first on the speaking list.

**Ms. Olivia Chow:** Mr. Chair, I have a question about procedure.

I encountered people who wanted to speak to these hearings but didn't know we were conducting the hearings. So if they've missed the opportunity to get into the hearings, then they cannot.... Their question was how the committee advertised the hearings. Did we let people know there were hearings? What would be our answer to that? What was our notification?

**The Chair:** There was a press release that went out. I saw it myself. It was reported a couple of times in the paper—I think once in *The Globe and Mail*—and I think committee members submitted names to the clerk. We have 52 panels, I believe, between here and St. John's, Newfoundland, so it's going to be difficult to work any more in. As a matter of fact we turned down a number of groups who wanted to come. You have to draw it somewhere.

**Ms. Olivia Chow:** So would you be able to notify them, then?

**The Chair:** Yes.

**Ms. Olivia Chow:** I wouldn't mind knowing the response so we can have a similar response about notification, because people asked why they didn't know about it.

**The Chair:** Okay. I appreciate that. I'm glad we got such a big response to our meetings.

Now, we have three more hours to go, and we have the Independent Contractors and Business Association, the B.C. and Yukon Territory Building and Construction Trades Council, and the Trade Union Research Bureau.

I think you're well aware of the drill of our committee. You have seven or eight minutes, whatever, to present opening remarks....

Sir?

**Mr. David Fairey (Researcher, Trade Union Research Bureau, British Columbia and Yukon Territory Building and Construction Trades Council):** I'm David Fairey.

**The Chair:** What organization are you with?

**Mr. David Fairey:** I'm with the Trade Union Research Bureau.

• (1435)

**The Chair:** Okay.

We will begin. If you have opening comments, please feel free to make them in whatever order you wish.

Mr. Peppard, go ahead, sir.

**Mr. Wayne Peppard (Executive Director, British Columbia and Yukon Territory Building and Construction Trades Council):** I want to thank the committee for the opportunity to appear. We've been trying to get listed on the committee for two years.

Just by way of information, we found out late. You'll notice that we have submissions that are in English. We did not have time to do them in French. We apologize, but we did not find out until late, and we had to fight our way up.

**The Chair:** They'll be translated anyway.

**Mr. Wayne Peppard:** Thank you.

The BCYT is not opposed to the importation of foreign workers when there is a proven shortage of Canadian workers and provided that these workers are not used as a source of cheap labour. Unfortunately, the experience for many temporary foreign workers has been less than welcoming. Our office regularly receives calls from foreign workers looking for ways to address exploitative and abusive situations.

This brief submission identifies some of the basic flaws in legislation and regulations under IRPA governing the foreign worker program. At the same time, we consider the global and local forces that result in undocumented workers and the unconscionable fees charged by some immigration consultants. In the conclusion we summarize our recommendations to solve problems caused by the current policy and regulations.

There has been much talk previously about skill shortages. I am a plumber. I know what's going on. I've been in the industry for more than 35 years. These are high economic times, and yes, there are shortages in some areas, but it's not consistent. Shortages have to do with a whole bunch of issues—not just wages and wage packages, but our ability to be mobile across this nation, between the provinces, and from foreign countries as well. That has to do with credential recognition. It also has to do with domestic training, and it has to do with increasing our own domestic capacity in the construction industry.

Temporary foreign workers are vulnerable—and I stress “vulnerable”—to exploitation and abuse because of their work permit restriction to a single employer, language barriers, a lack of understanding of their rights, worry about their immigration status, and unequal power relationships that are set up, dependent on their employer for income and for information.

The common examples of exploitation and abuses include broken promises on wage remuneration, garnisheed wages to pay for illegal placement fees by immigration consultants, and illegal payroll deductions for accommodation, meals, and transportation.

Employer coercion and intimidation are met by slow-moving and largely ineffectual provincial employment standards and labour code protection processes. It's not enough for the federal government to drop it down to the provincial government if the provincial government does not have the capacity or the intent to provide those protections.

Human rights protections are only available to temporary foreign workers with legal representation. Already our council has spent in excess of \$200,000 on one single case in the last two years, to protect a group of foreign employees on one site. To expect a foreign worker who may be making \$15 to \$20 an hour to purchase the services of a \$250- to \$700-an-hour lawyer is absolutely ludicrous, and that's what you need to walk through the system, whether it's at the labour board, at the human rights panel, or through the courts.

On cheap labour, global construction labour markets are now boasting an excess of cheap accessible workers, averaging \$1.50 per hour. Placement fees and loan sharks connected to brokers and then to the contractors are issues we have. It's not enough to control what we can in our province or in our nation, but it's the effect it has from the country of origin as well. We have no control over that. So the brokers, the loan sharks, all those people have that control from the host country.

They're ineligible to collect benefits for EI and CPP should they run into problems and know that they can't be kicked out by their employer. Federal government payroll deductions are a misappropriation of temporary foreign worker earnings in this case.

On human trafficking, some undocumented workers are temporary foreign workers who have fled to the black market or the underground economy or have been directed that way by contractors. In order to escape from abusive conditions with their legal employer, others have overstayed tourist and student visas. In fact, undocumented workers are even more vulnerable than temporary foreign workers. Employers of undocumented workers have an additional hammer over workers who are worried about their immigration status.

A lack of monitoring and enforcement—and I emphasize this one—has opened up the door to widespread non-compliance and abusive conditions by unscrupulous employers. That certainly isn't all of them. There are only a few rotten apples in the basket who make it bad for everyone. No system is in place to identify and locate temporary foreign workers. There is no tracking right now, so how could you even monitor if you wanted to?

Temporary foreign workers need orientation, advocacy, and settlement services provided by government in order to access their rights. I've appended some documents that we have provided in presentations both provincially and federally on these issues. We need to tell every immigrant worker who comes to Canada what their rights are. Not only do they have to be apprised of their rights, but they have to have a place they can go when they need those rights to be enforced, which is an advocacy centre, and that requires further monitoring.

Foreign credential recognition is a huge aspect of all of this. I can't get into the whole thing in the few minutes that I've been given, except to say that we're working very clearly on foreign credential

recognition. But there is no standard across Canada. Every province, every organization that brings in foreign workers, be it S.U.C.C.E.S. S. or any other group, has their own credential recognition processes. They are not standardized, and that impacts on our capacity to even know who we're getting and what their skills and experience are.

In conclusion, the B.C. building trades call on the federal government to call for a royal commission to travel the country and take submissions from all stakeholders on the issue of temporary foreign workers, undocumented workers, and immigration consultants. We call on the government to immediately allocate significant resources to monitor and enforce the terms of labour market opinion agreements. Joint federal-provincial compliance teams should involve Service Canada, CIC, Revenue Canada, the Employment Standards Branch and the WCB, or WorkSafeBC in this province. We did this before and it worked. We identified, within a three-month period in the province of British Columbia, with a compliance team, that there was in excess of \$80 million that was going uncollected. That was in a three-month period before this government actually brought that down, after they got elected.

We call for joint federal-provincial advocacy centres across Canada to assist temporary foreign workers. Referral information and assistance are required by thousands of workers looking to solve abuse and exploitation by their employers.

We call for orientation programs for temporary foreign workers at the point of entry into Canada. These orientation programs must alert workers to their rights and obligations as temporary foreign workers. Even the written word in their own language may not be sufficient because they may not even be able to read their own language. Information about their rights under employment standards acts, the labour code, human rights, WCB and occupational health and safety regulations, residential tenancy laws, and access to health care are absolutely fundamental.

We recommend the allocation of significant resources to support settlement services designed for temporary foreign workers, especially ESL and French as a second language training, and services to facilitate adaptation to Canadian culture and society.

We recommend reassessment of labour market opinion approval criteria. Canadian workers faced with the challenge of living-out allowances, mobility costs, and retraining opportunities must be included in the labour market opinion evaluations.

In closing, we further recommend that pre-approved labour market opinions be re-evaluated at least every six months and that employers not be allowed to lay off Canadian workers before temporary foreign workers in the event of work shortages.

Finally, we call on the Canadian government to ratify the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

It is time for developed countries, particularly members of the government, to make a binding commitment to end the exploitation and abuse of migrant workers.

This is about orientation, it's about advocacy, and it's about monitoring and compliance.

Thank you very much.

• (1445)

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

We'll go to Mr. Fairey.

**Mr. David Fairey:** Thank you.

First I'd like to thank the committee for coming to British Columbia to give us an opportunity to reach the members of Parliament on this important issue.

I, too, only heard of your meeting on short notice and obviously was not able to get to you a written submission in time for translation.

My name is David Fairey. I'm a labour economist with extensive experience in labour policy research. I'm appearing today to share with you some of the key findings and policy recommendations that resulted from a recently concluded two-year study on the impact of recent B.C. provincial policy changes on immigrant and migrant farm workers. It was done by a group of academic and community researchers like me, funded by the Social Sciences and Humanities Research Council of Canada, under a community-university research alliance called the Economic Security Project.

The academic researchers on this project included Dr. Arlene Tigar McLaren and Dr. Gerardo Otero of Simon Fraser University and Dr. Mark Thompson of the University of British Columbia. Our study report will soon be published by the Canadian Centre for Policy Alternatives.

The following questions guided this study: What implications do changing legislation, policies, and practices have for immigrant and migrant farm workers in British Columbia? What impact does this changing legal and policy context have on farm workers' experiences? And what alternative models of employment standards and enforcement procedures would be able to better address their needs for economic security, health and safety, and labour rights?

Of relevance to your investigation is our examination of the seasonal agricultural worker program, SAWP, for temporary migrant farm workers in the British Columbia context and our interviews with 25 Mexican migrant farm workers in British Columbia who were here under SAWP.

The B.C. labour policy background to this aspect of our study was the significant reduction in B.C. employment standards regulations for farm workers in 2003-04 and the B.C. government's decision to join the federal-provincial SAWP in 2004.

Recent changes in B.C. employment standards that have had a significant negative impact on the supply of farm workers from the

local labour market and on the conditions of employment for both resident farm workers and temporary foreign workers brought to B. C. under SAWP—and now for farm workers being brought in under the low-skilled worker pilot project—involve the following: their exclusion from statutory holiday pay, annual paid vacation, and hours of work and overtime pay provisions under the regulation; a reduced minimum daily pay from four hours to two hours per day; the introduction of a \$6 minimum hourly wage for those employed for the first time or those without experience; significantly reduced employment standards, branch-site inspections, and enforcement activity in the agricultural sector; and no increase in the minimum wage for seven years.

We're told that there's a labour market problem, that there's a shortage. Well, it's interesting that it was the farm owner community, the farmer owners, who were the strongest advocates for these reductions in the employment standards for farm workers. They then pressured the federal government and the provincial government for inclusion in the seasonal agricultural worker program. It's obvious that the employers and the provincial government have created labour market conditions that have contributed to the shortage by creating a labour market, a supply situation, that is untenable for local workers.

Historically, B.C. has drawn on specific groups from four non-white countries as a source of cheap labour for dangerous occupations with inferior employment and citizenship rights in Canada. Early in the 20th century, British Columbia farmers successfully petitioned the federal government to admit South Asians and Japanese to work in agriculture.

Canadian immigration policy continues this racialized pattern by allowing specific groups from the global south to enter Canada to fill jobs with poor pay and working conditions, which other populations are unwilling to fill. Their racialized and highly vulnerable status allows the employers to justify substandard working conditions. In entering Canada under strict conditions with inferior citizenship rights, immigrants and migrant workers are susceptible to highly exploitative wage work.

B.C. farmers in the Fraser Valley rely largely on immigrants from the Punjab to replenish their labour force. Today about 90% of these farm workers are Indo-Canadians. The majority are women, many in their fifties and sixties. Most migrated to Canada under the federal family reunification program, sponsored by their Canadian children or grandchildren. While most B.C. farm workers in the Fraser Valley are Indo-Canadian, this traditional source of labour was curtailed by Citizenship and Immigration in 2003 when it restricted the admission of parents and grandparents in its family reunification program. This measure contributed to the labour shortage that was emerging in B.C. agriculture.

Accustomed to paying seasonal harvest workers no more than minimum wage, and sometimes less, B.C. farmers had been facing a labour shortage in the early 2000s. The provincial government did not raise wages in agriculture to meet these shortages, nor did the federal government seek to increase the number of immigrants. And mechanization of farm work proceeded slowly. The horticulture industry, instead, extensively lobbied the federal program to negotiate with B.C. and Mexico a memorandum of understanding for the province to join the SAWP.

In 2004, B.C. joined the SAWP, which grants farm workers temporary employment visas in agriculture, with wages slightly above the provincial minimum. In the first year of the program, in 2004, there were 50 workers brought in under the SAWP. This year it is projected there will be 3,000 SAWP workers in British Columbia. As I said, the low-skilled program is also being extended to agricultural workers.

Canadian government officials and employers defend the SAWP program as necessary due to domestic labour shortages and an unstable workforce in agriculture.

The government requires a labour market opinion from employers applying to the SAWP to show that they have tried to hire local labour and that a supply is not available. In the case of migrant agricultural workers, the government does not address the way low wages and poor working conditions fail to attract local workers.

In addition, the government has not adequately acknowledged how the SAWP exposes workers to inadequate employment and safety protections, which renders them unable to exercise their rights as workers. In particular, the SAWP does not allow workers to freely choose their workplace or residential location, in contrast to citizens who have the formal right to circulate in the labour market. SAWP workers are only allowed to come to Canada if they work for a specific employer, live in their employers' designated premises for a specified period of time, and then return to their home country. In being bound to a single employer and having a temporary status, workers are unprotected from the threat of repatriation. Dismissal by an employer can mean that a SAWP worker will be sent home to Mexico without their anticipated earnings. The threat of repatriation is a powerful deterrent to workers' rights.

The temporary worker status also separates SAWP workers from their families, making them further vulnerable to employers' excessive demands. SAWP visas are different not only from conventional landed immigrant categories but also from other temporary migrant worker programs, in that they only allow the holder to stay in Canada for up to eight months.

There is more in my submission, but I think I should go essentially to the recommendations.

Could I just conclude with some of our recommendations?

**The Chair:** Yes, you can have a couple of minutes more, but we have quite a number of questioners who want to get in.

**Mr. David Fairey:** Our recommendations to the federal government are as follows. We make recommendations to the provincial government and to municipal governments as well.

First of all, there should be coordination with provincial and municipal authorities. HRSD/Service Canada should move from being a labour market matching service to a service that protects workers. It should assume leadership in ensuring that all levels of government, including the Employment Standards Branch and WorkSafeBC, exercise their responsibilities. To begin the process of coordination, HRSD needs to inform provincial authorities of the number, job title, and location of SAWP workers.

There is no registry of these migrant farm workers, so the Employment Standards Branch doesn't know who they are or where they are. They have no way of knowing where they should be doing enforcement.

The federal government should develop a transparent system of pay rates for SAWP workers. The process for determining appropriate rate of pay should be transparent, represent a substantial improvement over the minimum wage, and correspond to the specific duties performed by the worker. Workers are just getting the same rate regardless of the duties they perform.

The process should also require growers to provide evidence that wage increases substantially above the minimum wage have been unsuccessful in attracting domestic workers.

The federal government should require employers to demonstrate a satisfactory record of compliance. Right now there is no test of satisfactory performance in the application for a SAWP worker. When applying for an LMO to hire workers under the SAWP, employers are not compelled to demonstrate a satisfactory record of compliance with the Workers Compensation Act and the Employment Standards Act. SAWP workers could be asked about an employer's treatment, with evidence to be considered in the reapplication. So there should be an assessment of the performance of the employer after a review of a program.

There should be a removal of the employer's right of repatriation. The employer now has the right to repatriate a worker. Growers who wish to dismiss SAWP workers must demonstrate proper cause before doing so. Illness or injury is not a cause for repatriation of SAWP workers. On the contrary, they should be covered by the B.C. Medical Services Plan for treatment here or in Mexico for the full length of recovery.

Workers must have the right to appeal dismissal to an independent body. Repatriation is the main deterrent for SAWP workers exercising their labour rights. Dismissal should not be linked to repatriation.

There should be a restructuring of SAWP. The designation of migrant workers to a single employer and housing by the employer for a specified period of time amount to unfree labour. Workers have little recourse in negotiating the terms of their contracts. At a minimum, the SAWP should allow workers to move more freely from one employer to another.

The SAWP should also explore possibilities for securing rights to employment insurance and the Canada Pension Plan for workers once they are in Mexico, or refund all employer and employee contributions.

The SAWP should enable immigration. If workers are accepted into the SAWP, they should be able to apply simultaneously for permanent resident status. They should have the right to live here with their families and become Canadians.

Finally, we would like to endorse, from the previous presentation, that Canada should sign on to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and our legislation should be geared toward compliance with the standards of that charter.

• (1455)

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

Do you want to make a few comments, Mr. Barrett?

**Mr. Joe Barrett (Researcher, British Columbia and Yukon Territory Building and Construction Trades Council):** Yes. Thank you very much to the committee for your interest.

[Translation]

I'll be brief.

[English]

The language barrier is one of the vulnerability issues. I was involved in the building trades with the workers on the Canada Line. They were Spanish-speaking workers who were being paid less than \$5 an hour on a federal-provincial project. Our taxpayers were paying them less than \$5 an hour.

This case has been at the Labour Relations Board in B.C. and is now at the human rights board. We have a decision from the human rights coalition. There is coercion. There is intimidation. The employer has been ordered to pay half of the legal costs.

We're right at the very beginning of this issue, and five years from now it will be much more.... I am called daily, "*Señor Barrett, se me puede ayudar?*"

In another life I was a Spanish teacher. I have now become the advocate for the Latin Americans in this city, who come after being promised \$25 an hour. All of their paperwork is fine with Service Canada. These promises are broken time and time again. It's widespread.

The Shangri-La tower, the Children's Hospital, two buildings at UBC, and public projects...because the construction industry is subcontracted, it might be SNC-Lavalin at the top, but it's subcontracted and subcontracted. By the time it gets to the worker, it's \$7 an hour, \$12 an hour on public projects. It's widespread, not just in Vancouver, but throughout Alberta.

Please take a few minutes to read our submission. Wayne can talk about these legal costs—expensive. We're not a trade union movement that has \$200,000 to spend on every case.

Thank you very much.

• (1500)

**The Chair:** So these general contractors make a promise of these high wages, \$20, \$25 an hour, and then when they sub....

**Mr. Joe Barrett:** No. Simply put, it's easy to hide the actual employer. The employer is the subcontractor. It's a contextual thing. To understand the construction industry...it's very easy for undocumented workers.... Again, it's in our submission.

The underground economy is what Wayne was referring to, the joint compliance teams. We have Revenue Canada, Service Canada, the Employment Standards Branch, WorkSafeBC—these different ministries are all working together. All it takes is a team of government officials out there, unannounced spot checks, and the word will spread like wildfire that the government is watching.

**The Chair:** Okay. Thank you, Mr. Barrett. That's very interesting indeed.

Now we'll have our questioning.

Mr. Karygiannis, seven minutes.

**Hon. Jim Karygiannis:** Before I talk about CPP, a question for you, sir. If the employer and the employee contribute to CPP, are you telling me that once the foreign workers or the undocumented workers are removed, go back to their country, they cannot collect the Canada Pension?

**Mr. Wayne Peppard:** I'm not sure whether they can or cannot. I'm saying they're not. They don't even know they are entitled to that.

**Hon. Jim Karygiannis:** Mr. Barrett is shaking his head. They cannot collect?

**Mr. Joe Barrett:** They cannot collect. We confirmed that with CPP.

**Hon. Jim Karygiannis:** You have confirmed that?

**Mr. Joe Barrett:** Yes.

**Hon. Jim Karygiannis:** I've got news for you, sir. They can.

**Mr. Joe Barrett:** The person I spoke to at CPP—

**Hon. Jim Karygiannis:** Sir, you're wrong. They can. If you pay into Canada Pension, you can collect Canada Pension. There are a lot of agreements with a lot of countries where you can get it directly. You can get Canada Pension, if you contributed to it, with a 25% deduction when you turn 65.

So get your facts and figures before you say anything to the committee.

I have a further question, Mr. Peppard. You talked about tracking, and Mr. Fairey you also said something about tracking. Can you tell us what you mean by tracking?

**Mr. Wayne Peppard:** Tracking?

**Hon. Jim Karygiannis:** Tracking. Both of you mentioned tracking undocumented workers. What exactly did you mean?

**Mr. Wayne Peppard:** No, sir. I haven't used the word....

I'm saying that for the temporary foreign workers, once the LMO is accepted and the workers are brought into the country, CIC does their check and that's about it. When they come into the country, they go to work for an employer.

We have alleged incidents right now, a number of alleged incidents, where employers have been taken to task by labour brokers, who are being used as vehicles for getting people into the country.

We have no tracking. When I say tracking, I mean we don't have a list of all the people who come into the country as temporary foreign workers. We don't know where they are, or even if they're working for the employer they said they were coming to work for, or what monitoring and enforcement conditions they're working under.

**Hon. Jim Karygiannis:** So what exactly are you insinuating? What are you suggesting? What kind of tracking do you want?

**Mr. David Fairey:** Under the live-in caregiver program in British Columbia, live-in caregivers have to be registered with the Employment Standards Branch. If the same program were required under the SAWP, for example, or any of the temporary foreign worker programs, then the Employment Standards Branch, which is the principal enforcer of employment standards and rights, would know who those workers are and where they are, and then could target their investigations and enforcement activities.

**Hon. Jim Karygiannis:** Investigate whom, the foreign workers or the employers?

**Mr. David Fairey:** Investigate the working conditions.

**Hon. Jim Karygiannis:** So what you're suggesting is a tracking system whereby when somebody comes into the country as a foreign worker, they automatically report where they are, what work they do, and what conditions they're working under.

**Mr. David Fairey:** The employer who sponsors them, who has an agreement with the Mexican government, would register those employees and their workplaces with an agency.

**Hon. Jim Karygiannis:** A temporary worker who comes to Canada, or somebody who gets a temporary work permit, gets a temporary work permit that's specific to a particular employer. Am I correct on this?

• (1505)

**Mr. David Fairey:** Under some programs, yes.

**Hon. Jim Karygiannis:** Under some programs?

**Mr. David Fairey:** Most programs, yes.

**Hon. Jim Karygiannis:** Most, all, or some? Which one is it?

**Mr. David Fairey:** Well, I'm referring to the SOP and those programs where there is employer sponsorship. Now there are other programs where you can come in, and I'm not sure what the arrangement is.

**Hon. Jim Karygiannis:** In the 1960s, there was a program of foreign workers who were allowed to go to Germany, and there was tracking. Every night, as temporary workers—or people who had gone to Germany to work on a work permit—we had to go and report. If that's what you mean by tracking, I have difficulty with it.

**Mr. David Fairey:** No. I think we're talking about the agencies that are responsible for enforcing the working conditions and the laws of Canada. They should know where those workers are, who they're working for, and what their names are. That's all. Right now the program fails because—

**Hon. Jim Karygiannis:** Should the same thing also exist for Canadian workers?

**The Chair:** We're going to stop there.

Mr. Fairey, did you want to say something else?

**Mr. David Fairey:** We're not talking about domestic workers; we're talking about temporary farm workers who are vulnerable and whose rights are not being enforced.

**Hon. Jim Karygiannis:** If I'm getting it right, sir, you're saying there should be a tracking system for the foreign workers.

**Mr. David Fairey:** Yes.

**Hon. Jim Karygiannis:** And they should be treated differently from Canadian domestic workers.

**Mr. David Fairey:** They are being treated differently from domestic workers. They're not—

**Hon. Jim Karygiannis:** You're suggesting a tracking system.

**Mr. David Fairey:** Yes, so that the enforcement authorities can inspect their places of work to ensure they're properly protected.

**Hon. Jim Karygiannis:** Do you want to answer the question, Mr. Doyle, or—

**The Chair:** No. I'm simply saying that what Mr. Fairey is saying, that it would help the worker, seems to make sense to me. You're looking at helping the worker so that his place of work is fit for him, so that the employer is not taking advantage of him, and what have you.

Isn't that what you're...?

**Mr. David Fairey:** That's precisely my point.

**The Chair:** Exactly, which is—

**Hon. Jim Karygiannis:** Are you conducting my seven minutes right now?

**The Chair:** Go ahead.

**Hon. Jim Karygiannis:** Thank you.

I do have a problem when we treat foreign workers any differently from domestic workers. I do have a problem when people are asked to register. It brings back some memories that are not welcome.

**Mr. David Fairey:** Well, I think you misunderstand. Their names are already known by Service Canada and by the Customs and Immigration authorities, the border services. Their names are known, because they entered into a contract—

**Hon. Jim Karygiannis:** Mr. Fairey, are you listening to yourself, sir? Are you listening to yourself, to how you're sounding?

**Mr. David Fairey:** Yes.

**Hon. Jim Karygiannis:** Their names are known. It's like these people.... I'm sorry, maybe I got confused in your tone, but it certainly sounds as if we're not welcoming them. This is the sense I'm getting from you.

**Mr. David Fairey:** That we're not welcoming them?

**Hon. Jim Karygiannis:** Their names are known.

**Mr. David Fairey:** Yes. I'm saying that the enforcement authorities don't have their names. The provincial enforcement authorities, such as workers' compensation, such as employment standards, don't have their names, and those are the authorities that are enforcing their rights. How can they enforce their rights if they don't know where they are? How can their conditions of employment be enforced if the location of their jobs is not known?

**Hon. Jim Karygiannis:** Should they be any different from domestic workers? Yes or no.

**The Chair:** Okay, time's up.

Mr. St-Cyr.

[*Translation*]

**Mr. Thierry St-Cyr:** Thank you, Mr. Chairman.

I urge you to put on your earphones to hear the fantastic work being done by the interpreters here with us.

I'm going to ask you a number of questions. You need not feel stressed. If you don't have a complete answer, I won't hold it against you; I won't get angry. We're happy that you're here to answer our questions.

Mr. Fairey, I understood from your remarks that there is already a registry of caregivers, of people who stay at home and who help parents with children. Did I understand correctly?

[*English*]

**Mr. David Fairey:** Under the Employment Standards Act of British Columbia, there is a special provision for live-in caregivers to ensure their rights are being protected, because live-in caregivers are living in isolated situations with individual families. The Employment Standards Act requires that those live-in caregivers, who are here on two-year temporary work permits, and their employers be registered with the Employment Standards Branch.

• (1510)

[*Translation*]

**Mr. Thierry St-Cyr:** I understand.

Now I want to understand the British Columbia model. Does the government go further than simply entering the names of these individuals and the places where they work in a registry? Does anyone check with these individuals from time to time to determine whether they are being well treated by their employers and whether the conditions are being met? Beyond good intentions, is there an effective control?

[*English*]

**Mr. David Fairey:** I can't speak to the extent to which those workplaces are investigated, except that the Employment Standards Branch knows where those workers are, has the ability to investigate, and should be enforcing the regulations with respect to that employment. The extent to which they are investigated—I don't know; I can't speak to that. However, it ensures a better regulation of that industry or that occupation than we find for other seasonal agricultural workers.

[*Translation*]

**Mr. Thierry St-Cyr:** Unlike the colleague who preceded me, I understood that you and Mr. Peppard want to monitor what's being done in the field and to see whether the rules are complied with, because these individuals are highly vulnerable to exploitation. I find that interesting. Mr. Peppard explained that, if potential employers of dubious morality knew they could be investigated at any time, they would probably be more careful. However, those investigations might be difficult to conduct. An unscrupulous employer could very well intimidate his employees, even at the time of the investigation.

Some groups have proposed that foreign workers with temporary permits be entitled to change employers in order to be less vulnerable to those individuals who hold their lives in their hands.

Mr. Peppard and Mr. Fairey, do you agree with that proposal?

**Mr. Joe Barrett:** There's no monitoring. They all have the same rights as Canadians. However, they can't leave their jobs and look for another one like a Canadian would do. They are really tied to their employers. They don't have a choice; they have to continue working for that employer. They also can't speak the language and don't know their rights. They come from countries where those rights are not respected.

**Mr. Thierry St-Cyr:** I'm going to stop you. You raised those points earlier. I'd like Mr. Fairey to answer my question because my time is limited too.

[*English*]

**Mr. David Fairey:** Absolutely. Without the right to change employers, we have a second-class system of indentured slavery, essentially. The temporary farm worker program, where workers are tied to a single employer, makes workers indentured slaves, in the modern sense of the word. There's no other way you can characterize it.

[*Translation*]

**Mr. Thierry St-Cyr:** All right.

Mr. Fairey, our agenda doesn't mention your exact title. At the start of your presentation, you said you were a labour economist. What organization do you work for?

•(1515)

[English]

**Mr. David Fairey:** I do labour consulting research and policy research.

[Translation]

**Mr. Thierry St-Cyr:** So you are self-employed. Who are your main clients?

[English]

**Mr. David Fairey:** My customers and clients are labour organizations, government agencies, and public policy institutes.

[Translation]

**Mr. Thierry St-Cyr:** You also talked about farm workers. Do you agree that these are generally unskilled jobs? I may be wrong. You said in your presentation that an artificial labour shortage had been created by making these kinds of jobs less appealing.

Did I understand correctly?

[English]

**Mr. David Fairey:** What I believe I said was that, first of all, under the provincial employment standards legislation, the protections for agricultural workers are less than those for other workers. They have fewer rights and their conditions are inferior. These are hazardous jobs; agriculture is a hazardous industry. The agricultural employers are attempting to, in our view, create conditions of shortage unnecessarily—that is, artificial shortage—by pressuring for legislation that provides lower standards, lower wages, so that the domestic labour supply is not going to respond. The farm employers are not behaving like competitors in a free market. They want to have protections and they want to have subsidies. In my view, the temporary farm worker program is a subsidy to these employers.

**The Chair:** Thank you, Mr. St-Cyr.

Ms. Chow.

**Ms. Olivia Chow:** I'm hearing three recommendations, and I just want to make sure I'm hearing them correctly. Whoever wants to comment on this, please do.

The first one is to give the visas to the workers within their trade, not to the employer.

Number two is to make sure the workers get the orientation they need when they arrive in Canada, have an arm's-length centre where, if there are problems, they can file some of the complaints in a fair manner.

Third is to make sure there's decent inspection by an inspection team, a SWAT team that is organized by the federal government, the provincial government, and stakeholders, whether those are unions or non-profit organizations. Then there will be the inspection by the provincial government, but with the federal government supporting it.

The advocacy part is that there needs to be a group that will support these workers to make sure these workers, when they don't get the justice they need, will have a group that will support them and advocate for them.

Are those the general outlines of the three or four key recommendations you are looking for? Are there other recommendations? Maybe Mr. Peppard would like to talk about these from the construction side and then from the research side.

Are those the key recommendations? Have I missed other areas of overarching importance?

**Mr. Wayne Peppard:** Certainly, I would put in there the credentials recognition as an issue that comes out over and above this, because I didn't get to speak a whole lot about that. It's a huge issue in and of itself.

The key issue here is the vulnerability of temporary foreign workers, whether they're in agriculture or anywhere else. If we can address the issues of vulnerability, then all of that will fade away. We won't be in a position where we have to track individuals or employers or anything, if we make sure the system is working properly.

Number one, I think the key is the visa permit that is attached to the trade. These people, as foreign workers, are invited to work in Canada first and in the province second. If they're invited to Canada, they should work under Canadian standards and have all the rights and responsibilities of a Canadian.

If Citizenship and Immigration recognizes that we need, for example, 20,000 carpenters in the next year, then they should say, "We need 20,000 carpenters; let's go get 20,000 carpenters." But when they come here as carpenters, their work permits and their visas would be in the industry in which they work—as carpenters—so they can freely move. That takes away their vulnerability. If they're being mistreated, they can move. I think that's of prime importance—absolute prime importance.

Second is the orientation and advocacy. If they are given the right and they know what their rights are, that doesn't mean they're necessarily going to be able to use those or go somewhere. Where do they go? If they're given an orientation program by someone they trust who is non-partisan, and that becomes an advocacy group, whether it's for problems they have on the job or—for example, as Joe just had to do with one of the employees who came to us—they have to go to the hospital.... They didn't know the health system. Their employer was not going to walk them through going to the hospital or going to the doctor, getting referred and all of that sort of stuff. There are many implications—and that's a simple one—of what it means to be a foreign worker in a foreign land, not knowing just the language, but also other barriers as a result of that. So an advocacy centre can be much more than just providing support for when an employer abuses an employee.

Finally, if you don't have the compliance team in place, if you don't have a monitoring system...and that's what I meant by tracking. I don't mean tracking the individuals; I mean monitoring the system to see that it works properly.

•(1520)

**The Chair:** Yes, we understand what you meant by "tracking", believe you me.

**Mr. David Fairey:** Could I just add a couple of other things from our perspective?

The other two points of priority I think are that the employers applying under these programs should have to prove a record of compliance; that is, the non-complying employers with bad records should not participate in the program any more.

The second point would be that the SAWP, particularly, should enable those migrant workers to apply to stay here.

**Ms. Olivia Chow:** My earlier question to the other speaker was that the farm workers will never have enough points, and they're not going to get the degrees or the certificates to qualify under the experience class. Under the experience class, there really should be categories A, B, C, D; each of them should have x number, so there's hope for them—if they are working well, if they are settled—that they would be able to become permanent residents eventually and bring their families over. That would be critically important.

**Mr. David Fairey:** It's essential to understand that the SAWP program is limited to males who are married.

**Ms. Olivia Chow:** Oh, really?

**Mr. David Fairey:** So all of them have families in Mexico, and if it's women, it's women who have children. So this is very—

**Ms. Olivia Chow:** So they have to leave their kids behind.

**Mr. David Fairey:** And some of them come here for years, and are away from their families for four months out of the year. This is a tremendous social problem, so permitting them to apply—

**Ms. Olivia Chow:** You mean just like the live-in caregiver program that has been very successful for a long time.

**Mr. David Fairey:** Absolutely.

**Ms. Olivia Chow:** With the exception of the 24 out of 36. There are problems with the live-in caregivers. I don't want to say that it's a perfect program; it needs to be changed somewhat.

**Mr. Wayne Peppard:** If I may comment on the CEC, the experience program, we were part of the meeting with Ottawa when they came here to talk about that. We gave qualified support for it. We do recognize that that is where we should be going, and we believe very strongly that if people are good enough to come to Canada to work here, they should be able to bring their families and be permanent residents, if that's what they choose to do.

Secondly, the issue we have with the Canadian experience program right now is that it makes those employees even more vulnerable, because if they are working under conditions currently where the employer holds it over them that they can terminate them—and that goes back to whether or not they're indentured to an employer—this just adds another layer to that intimidation.

**The Chair:** Thank you, Ms. Chow.

We will wind up this panel with the last seven minutes going to Ms. Grewal.

● (1525)

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

First of all, let me thank each and every one of you for taking the time to come here, and thank you so much for your presentations. Certainly we have learned a lot from you.

All of us are here to make the system more efficient and effective, so that it is more accessible for people coming into this country. There is a shortage of workers, and that should be addressed.

The shortage is in various industries, such as construction, farm work, and hospitality, mostly. Some temporary workers are abused and they're vulnerable, as Mr. Peppard said.

**Mr. Peppard,** my question is very simple. Please, could you tell us what means are in place to reduce the vulnerability of those potential foreign workers to human traffickers, and are these means sufficient for them? Could you please elaborate on that?

**Mr. Wayne Peppard:** Well, certainly, we wouldn't be here if they were sufficient. We've got serious cases that have been brought before us.

Part of the problem is with that aspect of the labour broker side of it. I call them the slave traders. They don't bring them in ships any more; they bring them in airplanes. But what they're doing is bringing people here in a global market, and we have to recognize that it is that global market. We can create any kind of legislation here in Canada or in a province or in a municipality that we want, but influencing other countries, the host countries, is a serious concern for us. We have asked to sign on to the human rights convention as well—or ratify it, because we have signed on and we just have not ratified it—because we believe those kinds of agreements that are made between countries right now have to hold these rights really imperative for workers and for the employers.

As an example, part of the discussion we had this morning dealt with the need to write into those agreements what the responsibilities of the Canadian government are and what the responsibilities of the host government are. If there is a broker or a contractor who is operating with people from another country and they violate, then what happens to them in that other country as well? It's not just here, because we can legislate and we can act here, but we have to make those connections.

As I said earlier, we've got one contractor right now who is intricately linked with the broker and the broker is intricately linked with the loan shark company in the country of origin, but we can't get that information to lay it down on the table and say this is what it is, because we have to access the other country and we can't do that.

So there are problems inherent with making sure not just that we have everything ready here and that everything is enforceable, but also that it is in the other country. So those agreements are very important, and we would hope that these kinds of issues would be brought up within those agreements, to ensure that everybody is treated correctly.

**Mrs. Nina Grewal:** So what steps can the federal government take to reduce all this? Could you tell us?

**Mr. Wayne Peppard:** I think of the three issues we mentioned earlier, the issue of vulnerability and changing the visa and the permit process so it's not linked to the employer is the biggest one of them all, because it really does indenture the worker and it makes the worker different from other Canadians

A point well taken is that all workers should be treated the same way in Canada. Why should the temporary foreign worker not be able to move between employers when the Canadian worker can?

**Mrs. Nina Grewal:** How much time do I have, Mr. Chair?

**The Chair:** You have three minutes.

**Mrs. Nina Grewal:** I'll pass my time to Mr. Komarnicki.

**The Chair:** Okay. Mr. Komarnicki.

**Mr. Ed Komarnicki:** I have a few questions.

First of all, I gather from what you're saying that you'd like to see some national standards that would be sort of a minimum basis when we talk about temporary foreign workers. Presently, they're provincially regulated and they vary from province to province. There might be some basic fundamental baselines that you'd like to see incorporated across the country. Is that correct?

• (1530)

**Mr. Wayne Peppard:** Absolutely. In our industry, we call it the "red seal". It's those trades and occupations that are red-seal qualified.

As I said earlier, for somebody who is invited to work in Canada first and then the province, we need to enforce those national standards for the credential recognition.

**Mr. Ed Komarnicki:** Secondly, obviously we've heard things from the labour perspective, from your own point of view as well as Mr. Fairey's, but do you see a place within your organization, the labour movement, or the union movement where you would have a section specifically dealing with advocating on behalf of temporary foreign workers? Do you see yourself as having a role in that regard or not?

**Mr. Wayne Peppard:** I certainly do see us as having a role. I think what we would be calling for is a partnership between the federal government, the provincial government, and, I would suggest, stakeholder groups in setting up, if we could, this orientation and advocacy program. I think we could all work together on that.

**Mr. Ed Komarnicki:** I'm thinking about the live-in caregiver program. You might be familiar with that. Obviously there's some pre-counselling with respect to what the rights there might be in terms of the province you might enter into. It talks a little about what advocacy groups are available out there. It talks about language, because there might be some language issues.

Do you see that kind of concept that is already working in the live-in caregiver program extended beyond to those who might be coming in?

**Mr. Wayne Peppard:** Absolutely.

Currently, I can speak for our own organization. We work with the Construction Sector Council on foreign credential recognition, mentoring, and all kinds of programs that we're using right now. I believe there are opportunities on a nationwide basis to implement this kind of stuff.

The funding is there. I know there's funding available.

**Mr. Ed Komarnicki:** You mentioned credentialling. I suppose I should mention that we have opened a foreign credential referral

office. I know there are over 400 different credentialling agencies. It's quite a maze, not to mention what the particular agency does.

Do you see the opening of the Service Canada offices, 320 of them across the country, as a good first step towards that whole process of helping people through the maze of credentialling?

**Mr. Wayne Peppard:** I certainly do. I am a federalist. I do believe there has to be a strong national program in place. That is where it has to start. I think we have to work in partnership with provinces in delivering, and the stakeholders.

**The Chair:** We have about two minutes left, and Mr. Telegdi wants a minute. Did you have something further?

**Mr. Ed Komarnicki:** It can keep.

Thank you.

**The Chair:** Okay.

We're looking at one-minute stuff here again. We'll give one minute to Mr. Telegdi and to Mr. Carrier.

**Hon. Andrew Telegdi:** I've sat on this committee for 10 years. I have been hearing the same problems come along for some years. I've often said what you have to do is, when somebody comes in, they can work for numerous employers. Tying them to a single employer is certainly the wrong way to go.

I think maybe we can have a solution to this. A lot of these folks don't speak the language and they need help in all those areas. Expecting government to do all of this is really difficult.

Every temporary foreign worker pays into UI and they get absolutely nothing out of it. If we stopped making them pay UI and have that be a union due, I think the natural advocates on behalf of rights, which are the unions, would be able to assist the temporary foreign workers in making sure their rights are respected. This is what we really need. You're not going to get enough inspectors at the provincial level unless there are some people who can deal with their rights and present the case to the regulating bodies.

Could I get a comment from both of you on that?

**Mr. Wayne Peppard:** On the inspection side, we do not need to hire inspectors. What we need is a good system in place. In the compliance team model, what we're saying is that we just spot-check; you put it out there that somebody can be caught.

Usually when they're cheating on one, they're cheating on a whole bunch of them. If they're cheating on their taxes, they're cheating on the WCB, they're cheating on their workers, and so on.

**The Chair:** So you need some tracking?

• (1535)

**Mr. Wayne Peppard:** We just need that, and that was what I was talking about—the monitoring, not the tracking.

I just want to say one thing. This is about employers too. When you allow temporary foreign workers to be brought into the country by one employer and not to be treated properly, then it's unfair to other employers.

**The Chair:** Good.

Thank you, Mr. Peppard.

Mr. Carrier.

[Translation]

**Mr. Robert Carrier:** Thank you.

Mr. Peppard, you talked about the supervision, which you call monitoring, of the work done by seasonal and temporary workers. Except that, in a federalist regime such as ours, in a confederation, labour standards are a provincial jurisdiction. In addition, government employees have even told us that temporary work permits are subject to no control to ensure individuals actually leave the country after their work period. Even the federal government doesn't have inspectors on site.

The provinces want us to grant work permits. We could insist, at the time of granting a temporary work permit, that an agreement be reached with the province to ensure that provincial labour standards are met.

Do you agree with that?

[English]

**Mr. Wayne Peppard:** Absolutely. I thought the intent of the memorandums of understanding that are being signed between the provinces and the federal government would result in that. I know in Alberta it has happened and they have advocacy; they have monitoring.

I want to get away from this tracking. We just want to make sure that the system is working properly and that workers are not getting abused, and that's what they're trying to ensure in Alberta. I think that is one of the types of models that we could be looking to.

**The Chair:** Thank you.

[Translation]

**Mr. Robert Carrier:** To conclude, I would like to thank you—

[English]

**The Chair:** We have to move on.

[Translation]

**Mr. Robert Carrier:** —for taking an interest in the workers themselves and for ensuring their quality, when we grant them temporary work permits, and not increasing their numbers indefinitely.

Thank you for those remarks.

[English]

**The Chair:** Well said.

Thank you, Mr. Peppard, Mr. Barrett, and Mr. Fairey. Very interesting presentations. Thank you very much.

In fairness to Ms. Beaumier, who never abuses her time, I want to give her a minute.

She has a question here for you, Mr. Peppard and Mr. Barrett.

Ms. Beaumier, sorry about that.

**Ms. Colleen Beaumier (Brampton West, Lib.):** Thank you.

I've worked with immigrants since I was 17 years old. They've been my life, and this is so frustrating.

Mr. Fairey was talking about the Punjabi community.

So the one issue...you're saying they can't be tied to one worker. However, do the employers not pay their way into Canada? And we have to admit that all people who employ farm labourers do not abuse their people. I think we need to hear from some of these people to help us come up with the solutions. For the underground workers—the last time I met a group—there were 30,000 Polish underground workers in the Toronto area working in the construction business. They don't pay unemployment insurance, so they have no benefit there. They have no health care. They pay no taxes. Their children are probably attending school because they originally applied as refugee claimants, so their kids would be in school—but no other benefits.

So not only are the workers exploiting these people, but we in the government are exploiting them. In 2005, or whenever the last Liberal budget was, Joe Volpe had in place a system where underground workers could come forward or were going to be able to come forward, to get regularized within the system, and if they could show that they were able to fit within the system within two years, they could apply for immigration from within Canada.

Do you think that is a partial solution to these underground workers?

**The Chair:** That's a good question—a very political question.

**Voices:** Oh, oh!

• (1540)

**Ms. Colleen Beaumier:** It was a political comment.

Is it a good idea or not?

**Mr. Wayne Peppard:** I think you're absolutely correct. I do think so. I think that dialogue has been going on. I'm surprised that it hasn't been allowed to come to fruition.

We know that in the residential construction industry, as an example, in excess of 50% is underground right now—across Canada.

**Ms. Colleen Beaumier:** And it doesn't even benefit the consumer; it benefits no one.

**Mr. Wayne Peppard:** Now, on your first point, I just want to respond on the cost to the employer. It would not be an issue if all employers treated them properly, because you would keep your employees.

The second thing I would say is that under the PNPs, which are the provincial nominee programs that are being signed across Canada in the devolution process, that is the possibility. Those employers can go to attract from another country, pay for them, and bring them over under the PNP.

**The Chair:** Thank you, Mr. Peppard, again.

Thank you, Ms. Beaumier. Those were good questions. I'm glad you had those couple of minutes.

**Ms. Colleen Beaumier:** Thank you.

**The Chair:** Do people want time to grab a coffee while we invite to the table Grassroots Women; Justicia for Migrant Workers; Mr. Tung Chan, chief executive officer of S.U.C.C.E.S.S.; and the Philippine Women Centre of BC?

Let's take a couple of minutes.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
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**The Chair:** Maybe we can get our committee members back to the table. I know you are all engaged in some very interesting conversations with some of the witnesses who are to come.

Mr. Karygiannis, Mr. St-Cyr, and company, please come back to the table. We will have to send people out to the highways and byways to find our committee members. Most of the members have had quite a hard time getting here to begin with.

We will begin. As I said, we have Grassroots Women, Justicia for Migrant Workers, S.U.C.C.E.S.S., and the Philippine Women Centre.

Could I bring the committee to order, please?

You are well aware of the drill. Each individual is given seven or eight minutes to make opening statements, so please feel free.

Lualhati Alcuitas is first.

- (1545)

**Ms. Lualhati Alcuitas (Grassroots Women):** Thank you for this opportunity to speak with you today.

Grassroots Women of B.C. was formed in 1995 as a discussion group by the Philippine Women Centre of B.C. Since then we have evolved into an organization of working-class and marginalized women advocating for our rights and welfare here in Canada and against systemic political and economic marginalization. We also organize in solidarity with other women's struggles around the world against globalization. We are made up of working-class, immigrant, migrant, and indigenous women.

We feel it is important, when addressing the issue of undocumented and temporary foreign workers in Canada, to understand why these workers are entering Canada in the first place. From the sharing of our members, and through the grassroots research that we've done, we know that many working-class women have experienced displacement and forced migration from third world countries because of the impacts of globalization and war. For example, in countries like the Philippines, the government is more interested in serving foreign interests than the interests of its own people. Because they are dependent on foreign aid, the government implements structural adjustment programs and signs unjust trade agreements, aggravating the chronic economic crisis.

So the Philippine government adopts policies of forced migration and becomes reliant on the remittances of overseas workers to prop up their ailing economy. For example, there are over eight million Filipino workers overseas, sending over \$14 billion U.S. home a year in remittances.

Once in Canada, these workers serve as cheap labour in the service sector and in domestic work. Many enter Canada through

temporary worker programs, such as Citizenship and Immigration Canada's live-in caregiver program, or LCP. Since the early 1980s, nearly 100,000 Filipino women have entered Canada under the LCP and its predecessor, the foreign domestic movement program. We believe that by looking at the experience of long-standing programs such as the LCP, we can draw important lessons when talking about expanding temporary foreign worker programs.

Many temporary foreign workers often face violations in their working conditions because of the requirements of the program. For example, women under the LCP are isolated and often work beyond the hours stipulated in their contracts. They're also asked to perform duties at any hour of the day, since they are required to live in their employers' homes. Many are victims of all forms of abuse, including rape. And even though they're covered by employment standards here in B.C., they often do not complain because of the power dynamics between them and their employers.

We also analyze the nature of the work these women and other temporary foreign workers are doing in Canada. Whether under the LCP, or even afterwards, women are often streamlined into domestic work, doing child care, cleaning, health care or service work—even after the live-in caregiver program.

Many of the workers who come under these programs, such as the LCP or the SAWP—the seasonal agricultural worker program, and now the temporary foreign worker program—or even as refugee claimants, fall out of status and become undocumented because of their inability to complete the requirements of the program or because their refugee claims are denied. Some women under the LCP, for example, are being deported because they cannot complete the strict requirements of the program, for various reasons, such as having to change employers, becoming pregnant, or their employer has passed away, and because of bureaucratic hurdles in the system and delays in processing their work permits.

Those who cannot meet the requirements—and refugee claimants whose claims are denied—face deportation and even permanent separation from their Canadian-born children, which we see as the most extreme form of social exclusion. Many live in fear of the constant threat of deportation.

Some women also fall out of status because of violence within their relationships, which may also lead to sponsorship breakdowns.

I'll share the story of one woman. Her name is Maria, a teacher from Peru, who came here under the live-in caregiver program. She's been unable to complete the requirements of the program because she speaks very little English and has worked for several employers who haven't even given her any record of employment. So she cannot claim she has actually worked the 24 months required under the program. She has a child, whose father was an illegal worker in Canada and who was deported. The child has a very serious health concern, a heart condition. Maria has now been in Canada for seven years, but her claim for permanent residency has been denied. She has no choice other than to file a humanitarian or compassionate grounds complaint—which has very little chance of being approved—or go back to Peru.

Temporary worker programs such as the LCP create problems for families because of family separation. The reunification process is also filled with a lot of problems. Again, as I mentioned in the example of Maria, women who have Canadian-born children also face many challenges. For example, here in B.C., even though your child is born in B.C. and Canada, if the mother does not have a work permit, she cannot access health care, and her child cannot access health care even though it was born here in Canada.

To understand why the presence of undocumented temporary workers in Canada continues to flourish, we look at how immigration needs are really being fueled by employer interests. Temporary and undocumented workers are being exploited by Canadian employers who pay low wages and do not grant benefits, taking advantage of the workers' temporary—or lack of—status.

We in Grassroots Women are very critical of the expansion of the temporary foreign worker program and the recent changes to the Immigration and Refugee Protection Act. We anticipate that many of the problems with the current temporary worker programs will be repeated under new programs. We also know that services for these workers will again fall back on community and grassroots organizations such as ours, who are already facing a lack of funding.

At Grassroots Women, we support the call of such other organizations as the National Alliance of Philippine Women in Canada and SIKLAB to scrap the live-in caregiver program. Women should have the opportunity to come to Canada as permanent residents with their families and also to have their education recognized and practice their professions. We also—

• (1555)

**The Chair:** I think I'll have to hold this panel to the seven-minute mark, just because we have so many. We have a total of five, which will take up around 35 minutes.

So in the interests of our committee members wanting to get in on the act here too, I think I'll have to hold you to that seven minutes, if you don't mind.

**Ms. Lualhati Alcutas:** Perhaps I could add one last point.

We also demand the implementation of a universal child care program that's accessible and affordable. We see the LCP as the de facto national child care program but only accessible to middle- and upper-class families.

Thank you.

**The Chair:** Thank you. I'm sorry we have to do that. We have so many panellists, that's all.

Ms. Fuchs.

**Ms. Erika Del Carmen Fuchs (Organizer, Justicia for Migrant Workers—British Columbia):** I've timed my speech. It should be seven minutes.

[*Translation*]

I apologize for not translating it into French, but I am very pleased to be here and I hope you will listen to what I'm going to say.

[*English*]

Thank you very much for the opportunity to speak before the standing committee.

My name is Erika Del Carmen Fuchs, and I'm an organizer with Justicia for Migrant Workers B.C. Since 2005 we've been advocating for and working with seasonal migrant farm workers brought in under the federal seasonal agricultural workers program, the SAWP, with over 2,500 workers now coming from Mexico and the Caribbean to B.C.

We are part of the Migrant Justice Network, which includes various sectors—community organizations, unions such as the Canadian Labour Congress, churches, migrant workers, and other concerned individuals. You will hear from others in the network in coming days.

We are also part of an economic security project with the Canadian Centre for Policy Alternatives and SFU and UBC, as you heard before, which looks at the impacts of weakening provincial employment standards on immigrant and migrant farm workers. This report will be out shortly. We echo many of those recommendations.

In our numerous visits and direct contacts with migrant farm workers, we see firsthand their conditions—in particular, the sometimes substandard and even appalling housing conditions, as well as the medical, social, labour, and other problems they face.

**The Chair:** I think I'm going to have to slow you down for the interpreters.

**Ms. Erika Del Carmen Fuchs:** I need to finish. I have to get to the last part.

**The Chair:** No, please don't hurry. We'll give you every opportunity to try to get through it.

**Ms. Erika Del Carmen Fuchs:** Thank you. I translate all the time, so I understand; I'm sorry.

We are here to recommend that the standing committee take forward the issue of giving temporary migrant workers permanent resident status, as their temporary status really provides the foundation for the exploitation and abuse they often face. Obviously it's not by all employers, but we cannot leave it to employers to decide whether they're good or bad employers. We have to make sure it's taken care of at another level.

SAWP workers have a strong attachment as labour and contribute greatly to the economy of our country. Over 80% of these workers come back year after year, since the agriculture sector, as acknowledged by the CIC, along with the caregiver sector are experiencing a recurring or growing labour shortage. That can be debated, obviously.

SAWP is one of the oldest temporary foreign worker programs in the country, since 1966 employing workers under skill level D. It is well known for having some of the most restrictive work permits that prevent workers from exercising basic rights and freedoms that are considered fundamental for all Canadians, according to the Canadian Charter of Rights and Freedoms. Workers under contract have the same rights as Canadian workers, I should add.

These restrictions include the following: lack of equitable access to permanent residency in spite of having a substantial Canadian work history; lack of labour mobility, as they are tied to one single employer; lack of freedom of mobility, as they have to live under the employer's chosen accommodation, who often restrict and control their right to receive visitors, in violation of their basic civil rights; lack of appeal mechanisms, forcing many workers to remain silent out of fear of being expelled from the program; exclusion and discrimination from provincial employment standards and public medical health coverage; and lack of enforcement and monitoring of labour practices, health and safety, and housing conditions.

We are disappointed and discouraged not only in regard to the inaction of the federal government on critical issues of the program—absence of compliance, monitoring, enforcement, access to full rights, and permanent residency—but also because through new federal government initiatives such as the proposed Canadian experience class, workers' vulnerability to employer abuse will be intensified if the assessment process is slanted towards a positive employer reference. We are opposed to this disturbing trend of accelerating employers' access to temporary foreign workers without meaningful initiatives put forward to address the structural flaws with the already existing program such as the SAWP and LCP.

We urge the standing committee to push to extend the right to regularization to workers currently employed under the SAWP, and retroactively for workers previously employed under the program. Many of these workers have been coming to Canada for 15 to 20 years, yet the point system does not enable them any opportunity to gain permanent status in Canada. These new proposals coming forth keep excluding and denying these workers basic rights and citizenship.

Also, we ask for provisions for family reunification to allow migrant workers' families to apply for residency, and to end the repatriations, especially in the absence of appeal mechanisms. As the SAWP contract is an employer-sponsored one, workers are repatriated basically for standing up for their rights.

Workers' temporary status is the foundation for much of the exploitation and abuse that exists under these guest worker programs. This ranges from withholding needed and requested documentation from them, such as their passports and records of employment, to worker accidents and illnesses that have resulted in permanent disabilities and numerous deaths. Even when workers have access to the financial and legal resources to defend their rights, their temporary status leaves them vulnerable, as the case of the RAV line workers leaves very clear. And most migrant workers do not have access to any financial or legal resources to fight their cases.

I, as well as other Justicia organizers in B.C. and Ontario, have been witness to many tragic cases. I hope these cases will highlight some of the pitfalls of these programs and enlighten the standing committee to push for regularization and permanent resident status for foreign workers, instead of relegating them to a temporary status that leaves them vulnerable to employer exploitation and abuse.

In December 2005 I was with Javier, a SAWP worker, before, during, and after he had his second full stroke, which was provoked by a workplace accident, something that may have been prevented or minimized had he had access to a CAT scan after his first stroke only

days earlier. But because he was a temporary worker, B.C. still had not given him MSP provincial health coverage, so he did not get the appropriate medical attention he needed. His employer, Purewal Blueberry Farms in Pitt Meadows, was prepared to send him back as he was, after the first stroke, partially paralyzed at that moment. Only because we stayed with him was he able to get medical attention. However, he is now back in Mexico, permanently disabled for life, without the proper medical attention or financial support.

I just recently returned from Mexico, where I met many SAWP workers and their families, among them two widows of two former workers—one who died a few years ago and one who died earlier this year, whom I was sadly fortunate enough to meet in December before he died.

Alicia is a widow whose husband had chemicals spill on him at work in an Ontario greenhouse. The employer would not even allow him to take a shower after the spill, much less take him for needed medical follow-up. Based on this chemical spill, he had complications from which he later died. Alicia receives no compensation from either the Mexican or Canadian government for this. What is her alternative in this case—to come to Canada through the program that resulted in the death of her husband? She now has to take care of their son alone with no support.

Maribel is the widow of Alberto, who died earlier this year, leaving his wife and three very young children. While a SAWP worker in Ontario, Alberto was diagnosed with pancreatic cancer, and although he received a lot of community support, he and his family are not receiving the governmental support they deserve. I remember talking to Alberto's brothers, many of whom have also come to Canada through the program, about how, in fact, this could happen to them. It was certainly not very heartening to tell that to the family who recently lost one of their members when they are participating in the same program. And there are many cases like this.

Finally, I would like to end by emphasizing again the importance of this standing committee's taking up the issue of permanent resident status for migrant workers, rather than the temporary status they currently have. Do we really want to be a country that, by having these temporary programs that bring in workers for decades without ever allowing them to become residents, contributes to family disintegration and intense marital, family, and community problems as a result? Imagine being away from your family and your community for eight months every year for 15 to 20 years. This is the life of a migrant farm worker in the SAWP.

We recommend that Canada finally sign on to and ratify the UN convention on migrant workers, and we recommend that you take many of the recommendations in the Arthurs report on federal labour standards as a starting point for some changes to improve the conditions and lives of migrant workers. The Arthurs report identifies farm and domestic workers as among the most vulnerable, and being foreign workers only increases their vulnerability. We agree with the Arthurs report that we must consider how to ensure that all workers can live in conditions we consider decent, and that is the question central to all public policy debates. What we advocate for is just that: decency, justice, dignity, and families and communities having access to their full rights, which in the case of foreign workers here in Canada includes having access to permanent residency, and ultimately citizenship, if they so choose.

I do not want to see more Javiers, Albertos, Alicias, Maribels, and children without fathers, but if the government does not change the underlying foundation that leaves these workers vulnerable to exploitation, that is exactly what it is supporting.

Thank you.

●(1605)

**The Chair:** Thank you, Erika. Thank you very much. You can say an awful lot in seven minutes. Good job, and I'm sorry I have to cut you off like that, but as I say, there are only 35 minutes for all your presentations and then our committee members.

Mr. Chan.

**Mr. Tung Chan (Chief Executive Officer, S.U.C.C.E.S.S.):** Thank you, Mr. Chair. *Bonjour, mesdames et messieurs.* My French is only about that much. That's all my French.

I want to thank you for allowing me to come before you to speak, and I'll try to stay within the seven minutes. In fact I think I might finish before the seven minutes.

I just want to say a few words about S.U.C.C.E.S.S. We have been around for 35 years. We currently have 390 employees, and we serve in 18 locations in the lower mainland. We provide settlement, employment, language training, and health care services to youth, adults, families, and seniors.

About undocumented workers and foreign temporary workers, the one thing I want to say is that we don't see too many of them. In fact, in the three months ending in December 2007,—October, November, December—we came into contact with a total of 20,633 individuals, but we would classify less than four per cent of those as "others", and out of those others a very small minority were undocumented or foreign temporary workers. So we believe that from our perspective—because we actually provide services in so many different languages: Korean, Punjabi, Farsi, Filipino, Tagalog, and so on—our services have not been able to reach them or they have not been coming to our offices to ask for service.

The B.C. government recently introduced the settlement worker in the schools. So to the extent that those undocumented workers and temporary foreign workers have children in school, they might be accessing those services through the school workers. That cannot be assured.

As you have already heard today, many of them do not speak English as their first language. So our recommendation is that perhaps funding should be made available to organizations such as the ones sitting to my right, to allow them to more effectively provide outreach programs for those immigrants. As well, it would be useful if we could make funding accessible for foreign temporary workers as well as the undocumented workers, if we can find a way to do it, to improve their language skills and to provide any funding assistance to them.

You've heard the story about the government not providing medical services and providing limited access to legal assistance. Those are the areas we think are important and we should be providing assistance with. We recommend that we provide integrated services for the existing services that we provide to landed immigrants as well as to the foreign service workers.

The funding requirement, the funding we get now from our provincial government, is basically to allow us to provide services mainly to landed immigrants. There is really no incentive for organizations such as ours to extend our services, even though we would like to, to the temporary foreign workers. It's important now as we are looking at introducing the Canadian experience class, and those people who have been working here as temporary foreign workers...we are encouraging them to apply. We are encouraging them because they do not have to go back to their home residence to apply.

It's critical that during those times they are working here as temporary foreign workers that their experience is good and that they do not encounter situations as described earlier.

It is a good initiative, from our perspective, to create this Canadian experience class. However, it is not sufficient simply to create a class, but during the time they are here as temporary foreign workers we do not accord them the same kinds of services.

Ladies and gentlemen, that's it for me.

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

Ms. Valdecantos.

**Ms. Denise Valdecantos (Board Member, Philippine Women Centre of BC):** Thank you for this opportunity. My name is Denise Valdecantos. I'm a board member at the Philippine Women Centre of B.C.

Since 1989, the Philippine Women Centre of B.C. has educated, organized, and advocated for migrant and immigrant women of Philippine origin and their families. Our long-standing advocacy campaigns have critiqued and called for the scrapping of the live-in caregiver program.

As you know, Citizenship and Immigration statistics show that the overwhelming majority of women coming in under the LCP are from the Philippines. Our research studies and organizing work in the community, along with numerous academic studies, have documented the negative physical, social, economic, and political impacts of the LCP on the Filipino community in Canada at individual and community levels.

Yet despite the long history of lobbying work, the LCP remains intact, particularly its four pillars, which are the mandatory live-in requirement, temporary immigration status, employer-specific permit, and the 24 months of work that needs to be completed within three years. Without the removal of these pillars, the situation of the live-in caregivers will never improve due to the systemic context of their abuse. Their vulnerability remains intact when unregulated work conditions and cases of abuse and exploitation for foreign live-in caregivers are rampant.

Another challenge faced by these women and their families is the long process involved in the sponsoring of their children and the dues and fees involved. Often the years of separation result in trauma of these Filipino youth. A recent study with UBC found that family reunification and family separation have resulted in the youth's lack of integration and isolation here in Canada.

We are deeply concerned about the expansion of Canada's temporary workers program without the full and critical examination of the negative impacts of existing temporary workers programs like the LCP. We are further concerned about the potential short-term and long-term negative impacts on the Filipino community.

The Philippines is a top-source country for temporary foreign workers in Canada, yet there are not sufficient safeguards to protect the rights and welfare of these migrant workers and their families. Many of the women are trained as Filipino nurses, and they are often tasked to perform nursing care duties for the elderly and disabled. With the current nursing shortage in Canada, we call for the full accreditation for these nursing professionals.

We stand firm in our position that permanent residence should be given to these workers coming from the Philippines to Canada, and they should be allowed to bring their families with them. We also support the call of SIKLAB, which is the Filipino migrant workers' organization, that Canada should ratify the UN convention on protection of migrant workers and their families.

Thank you.

• (1610)

**The Chair:** Thank you, Ms. Valdecantos.

Ms. German.

**Ms. Mildred German (Member, Filipino-Canadian Youth Alliance - National, Philippine Women Centre of BC):** My name is Mildred German, and I'm with the Ugnayan ng Kabataang Pilipino sa Canada, the Filipino-Canadian Youth Alliance, which is a group of youth and students who address the issues affecting youth in the Filipino community in Canada. We are formed through the Philippine Women Centre.

Thank you for this opportunity to speak about the situation of Filipino youth. The Filipino community is the third largest immigrant group in Canada. Current estimates show that there are nearly half a million Filipino immigrants and migrant workers living in Canada. A good portion of the Filipino community is made up of youth and students, and this is one of the reasons we would like to speak here today.

I'd like to speak about the impact of Citizenship and Immigration Canada's live-in caregiver program on Filipino youth. Since the early

1980s, nearly 100,000 Filipino women have been forced to migrate to Canada as live-in caregivers; 95% of workers under the LCP are Filipino women who cannot bring their families when they enter Canada to work.

Filipino youth are the most affected, as they are the ones left behind while their parents are working abroad. When youth are finally able to be reunited with their parents, they are reunited as strangers—the result of many years of separation. At the same time, Filipino youth who immigrate to Canada usually find themselves in an unknown environment, isolated and segregated as they adjust to their new life here.

Most newly arrived Filipino youth are also faced with the trauma of immigration, family separation, and reunification. A recent study at the University of British Columbia found that Filipino youth experienced an average of five years of separation from their parents, who come to Canada under the CIC's live-in caregiver program, and in many cases the separation is longer.

Adding to the trauma of immigration, family separation, and reunification is the lack of genuine support and services culturally appropriate to Filipino youth and the Filipino community. It is therefore not surprising that the study at UBC also found that Filipino youth have the second-highest high school dropout rate from Vancouver schools. Studies have linked this issue to the economic marginalization of the Filipino community. In fact, youth often have to work and contribute to the household income to help sustain their family's needs. The majority of Filipinos in Canada are working class, marginalized in the labour sector, and are the new generation of cheap labour here in Canada.

We Filipinos have noticed how underrepresented our community is when it comes to the issues affecting us. The ongoing underrepresentation of the Filipino community is a reflection of the systemic barriers affecting the Filipino community. When certain community groups question and criticize the Canadian government on policies such as immigration, the community is usually disappointed with the answers they are given—such as what happened on January 21, 2008, when the Filipino-Canadian Youth Alliance, alongside other immigrant organizations and community groups, questioned the CIC on the social impact of their policies, particularly with the temporary workers program, the Canadian experience class, and the live-in caregiver program. The CIC deputy director of the permanent resident policy and programs development division, Katherine Pestieau, admitted there is no money for the integration and settlement of our immigrant communities here in Canada. This disappointing response could only further impact the racist policies implemented on our community and other immigrant communities.

As mentioned, the Filipino communities' experience with the LCP...the impacts are tremendous: the trauma of immigration, family separation, and reunification. This is why it is urgent to look into the social impact of Canada's immigration policies: the temporary workers program, the live-in caregiver program, and the Canadian experience class.

We demand the scrapping of the live-in caregiver program. Allow Filipino migrant workers to come as permanent residents and allow families to come together as their choice to avoid the long years of family separation. We also demand more resources for the integration and settlement of our immigrant communities here in Canada.

•(1615)

**The Chair:** Thank you, Ms. German.

We have approximately 30 minutes for questions, and now we will go to Ms. Beaumier.

**Ms. Colleen Beaumier:** Thank you. I'm going to share my time with my other colleagues here.

Erika, I listened to you, and all of you, in your passion. All of you are doing God's work, or if you don't believe in God, then maybe you're Santa's elves, because we know there's not big money in what you're doing. But boy oh boy, there's a lot of passion in your vocation. I know that.

I agree with you, and this is why I'm not going to do a lot of questioning. If we have to have workers come back again and again because we're short of workers, then perhaps after a certain period of time they should be allowed to apply to stay in Canada.

When we're talking about older workers...and for every case you see of abuse and racism and exploitation, I guarantee there are five or six others out there. I want to know how you contact people about changes and how you're able to assist them. Would giving a senior's pension to landed immigrants after two to three years in Canada alleviate some of the employment and financial situations where older workers are exploited?

We know the point system doesn't work all that well. We have cabbies and sweepers with Ph.Ds, with doctor's degrees and dentist's degrees, working and being way underemployed. With the point system being what it is, would it be beneficial if we either eliminated the point system and based it on what our needs are—and certainly unskilled labour is still a need within Canada and probably always will be—or do we add another classification to the point system in order to accommodate people to be landed as permanent residents?

I'd like the first two women to answer that, please.

•(1620)

**Ms. Erika Del Carmen Fuchs:** I can't speak to the exploitation of the older workers. The older ones are about 50 to 60, and they're not requested back after a certain age.

On the Indo-Canadian population, I couldn't speak to you as much. We work primarily with the migrant workers, and I don't feel I'm the best person to answer the question.

We definitely think the point system is not working, because these workers should be allowed to apply for permanent resident status for themselves and for their families. They wouldn't make it under the point system.

**Ms. Colleen Beaumier:** The other question I have for you is this. If a migrant caregiver comes to you and expresses that there has been sexual, emotional, or physical abuse, what avenue do you have to address this without fear of their being deported? I have a lot of

women come to me. Their big fear is, don't tell anyone. I can't help them if I don't tell someone. I've never had anyone deported yet. What do you do in situations like that?

**Ms. Lualhati Alcuítas:** We do share the experiences. I also work with the Philippine Women Centre and SIKLAB. As I mentioned before, the women who come under the LCP are covered by employment standards, which is a right that the caregivers themselves advocated for. Often they do not complain; they do not come forward.

Recently in B.C. there were also changes to the Employment Standards Act. They implemented a self-help kit, which basically indicates that the employees themselves, the women themselves, have to first go to their employers and discuss their complaints. We see this as a very negative change to the Employment Standards Act.

We advocate for the women to go directly to the employment standards branch to launch a complaint. We've had successful cases of the women being able to garner back wages they haven't been paid, etc.

**Ms. Colleen Beaumier:** If the employment falls through, are they then deported?

**Ms. Lualhati Alcuítas:** It depends because of the strict requirements of their employment. Again, that is a big factor in the reason a lot of women do not complain. They know that once they change or leave their employers, they have to find another employer and process their work permit, which could take up to three months, which could jeopardize their finishing the program.

**The Chair:** You have two minutes left here.

Mr. Chan wanted to have a comment.

**Mr. Tung Chan:** Perhaps I may respond to the second part of your question in terms of allowing people to apply here when they are here.

I would suggest that if we are in need of immigrants—and all the studies that I've seen have shown that as a country, as a province, we'll need new Canadians to look after our labour requirements—then it would be really to our advantage to allow people who have come here, who have worked here, who have proven that they are law-abiding citizens, the chance to become a Canadian.

**Hon. Jim Karygiannis:** Mr. Chair, on that same question, we do have—it depends which figures you listen to—undocumented workers, people who work in the trades, people who work in different areas, who are undocumented. They're underground. They're working. They're being exploited. These are the people, I think, whom the study of undocumented workers pretty well wants to focus on.

Are you suggesting, Mr. Chan, that these people should be allowed, through a mechanism, to apply within Canada as well as to make sure their families are united with them? Should Immigration move in the direction of allowing these people to become regularized and to apply to stay in Canada?

**Mr. Tung Chan:** The answer to that is affirmative. I would support that for people who have worked here, who have been law-abiding citizens, and who have a skill to contribute to this country. We should allow them to apply here. They should be able to apply in situ, within Canada, without leaving.

**Hon. Jim Karygiannis:** If they're here alone, if the father is here working alone and his wife and his kids are back home, should we also expedite the process to join them as a family and bring their family over to Canada?

•(1625)

**Mr. Tung Chan:** Let's look back at the essence of this country. We founded this country on the grounds of being compassionate, being equal, and if we do that, then on that principled approach to the issue, there isn't a whole lot of question or debate. If we are really the country that we hold ourselves out to be, that we are a compassionate country when it comes to human rights, then we should; there's no question here.

**Hon. Jim Karygiannis:** My time is up. Are you suggesting yes or no?

**Mr. Tung Chan:** Yes, sir, if that's the question you're asking, but I think we should give you more than just a yes or no answer.

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

Mr. St-Cyr.

[*Translation*]

**Mr. Thierry St-Cyr:** Thank you, Mr. Chairman.

Thank you all for being here today. It was very interesting to hear your presentations. I liked them all, that of Ms. Fuchs, among others. You cited a lot of actual examples of difficult situations. We must all remember that we are dealing with human beings.

There are a lot of newcomers in my Montreal riding. I've had to deal with a lot of immigration problems. I've always been somewhat surprised to see to what extent the machinery was incapable of compassion and how far people are treated like numbers. Since being appointed the Bloc Québécois' critic, I've been simply astounded by the absurdity of a number of decisions, including some made recently. For example, we had to fight to allow a widow to get a visa to come and pick up her husband's remains in Quebec.

In that respect, the work done by organizations such as yours is quite outstanding. A number of organizations of this kind are doing good work in my riding. I'm convinced you are as well. We addressed the funding issue earlier. In my riding, these organizations just get by, surviving I don't know how.

In view of our society's wealth, do you think that organizations such as yours, which are on the front line when it comes to helping people who need it, receive adequate funding from government and from society?

[*English*]

**Ms. Erika Del Carmen Fuchs:** No. Many of our organizations are not funded.

I would agree with a lot of what you're saying. We have to remember that these are human beings.

I wouldn't just advocate for funding our organizations. I would also say the government has a responsibility. For example, in Alberta, there's an advocacy centre funded by the government directly as well. It's the federal government's responsibility as well to ensure that there is a standard, that people are treated like human beings. The point system doesn't work. It isn't treating people like

human beings. And no, our organizations definitely don't receive funding.

[*Translation*]

**Mr. Thierry St-Cyr:** I'm going to consider that your answer applies to the entire group. I believe that everyone agrees.

Ms. Alcuítas?

[*English*]

**Ms. Lualhati Alcuítas:** Thank you.

I'd like to share also that women's organizations are being harshly affected as well because of the cuts to the women's program at Status of Women Canada.

For example, the recent changes to the program, basically denying funding for any research and advocacy and only providing services, are also harshly impacting women's organizations that are dealing with women who are facing these types of abuses.

[*Translation*]

**Mr. Thierry St-Cyr:** I agree with you. It is thoroughly repugnant to see cuts being made to this kind of program, when we offer across-the-board tax cuts to oil companies, in particular.

I'd like to go back to a question that is more—

[*English*]

**Ms. Erika Del Carmen Fuchs:** Can I just add one thing?

I did work as a settlement worker before, and the cuts that happened were not just to settlement work.

In B.C., for example, we don't have enough English language programs. We have only up to a benchmark of four or five, whereas in Manitoba, the government funds up to level eight. It's things like that.

[*Translation*]

**Mr. Thierry St-Cyr:** Thank you. I wanted to ask some more technical questions.

Ms. Valdecantos, when you talked about the Live-in Caregiver Program, you mentioned four criteria. I only had the time to note down two, that the duration must be 24 months and that it has to be at an employer's residence. What were the other two criteria?

[*English*]

**Ms. Denise Valdecantos:** It was temporary immigration status, and it's an employer-specific permit.

•(1630)

[*Translation*]

**Mr. Thierry St-Cyr:** You say that these characteristics, these pillars undermine workers and live-in caregivers, and I understand that perfectly well. Do you have an idea of the reason why those criteria were established? Why, for example, are workers required to live on site? What was the government's interest in putting that obligation in place?

[English]

**Ms. Denise Valdecantos:** There is this shortage. There is the need for caregivers. There's a need for people to work within homes, because with the health care system the way it is and the shortage that's going on, there's a push to bring the elderly into the household, and there's a need for these people to be cared for.

In regard to children, because there is no national universal child care within Canada, there is a need for child care and day care within the home also. So understandably, there's a need and a push for these labour forces.

As to the history of why this live-in requirement was implemented by the government, I'm not quite sure. It's these exact pillars that are further isolating the women and further exploiting these women.

[Translation]

**Mr. Thierry St-Cyr:** Ms. Valdecantos or Ms. Alcuítas, what is the standard profile of the employer who hires a live-in caregiver? As a citizen, I don't see how I could hire a person who works and lives in my home. It seems to me that's only an option for extremely well-off individuals. I only see that in American TV series. Who are the people who hire these individuals?

[English]

**Ms. Lualhati Alcuítas:** Thank you.

For Grassroots Women, we also see that the live-in caregiver program is actually the de facto national child care program of the federal government. The reason we oppose this program is because it is child care accessible only to middle- and upper-class Canadians, leaving working-class women to struggle through survival day to day with no access to affordable and accessible child care.

The reason these employers are able to hire live-in caregivers is because they are also getting a very cheap deal. If you look at it, if you pay \$1,500 a month for one child caregiver who can take care of two, three, or four children and also do domestic duties, that employer is getting a very cheap deal, when it costs at least \$1,000 a month to put a child into a licensed child care program.

**The Chair:** Okay.

[Translation]

**Mr. Thierry St-Cyr:** That figure—

[English]

**The Chair:** Keep it very short, because we have 14 minutes left, seven for Ms. Chow and seven for Mr. Komarnicki. Go very quickly.

**Mr. Thierry St-Cyr:** Just repeat the number.

[Translation]

What is the average monthly cost of a live-in caregiver?

[English]

**Ms. Lualhati Alcuítas:** It's about \$1,500 a month, because the live-in caregivers receive minimum wage. So here in B.C. they receive about \$8 an hour.

**The Chair:** Okay, thank you.

We'll go to Ms. Chow for seven minutes and then to Mr. Komarnicki.

**Ms. Olivia Chow:** Mr. Chan, do you support a general amnesty for undocumented workers if they have no criminal record, have been here for three or five years, and have worked and paid their taxes? Should they be allowed to stay in Canada?

**Mr. Tung Chan:** Yes, they should.

**Ms. Olivia Chow:** I assume that the rest of you all say yes, right?

**Ms. Erika Del Carmen Fuchs:** Yes. I should add that I'm Mexican and I work with the Latin American population. There's a large undocumented population.

**Ms. Olivia Chow:** I know that.

Right now the live-in caregiver program says that you have to work 24 months within the 36 months. My understanding is that live-in caregivers should come in as permanent residents, period.

That's number one. Failing that, change the program so visas go to the jobs and not the employers. That's the same question I have asked for all the.... That's the second-best. The third-best is to get rid of the 24 out of 36.

Am I correct in interpreting that that would be the tiered kind of response? That's for any of you who want to comment.

•(1635)

**Ms. Erika Del Carmen Fuchs:** Yes, permanent resident status and not under the point system—that's the problem, right?

**Ms. Lualhati Alcuítas:** We also believe that those types of reforms or changes to the program would improve the conditions of the caregivers. But at the same time, if you look at it, our call is really to grant them permanent residency so they are not vulnerable to abuses because of their temporary status. Implementing those changes would not affect that. They would still have temporary status here in Canada.

**Ms. Olivia Chow:** That's unless they come in as landed immigrants.

**Ms. Lualhati Alcuítas:** That's right.

**Ms. Erika Del Carmen Fuchs:** And it should not be made contingent on the employer's evaluation.

**Ms. Olivia Chow:** Right. They would come in as a live-in caregiver but would be allowed to go from employer one to employer two. If they were abused by their employer, they wouldn't have to worry about having their visa terminated, finding another job, applying again, waiting, and all of that. They would be able to do all 24 months within 36.

**Ms. Lualhati Alcuitas:** That would improve the delay we find in processing the work permit, so that might also improve their chances of applying for permanent residency. But there's also the fact that the majority of women coming from the Philippines to work under the live-in caregiver program are professionals in the Philippines. There are also nurses who come because their nursing profession is not granted any occupational points under the current point system. So we have a nursing shortage and crisis here in Canada, but nurses are working under the program. What we see is really a racist policy within the nursing regulatory boards and associations that are making it very difficult for them to move out of the program into nursing.

So really, if these women were allowed to come to Canada to work in their professions, and the Canadian government seriously looked at supporting fully the child care and health care programs, we wouldn't have this problem.

**Mr. Tung Chan:** If I may, the essential point I'm trying to make is that those workers are not accessing the existing services. If we can find a way to get the message to them so they can access organizations, such as the ones here on the panel, that would be very useful. Right now there are not many people accessing those services. As I mentioned, in Alberta there is an advocacy office to help. We don't have that in B.C.

That brings me to another point on the national characteristics of our services to temporary foreign workers. Different provinces have different sets of rules and levels of service. If we are really serious about it, we should have a national standard, much like our health care act. If you are a new Canadian here, we should provide you with language training up to a certain level. I don't see why we cannot do that.

**Ms. Olivia Chow:** The minister has recently said that people are waiting too long and are going to other countries, that we need more nurses and doctors, so bring them in faster.

You're saying there are nurses and doctors in Canada already who can do the job if they are given some kind of support—if that support is extended across all the provinces. They would be able to perform jobs where there are labour shortages now in Canada. That's what I'm hearing you say.

**Mr. Tung Chan:** That's exactly what I'm saying. In fact, I was on a panel sitting next to the human resources director for Vancouver Coastal Health, and she was so proud of herself that she was able to go to England to recruit nurses from England. A few years ago it was 100, and last year they were able to recruit 150. But if you look at the demographics of the lower mainland, the region she is supporting, in fact a lot of the seniors living here are either Punjabi-speaking or Chinese-speaking. They do not speak English.

At the same time, we have nurses and medical professionals who are trained in China and trained in the Philippines, and we're not utilizing their qualifications. We need to have a national standard, a framework to recognize credentials.

If we're serious about that, there is no reason we cannot have the college of nurses go to the Philippines and find out what training is provided through the nursing college in the Philippines, find out what kind of gap exists, and provide training for those people so that we can close the gap.

In the lower mainland, just in South Fraser alone, there are 2,100 nurses—

• (1640)

**Ms. Olivia Chow:** Mr. Chan, I know, but allow me to jump in because I'm going to run out of time.

We did have a program in the 1970s and 1980s for nurses from the Philippines. There was an agreement that allowed them to basically come here and work yearly without going through all that. Right?

**Mr. Tung Chan:** Right.

**Ms. Olivia Chow:** That's something we should go back to from day one, so that we don't have to do the work once they're here. Let's have the agreement so they can just come after—

**The Chair:** Thank you.

We have five or six minutes left. Please go ahead, Ms. Grewal.

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

Ms. German, you mentioned in your presentation that most current temporary foreign workers are separated from their families for the duration of their stay when they are in Canada. What do you see as the pros and cons of this aspect of the policy? Could you please explain the details?

**Ms. Mildred German:** Well, if you look at the policies, for example, with the live-in caregiver program, the experience of the Filipino community with this immigration policy is that youth are separated from their parents for an average of five years. That was a study done at the University of British Columbia.

In many cases, the separation is longer, so most newly arrived Filipino youth are faced with the trauma of family separation, reunification, and migration. That has a tremendous impact on the Filipino community. How can you imagine being separated from your parents for five years or more? Being a Filipino youth and growing up without your parents is so hard. It's affecting not only the migrant workers, but also the children left behind. This is not just a violation of the migrant workers' rights to be with their families; it is also violating the rights of the children back home to be with their parents.

**Mrs. Nina Grewal:** Mr. Chair, I will pass the rest of my time on to Mr. Komarnicki.

**The Chair:** Go ahead, Mr. Komarnicki.

**Mr. Ed Komarnicki:** I'll just ask Lualhati a question about the live-in caregiver program. Am I to take from what you're saying that if there aren't changes made to it, you would sooner see the program not being used at all?

**Ms. Lualhati Alcuitas:** That's correct. We are also looking at supporting the call of SIKLAB to scrap the live-in caregiver program, because as we see it, it's fundamentally flawed and creating the conditions for all kinds of abuse and violation of human rights.

**Mr. Ed Komarnicki:** Mr. Chan, I appreciate your indication that there should be an amnesty for undocumented workers. There are many compassionate cases—there is no doubt about that—but in the system there are, as you know, many legitimate people who are trying to go through the system. Are you suggesting they should be given priority over that?

Second, part of what we heard earlier was that the reason you might have undocumented workers, if you want to call them that, is that there's no legitimate means for them to come in. I'm wondering what your thoughts might be with respect to changing the immigration system to ensure that the needs they are filling are met by legitimate means, such as the provincial nominee program. There are a host of other programs that are working. That's just one that comes to mind to ensure they can come through legitimate means.

That having been said, if we designed the programs to give a legitimate way, do you not have to somehow deal with the undocumented workers through some means other than an amnesty, because they must have to go through some sort of legitimate process? I'd like to have your thoughts on that.

**Mr. Tung Chan:** I appreciate the question. Indeed, to put it succinctly, our current system is broken. We need to fix it.

If our system were working, if our skilled worker immigrant process—the 600 cases we have—were working and it did not take six years to come here, the construction companies or companies that very much need these workers could simply be asked to apply. I recently came across a situation where a construction company legitimately applied to have temporary workers come here from China. They interviewed people, 45 of them, and all of them were turned down. So our system is not working, and that is the root cause of what is happening with undocumented workers.

What I'm suggesting is that we must have a two-pronged approach. There's no reason why we should choose A or B; we can actually choose to do this on a parallel basis. We already have people who are now working in our construction industries illegally as undocumented workers, and maybe some of them are being exploited, but why don't we recognize them and allow them to become permanent residents so they can start paying taxes and access health care, so that their kids and wife can come and join them?

For the other people currently in the queue, we should find a way to expedite their application process and to go forward with a new process, as suggested by the current bill before the House to amend the immigration act, which would allow the ministry at least some form of flexibility to bring in much-needed workers.

If we can fill those needs, then the need for undocumented workers might start to wane and we might not have this problem. So to me, it's not an either/or answer.

• (1645)

**The Chair:** I think we will bring it to a close right there. I want to thank you for coming before the committee with a very, very interesting presentation indeed. Thank you.

We've kept the Canadian Bar Association and the Law Society of British Columbia and the Canadian Society of Immigration Practitioners waiting for over an hour. We do apologize for that. We'll try to get under way within a couple of minutes. We invite you to come to the table and we will get on with it.

I just want to inform the members of the committee, while I have a moment here, that Ms. Grewal has invited everyone to supper at her house—the entire committee, that is—approximately half an hour after the meeting.

I want to welcome to our meeting, from the Canadian Bar Association, Mr. Alex Stojicevic; from the Law Society of British Columbia, Carmel Wiseman, who is a lawyer for the policy and legal services department; and from the Canadian Society of Immigration Practitioners, Nancy Salloum, chairperson, and Elie Hani, vice-chair.

Thank you for coming. Sorry to keep you waiting, but we got off to a very shaky start. If you were here, you saw that.

In the meantime, you know what the procedure is, and I'll pass it over to you, Alex.

• (1650)

**Mr. Alex Stojicevic (Chair, National Citizenship and Immigration Law Section, Canadian Bar Association):** Thank you for this opportunity to speak to you today, Mr. Chair and members of the committee, about some important issues that you are travelling across the country to study. I've heard some of the discussion that occurred before us here, and you certainly have a lot of lively issues that you're considering.

I don't envy you your task of balancing a lot of different regulatory or legislative changes and their impact, as well as conflicting priorities that you're being asked to look for here.

I speak to you as chair of the citizenship and immigration law section of the Canadian Bar Association. The CBA is a voluntary association of approximately 37,000 lawyers, notaries, law teachers, and students across Canada. My section has approximately 900 members who practise immigration law across the country. Our mandate includes seeking improvement in the law and administration of justice, and that's the lens through which I am speaking to you today.

I would like to address specifically two of the issues you have raised, although given the liveliness of some of the other things you've talked about, I have views also on the live-in caregiver program and other programs. But I'll leave that for the members.

In any event, the two issues in particular—and you have copies of my speaking notes—are the impact of Bill C-17 on temporary foreign workers and the issue of undocumented, as well as licensed, immigration consultants.

We've raised our concerns with the government about both of these issues. We do have existing submissions to the minister's office on both.

Our concern with Bill C-17 really flows from the broad and relatively unreviewable powers it gives the minister, which, in our view, risk eroding the rule of law, plain and simple. We think the existing measures within IRPA and the existing regulations and processing procedures can be used more effectively to meet the government's objectives. In many instances, including as far as Bill C-17 is concerned, in terms of the stated goal, which was to protect certain workers such as strippers from being exploited, it can be done in other ways that don't require Bill C-17. Ministerial instructions are too severe and too unnecessary an approach to take when, instead, strong guidelines from the minister's office would likely achieve the same goal.

Also, we wonder if it's necessary to have a system of ministerial instructions centralizing power in the minister's office when we have a handful of these stripper visas issued to begin with. I've heard conflicting reports of between 4, 18, and 20. It seems not very many to really have to change a law. If that's the principal motivation, we question that somewhat.

The existing act and the existing procedures provide for transparency and objectivity that we feel Bill C-17 erodes. We have some of the same concerns on the government bill that was put forward, I'm told, in the House today, Bill C-50. If you take a system that's already difficult for the end user, that at least now has some rights accruing to the end user by the use of such words as "shall" be issued a work permit, or "shall" be issued a temporary resident visa or permanent resident visa, and if you erode that objectivity by changing the language to "may" or by having a scheme of ministerial instructions, you make it that much more complicated.

That's the danger of eroding the language in the act, as far as we're concerned now, even though we recognize that there are some really legitimate public policy objectives that inform some of these two bills. Certainly, we applaud the government for moving forward on those objectives. It's just that I'm not sure legislative changes, especially the ones that are being contemplated, are necessary for those objectives.

We ask that you recommend that the government use the measures that exist in the act, rather than the issuance of ministerial directions, to fulfill these legitimate public policy directions.

The cornerstone, in our view, of the proper administration of justice is transparency, and our concerns with the direction the government has taken with Bill C-17 and with a number of legislative initiatives, including the other one that I alluded to, Bill C-50, is to sacrifice clarity and transparency for the sake of giving more direct control over processing issues to the Minister of Citizenship and Immigration. This trend, in our view, will have the net effect of centralizing authority over processing in the hands of the minister and the department, rather than where it exists now, which is within the body of the regulations.

It is a very interesting line that we're taking. The minister has gone on public record today as saying that any changes she puts forward in these ministerial instructions, under both bills, will involve consultation with stakeholders and will also be pre-published and gazetted. As far as that's concerned, we applaud the minister, but what about the next minister or the minister after that? Once these powers—the ministerial instruction power under Bill C-17 and also,

potentially, under Bill C-50, the ability to pick and choose which immigrant visa categories that are already provided for in regulation can be moved forward.... We are concerned that this centralization isn't necessary for the government to meet its immigration objectives. What's more, it causes a risk of abuse down the road from either the department or from a future immigration minister, if not this one, using it in ways that are fundamentally undemocratic and that will not allow immigration changes to be properly debated, in this body or any other, but rather will involve senior government officials talking to other senior government officials to make policy.

We recognize the need for flexibility, and we recognize that the minister and the government are dealing with some very complicated and challenging problems, balancing numerous different and competing policy goals. This has been the reality of our system for as long as I've practised immigration law. It's not an easy balance to maintain.

Certainly building a system that's responsive to both Canada's current economic needs and long-term economic needs as well as its humanitarian objectives is a challenging one. Despite the fact that this goal requires a certain degree of flexibility to adapt to economic changes, it must not be at the price of a system that uses objective criteria. This risks the use of arbitrariness, upon which I've already commented, and essentially allows the minister to override objective criteria that are already contained in regulations, and this, we feel, is wrong. Canadians want transparency.

Another issue I want to address today is immigration consultants. I have a lot of personal knowledge of the history of this brief in particular. It was the Law Society of British Columbia that brought forward the Mangat case in the late 1990s, which resulted ultimately in the Supreme Court of Canada deciding that there was a role for immigration consultants to play if they were regulated. What we have is the Canadian Society of Immigration Consultants as a result.

I want to address two issues there. First, the Canadian Bar Association has some concerns that at the moment CSIC appears to be poorly funded to handle disciplinary measures. It is at least worth investigating how good a job they are doing so far in terms of disciplining their members. Do they have the budget to do it?

• (1655)

**The Chair:** You have gone into eight minutes. Can you address some of these points in the question period?

**Mr. Alex Stojicevic:** I would be happy to.

**The Chair:** I'm sure you will have an opportunity.

Ms. Wiseman.

**Ms. Carmel Wiseman (Lawyer, Policy and Legal Services Department, Law Society of British Columbia):** Thank you, Mr. Chair.

Members of the committee, thank you for inviting the Law Society to take part in the hearings today.

The Law Society of British Columbia has its mandate set by the Legal Profession Act, and first and foremost in its mandate is its obligation to protect the public in the administration of justice. It's under that mandate that I appear here today.

You'll be pleased to know that I'm going to limit my comments to one thing only, and that's the issue of unregistered immigration consultants. The Law Society is concerned and continues to be concerned, as it has been for many years, that the public continues to be harmed by unregistered immigration consultants who provide legal services to the public with respect to immigration matters, even though they are neither registered immigrant consultants nor lawyers.

Under the Immigration and Refugee Protection Act and the regulations made thereunder, only authorized representatives are entitled, for a fee, to provide legal services to clients involved in immigration proceedings or applications. Authorized representatives, as set out in the regulation, are lawyers, Quebec notaries, and members of the Canadian Society of Immigration Consultants. This is to ensure that only qualified individuals who are regulated by a responsible body are allowed to take money for representing very vulnerable individuals.

While the regulation provides that only authorized representatives can provide legal services in relation to immigration matters for a fee, unregistered immigration consultants continue to provide legal services, often very badly, or offer to provide legal services contrary to the regulation. Unregistered immigration consultants may mask their involvement in the preparation of immigration documents by having the applicant sign the documents on his or her own behalf. Occasionally, clients do not learn that the immigration consultant is not registered and will not be able to represent them at a hearing until just shortly before the hearing takes place. You can imagine how upsetting that is for these vulnerable clients. In other cases, unregistered immigration consultants say they can provide immigration services; they charge and collect a fee, but they never in fact deliver the services.

The Law Society of British Columbia, even years after the Supreme Court of Canada said in *Law Society of British Columbia v. Mangat* that immigration consultants were a federal responsibility, continues to receive complaints from members of the public about the quality or lack of services provided by unregistered immigration consultants. Some complain that they have paid thousands of dollars to these consultants and have received little or no services or that the services provided were inadequate. Sometimes the advice they receive harms their immigration applications; they're given bad advice on how to complete the forms.

The immigrant community is vulnerable and requires protection from untrained, unregulated, uninsured, and at times unscrupulous unregistered immigration consultants. A problem with the regulatory regime as it currently exists is that there are no effective enforcement provisions in the act to deal with unregistered immigration consultants who provide services contrary to the act and regulation. To be effective, the act should specify that providing services contrary to the act and regulation is an offence. It should further

specify punishment, generally in terms of a jail term and/or a fine, for persons who provide legal services contrary to the act and regulation. Finally, it should provide for an enforcement framework, either through the police or through a division of the immigration bureaucracy.

Without effective enforcement, unregistered consultants will continue to take advantage of immigrants and potential immigrants, seriously harming Canada's standing in the international community. The Law Society of British Columbia submits that the Canadian government should adopt an effective enforcement scheme to protect this vulnerable group. How are lawyers different? I'm getting this question from the committee. The answer is that lawyers are insured, they're trained, and they're regulated.

Is every lawyer a good one? No, and of course we know that. The Law Society disciplines lawyers who aren't good and makes sure they are either disciplined.... And that's all public; that's on the Law Society's website. All our disciplinary proceedings are posted. We have practice standards reviews, and we can disbar lawyers who are dishonest or lack integrity, and so on and so forth. What's more, the public, in its dealings with lawyers, is protected because lawyers are insured.

They're not only regulated, they're also insured. None of that can be said for the unregistered immigration consultant. There's a difference. Being a lawyer doesn't guarantee that you're great, although we do our best to try to make sure we get you there. The difference is that if you're a client of a lawyer, you have some recourse. If you're a client of an unregistered immigration consultant, you have little recourse.

I was reading on the Immigration site today the policy dealing with the use of representatives who are paid or unpaid. There's a section there that tells you what to do if you work in Citizenship and Immigration Canada and you get a complaint about an unregistered immigration consultant. Do you know what clients are told? When they're dealing with a non-registered immigration consultant, they're directed to inform CSIC, which has no effective enforcement ability against unauthorized representatives, and to file a complaint with the Better Business Bureau, and if they can, to bring a small claims action on their behalf.

These are people who are struggling with a system. They're immigrants; they're vulnerable. That doesn't help them. They have no recourse, effectively.

Those are my submissions. I'm happy to come in under the seven minutes.

• (1705)

**The Chair:** Thank you, Ms. Wiseman.

Ms. Salloum.

**Ms. Nancy Salloum (Chairperson, Canadian Society of Immigration Practitioners):** Thank you, Mr. Chair and members of the committee.

I appreciate the invitation, even though it was last minute on Friday evening and we had very little time to prepare a submission. However, we've prepared 32 pages, but as we have only seven minutes, I'm going to pick and choose some of the points.

I'm the chairperson and the registered federal lobbyist in-house for the Canadian Society of Immigration Practitioners. With me also, of course, is the vice-chair, Mr. Elie Hani.

I'm glad that the chair of the CBA and Ms. Wiseman brought up a good point; however, I have a different point of view and position on the point they just raised.

I just want to give you a brief background. CSIP is an NGO, a non-government organization, non-profit, and its practitioners have been providing pro bono service since November 2005. We have over 9,000 members. Those members do not pay membership; they pay money from their own pocket to assist prospective Canada Immigration clients. Our society does not receive any type of government funding. We, as practitioners, use our homes, we pay for offices, and at the same time we look after refugee claimants who have no access to legal aid, because legal aid was cut off a few years back.

CSIP functions as a unified regulatory body for its members and represents the interests of immigration practitioners in Canada and abroad. CSIP is seeking self-regulation with federal recognition of paid representatives, and it seeks to introduce prospective Canadian immigration clients with protection.

Let us be clear, immigration practitioners are committed to acting under professional regulation, and we feel we accomplished this on April 13, 2004, when the Canadian Society of Immigration Consultants was created, which we supported initially. Our opposition is that we are very disappointed in CSIC's administration and behaviour, its biased mandate and bylaws. It is not to avoid regulation, but to avoid the wrong type of regulation, which has spun into self-gain for a specific group.

The journey toward regulation for immigration practitioners has been unconstitutional, since it was not approved by the Senate. Are immigration consultants really regulated, even with the existence of CSIC? I don't think so. The consumer protection is lost. There has been no such consumer protection since 2004.

There is a gap growing between the CSIC members, immigration lawyers, and the immigration practitioners of CSIP, who provide pro bono services. Since August 2005 we have had five directors of CSIC who have resigned due to misbehaviour and mismanagement. Also, close to 1,000 immigration consultants have resigned from CSIC as well, because of the type of mandate they are providing.

CSIC membership fees are too high, and therefore a lot of consultants are moving out of that society. Five lawsuits have been issued and filed against CSIC since its creation.

Our association has been encouraged to expose the public to the concerns facing CSIC's uncontrolled members. Complaints were received from the public, from consumers, and from previous CSIC members. Recognized professionals with long-term experience in immigration law were told that they had not passed the exam—repeatedly, several times—and that was surprising to us, because

among them were retired and former professional senior immigration officers and previous practice lawyers.

These members did not have the privilege to approach the administrator at CSIC and be given the opportunity to negotiate another marking of their exams. The marking had been done by the staff of CSIC, not by a recognized educational institution. Although the members were entitled to that, since they had been charged high exams fees, they were shut out from the legitimate approach. Their rights were violated behind closed doors.

We also have grave concern with regard to how the membership exam was prepared for the members. Who are these experts in immigration law who were hired by the CSIC board at a cost of \$760,000? Actually, the taxpayers had to cough that up, as that amount is part of the initial \$1.2 million.

CSIP recognizes that Canada Immigration in and of itself will not resolve all of Canada's immigration challenges relating to consultants' practice, but it can be—and should be—a key instrument that can address some of these challenges, of course with the honourable minister's approval.

CSIP's efforts today are to find any abuse within the federal jurisdiction, which today is not in question. In recent months we've become aware of such abuse within the Canada Border Services Agency and the Immigration and Refugee Board. In a recent letter to CSIP, the Minister of Immigration, the Honourable Diane Finley, agreed with our position on investigating two appointments that were given to CSIC consultants with conflict of interest. At the moment, this investigation is being done by the two ethics commissions.

In 2004 CSIP published and delivered a discussion document calling attention to the importance of the recommendations submitted to the former minister. However, that submission was shredded and ignored. Instead, recommendations that were provided behind closed doors were implemented to benefit former Canada Immigration officers, their friends, and their supporters.

On behalf of our CSIP members, partners, and stakeholders, we propose the following agenda.

First, allow the minister to recognize other regulators for better accountability, transparency, and consumer protection across Canada.

Ensure predictability and stability through an escalator mechanism.

Find common principles through broad engagement with Canada Immigration across Canada, including lawyers.

Measure and monitor outcomes, sharing innovation and best immigration practices free of discrimination. Allow freedom of association and freedom of expression to all consultants, whether they are CSIC members or not.

We suggest that the honourable minister go into deeper inquiries until this situation is resolved in order to save time and taxpayers' money in the CIC department.

Finally, give our society federal recognition as an authorized immigration practitioner. After a deep examination of our administration, we hope the honourable minister will give us the chance to prove our professional knowledge and honesty in this matter.

Our society membership has increased to 9,000 members in a very short time—over the past three years. To this end, several steps have been taken to ensure that CSIC, as a federally authorized, not-for-profit society.... Its administration is not able to fulfill the mandate being given to it in the \$1.2 million initial funding by the taxpayer. Unfortunately, four years later, CSIC has failed in its public consumer protection.

Is there any abuse of power within the federal jurisdiction? Yes. On April 13, 2004, CSIC board members claimed to be operating at arm's length from the CIC. Since the director of CIC....

I'm done?

**The Chair:** I think I'm going to have to interrupt here. I did interrupt Alex, so....

I think you'll have a chance to address the rest of your concerns during question period.

**Ms. Nancy Salloum:** Thank you.

• (1710)

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

Mr. Hani, go right ahead, sir.

**Mr. Elie Hani (Vice-Chair, Canadian Society of Immigration Practitioners):** Good afternoon, Chairman, ladies and gentlemen. Bonjour, Monsieur Carrier, Monsieur St-Cyr, and Madame Beaumier.

I flew in from Montreal on short notice to have this opportunity to raise some important issues concerning the immigration laws. I will also raise the code of conduct for members of the Canadian Society of Immigration Consultants.

I'm talking about Quebec, because I'm an administrator, too, of a church. We try to help needy people, especially newcomers, immigrants, refugees, and so on. I can assure you that we have large numbers every week coming to us complaining about the society members, the CSIC members. They complain about financial abuse and—we've looked into this, because we have three lawyers working with us in the office—poor representation.

This was in the news lately. The RCMP invaded one of their members in Montreal, someone very well known, and they seized 700 files. The complaint came through the Government of Quebec to the RCMP.

**The Chair:** If you feel more comfortable in French, we do have translation.

**Mr. Elie Hani:** French or English, I'm going to speak in both languages.

The complaint filed by the Quebec government touches the health ministry and medicare cards—there was someone inside the

department playing with the medicare cards—CIC on both sides, and automobile licences and insurance. Most of his clients live abroad and have never been in Canada. Among them is the son of the President of Lebanon and many diplomatic people. This was in the news, sir. I'm not creating this story.

There are many, many other members doing the same, without any control from the society. We've advised many people to write and complain to the society. Their complaints are thrown in the garbage; there is no reaction.

Besides the lack of response, I would like to point out one major issue, which is the selection of immigrants here in Canada, which has been going on for a few years. It is very bad. We have people, very well-educated people, coming here and creating jobs and investing money and everything. Their applications inland are thrown out. They came as refugees. On the other hand, many others are on welfare and in street gangs, and their files have been passed through one, two, three, and they've been accepted. This is amazing. It has touched me and touched my family, as Canadians. This is something we have to look into very sharply and very seriously. We are asking the minister to put more controls on the agents and decision-makers inland and abroad.

Especially in the Canadian embassy in Syria, in Damascus, there is a lot of mumbo-jumbo going on. We are aware of it and have the proof, to prove it at any time.

• (1715)

**The Chair:** I'll hear a point of order from Mr. Karygiannis.

**Hon. Jim Karygiannis:** Mr. Chair, on a point of order, a lot of allegations are made here by Mr. Hani. I was wondering whether we could have some substantive proof of that.

**The Chair:** That's not a point of order.

**Hon. Jim Karygiannis:** These are serious allegations, Mr. Chair.

**The Chair:** Mr. Hani is free to use his seven minutes in whatever way he wishes. It's not a point of order.

I would ask Mr. Hani to continue his remarks.

**Mr. Elie Hani:** Thank you, sir.

Also, for the types that ministers issue, for the criteria for selecting the workers and the professionals, as you know, in Quebec we have a big shortage of doctors and nurses, and of workers, too. The Quebec government is now seriously studying moving retirement from 65 to 70 years. Why? It's because they are in jeopardy in finding people to work and to fill the job market. I believe similar situations touch most of the provinces in Canada as well.

We would like to sensitize the minister to modifying the immigration criteria by increasing the numbers of selective immigrants in order to help save the situation and to impose more control on citizenship and immigration offices either inland or abroad.

• (1720)

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

I want thank all of you, on behalf of the committee, for your presentations.

We'll now go on to about 23 minutes of questioning. I have first on the list Mr. Telegdi, for seven minutes, sir.

**Hon. Andrew Telegdi:** Thank you very much, Mr. Chair.

Thank you to the delegation.

The previous delegation was talking about decency, justice, and dignity that should be afforded to temporary foreign workers. Having listened too often to the same story over the past 10 years, I really have to wonder at times what kind of system we have. I think the gentleman from S.U.C.C.E.S.S. very correctly said that the system is broken. Unfortunately, as was mentioned regarding Bill C-50, it is the wrong fix, and we're going to end up in a bigger mess.

We spent undue amounts of time on "strippergate", if you will, not because it's a problem but because the government perceives it as good politics. When I look at what we are doing with Bill C-50, I see that we're taking a system that has some guarantees by law and we are changing it and making it into a capricious lottery.

For somebody to decide that they want to be an immigrant to this country—

**The Chair:** On a point of order, Mr. Komarnicki.

**An hon. member:** It's not a point of order.

**Mr. Ed Komarnicki:** Let me first raise the point of order, and then perhaps the chair can decide; that's his job.

Number one, I know Bill C-50 is much on the mind of Mr. Telegdi. That bill will come before committee and will be studied, and there will be representations made by various parties.

**Hon. Andrew Telegdi:** That's not a point of order.

**The Chair:** Order, please. I will hear the point of order first, if committee members don't mind.

**Mr. Ed Komarnicki:** Let me finish my point of order, and then you can disagree with it.

We said there were three things we were going to study here, and Bill C-50 was not one of them. There is a committee that will study Bill C-50, and it will be dealt with, and there will be representation. I know this member wants to get into it, but he should stay within the general confines of the area we are studying. There will be a time to study the other one.

I know the Canadian Bar Association representative chose to indicate his comments about Bill C-50, and that's fair, but that's not what we are embarking on to study, and I'm going to raise that because there will be a time that's appropriate for that and there will be appropriate representation. I think this member should stick to what we're dealing with specifically.

**The Chair:** It's not a point of order. However, it is a valid point given the fact that we have agreed we will study three different matters as our committee goes across Canada: temporary foreign workers, immigration consultants, and Iraqi refugees.

I would ask members to confine themselves as much as they can to these three topics. We will have fewer interventions and fewer points of order as we go forward. Please, I ask your cooperation. We all met and decided what we were going to talk about, and I incidentally had to go before the all-party committee of the House of Commons to get permission to travel on these three points. It was difficult to get permission to do it. I had to go at it for 40 minutes, and it was based on the fact that we would do three studies. So while it's not a point of order, it's a valid point that we should confine ourselves to the three.

Mr. Telegdi, I'll take that out of your time.

**Hon. Andrew Telegdi:** Thank you very much.

Mr. Chairman, I'll just make the point that when an issue is raised by the presenters, I am completely within my rights to question on that issue. When we talk about what committee would be appropriate to have this thing go forward to, it's being sent to the finance committee, as everybody knows, which is the wrong committee.

The point I was getting to is that for somebody to become an immigrant, they have to make, first of all, an emotional investment. This applies to all those issues. Secondly, they have to make a physical investment. Thirdly, they have to make a financial investment. What we are in danger of doing is sending out a message to the world that if you want to get to Canada, you have no rights, it's a lottery, and you might be better off buying a 6/49 ticket. Then what we're going to have is that people will choose other countries, which are governed by rule of law and not by ministerial discretion.

As I said before, the whole thing around the temporary workers and trying to wrap it up in strippergate is not really an issue, but it makes good political theatre, which is being shamelessly exploited.

I'm not sure if I'm going to be able to question you on this in the future, in terms of the Canadian immigration bar, because obviously I don't sit on the finance committee. We will have a fight to get it before this committee. Let me put the question to you, Mr. Stojicevic, in terms of what I just said. In terms of the chilling effect for trying to get immigrants into this country when there is an international competition going on, how do you see it from the perspective of the immigration bar?

• (1725)

**Mr. Alex Stojicevic:** If I may, and I'll try not to comment on Bill C-50 within the parameters here, but Bill C-17 is effectively wrapped in the same language. Mr. Chan talked to you about 45 workers who didn't get visas from the Canadian consulate in Shanghai. He raised that in his testimony. What he didn't say is that the minister's office intervened in that case and had 20 permits issued. I know this because this is a case out of my law office. I'm not suggesting for a minute that this government and this minister aren't sensitive to specific issues where there are ministerial instructions or where there are laudable objectives from both ministerial instructions and/or a change that would give more discretion over which categories are going to be processed. But that's an example of the minister—under the current act, the current legislation, and the current framework—assisting in the facilitation of a visa, of a series of visas, where there was some element of controversy.

So to suggest the system now isn't responsive to those kinds of problems is simply incorrect. And that begs the question, from our perspective, of why you need this legislation then. This minister has made it abundantly clear that she will entertain full public consultation, etc., on any changes, but who's to say that the next minister won't?

To me, to the member's point, that's actually the problem. From the perspective of the end-user who doesn't read the Canadian media every day, this system becomes a lot less transparent and a lot less objective. If we're relying on the minister's staff and on the department officials to continually update information, you're making a system that is complicated right now that much more so.

• (1730)

**Hon. Andrew Telegdi:** You also mentioned the need for transparency. How can you have transparency if you don't have legislation that you can refer to? Let's not kid ourselves. When you say it's the minister, we all know it's the bureaucrats; it's not the minister. The minister doesn't know enough in these cases and relies on the advice of the bureaucracy. Essentially we're giving the department over to the bureaucrats without having the proper transparent political oversight and accountability.

**Mr. Alex Stojicevic:** I take the point the member is making. The issue again is policy goals. If you look at it, we have regulations now that outline the various different kinds of categories they're supposed to process. What is being contemplated, ultimately with ministerial instructions and the new bill that you've all agreed not to talk about, is unfortunately a system in which that's being modified. It's the first time in Canadian history we're going to have regulations that say these are the categories you have to process, and yet it will be at the minister's level of discretion to pick and choose which ones they're going to follow.

I'm not certain that it's not appropriate, that some of the things the minister is doing are not good strategies. Again, there is a huge backlog that needs to be addressed. The question is, do we need to entrench in law her ability to actually direct out in the field as opposed to going with what's already in place now?

**The Chair:** Thank you.

Mr. St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** I'm going to go quickly to leave some time for Mr. Carrier.

Mr. Stojicevic, with regard to Bill C-50, even though that's not our subject as such, if people outside Canada have less trust in our system because they consider it more arbitrary, doesn't that risk encouraging illegal workers to circumvent it on the pretext that it is unreliable? Isn't that a danger?

[English]

**Mr. Alex Stojicevic:** I don't know that that's a conclusion that one necessarily comes to. It's going to come down to what Member Telegdi said: how good are they going to be at getting out the message on which processing cases they will handle and which they won't?

Does it increase the risk of what you're talking about? I think it does potentially. Again, it comes down to this. If you're the end-user of the immigration system, at this point there is some ability, however limited it is, unfortunately, to go yourself to their website, look things up, and decide if you can be selected. Every immigration decision—it doesn't matter what category—is divided into two decisions: selection and admission. Have you been chosen in your particular category, and are you otherwise admissible?

Right now we have a system that at least enables the first thing to be relatively easily done without my assistance necessarily, or that of an immigration consultant, and hopefully without that of an unlicensed immigration practitioner. The problem is that what they're talking about in that bill changes this. It makes it very difficult for that to happen. That goes back to my theme of how is this making the system more accessible to the end-user, to the actual immigrant? I think it can't be helping that perspective.

[Translation]

**Mr. Thierry St-Cyr:** I'll stop you because I'm going to ask you a final question on the subject which you may consider somewhat odd. I understand you oppose these provisions of Bill C-50. Do you think all members who are opposed to these provisions should vote against it? Is this important enough for the committee to reject these provisions?

• (1735)

[English]

**Hon. Jim Karygiannis:** Mr. Chair, in the spirit that you cautioned Mr. Telegdi, will you use the same spirit to caution Mr. St-Cyr, please?

**Mr. Alex Stojicevic:** Well, let me make it easier for him. I really don't think it's appropriate for me to answer that question. Our bar has no position on whether the government should stand or fall based on Bill C-50. Our position as far as Bill C-50 is concerned is that it raises some issues of the immigration act that should be debated. It's as simple as that.

[Translation]

**Mr. Thierry St-Cyr:** Thank you.

[English]

**The Chair:** Again, Mr. Karygiannis raised a good point. I would ask that the member confine his remarks to the issues we're studying. The rules of order are very clear on that as well.

I want to be as flexible as we possibly can, but if it gets out of hand, then I will have to refer to the rules and the Standing Orders and bring members to order on that. So let's cooperate in every way we can on this, and I'm sure we'll all get along just fine.

[Translation]

**Mr. Thierry St-Cyr:** Thank you, Mr. Chairman. I believe my first question sufficiently demonstrated that there was a link between Bill C-50 and undocumented workers. That is why I asked that question, and Mr. Stojicevic's answer was quite eloquent.

I'm nevertheless going to go back to his presentation on immigration consultants. Perhaps I'm wrong, and that's what I would like to know. Are there any other areas where someone who is not a lawyer, or even a notary in Quebec, can provide legal advice? If I have knowledge of some issue unrelated to immigration, can I provide legal advice to people and be paid for it without being a lawyer?

[English]

**Mr. Alex Stojicevic:** I'm not sure this isn't a question that is more appropriate for the law society than for myself. But as far as British Columbia is concerned—I can speak for this province anyway—and as far as I know for other provinces, the authority to regulate legal services rests within each and every province. Their legislation outlines who can practice law and who cannot, and certainly that includes who can give legal advice and who cannot.

[Translation]

**Mr. Thierry St-Cyr:** In British Columbia, are there any fields other than immigration where individuals who are neither lawyers nor notaries can provide legal opinions?

**Mr. Alex Stojicevic:** There aren't any.

**Mr. Thierry St-Cyr:** There aren't any. Do you know whether that's true in Quebec.

[English]

**Mr. Alex Stojicevic:** My understanding is that in Quebec, absolutely not. In fact, for applications filed under the Quebec government's guidelines, there is some authority for the idea that you have to be a Quebec lawyer, on top of everything else.

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

[Translation]

**Mr. Robert Carrier:** Thank you for being here today.

My question is for Mr. Stojicevic, who represents the Canadian Bar Association. Is the problem that he raised concerning immigration consultants the same across the country or is it limited to certain places in particular?

[English]

**Mr. Alex Stojicevic:** You've asked an excellent question. As immigration in Canada has evolved, this file—this brief—has also evolved with it. Certainly the urban centres have the highest number of problems of this sort. Two years ago, Alberta took 20,000 immigrants. The last time Alberta took 20,000 immigrants was 1907 or something like this. Certainly in those markets now, you have a greater impact for unlicensed immigration consultants, for example. You see this issue replicating itself across the country. Whereas it used to be a Vancouver, Toronto, Montreal problem, now it's an across Canada problem.

[Translation]

**Mr. Robert Carrier:** Is it the role of the bar association of each province to enforce and monitor this act and the regulation of legal services provided by lawyers, whether it be in immigration or other fields?

●(1740)

[English]

**Mr. Alex Stojicevic:** The challenge your question poses is that the bar association advocates on behalf of its members—it's a voluntary organization—as well as for the proper administration of justice. Our mandate doesn't include policing lawyers. That's the mandate of the law society of each province.

Now the problem with unlicensed immigration consultants is... With CSIC, our issue isn't really that CSIC doesn't have the mandate to do it, but that there seems to be some issue as to the federal government funding it properly so that it is able to enforce its disciplinary mandate against its own members.

Unlicensed immigration consultants exist outside of Canada or inside of Canada. Of the ones who are inside Canada, there needs to be more enforcement by the players in Immigration, including the department, the Canada Border Services Agency, and more use by the RCMP of investigations to bring these people to justice, where they've acted without proper authority.

**The Chair:** You have about five minutes left—

**Mr. Ed Komarnicki:** No, seven.

**The Chair:** But I guess we should give you your seven as well. So go ahead, sir.

**Mr. Ed Komarnicki:** I have a couple of quick questions.

First of all, Carmel, just following up on the question by my Bloc colleague, for the people who aren't lawyers and who practise law for a fee, how do you govern that in British Columbia? What penalties do they have?

**Ms. Carmel Wiseman:** There's actually quite a vast response to that.

First of all, there are some people who legally provide legal services in British Columbia who aren't lawyers. The most notable group there consists of notaries public. They're not to be confused with *notaires au Québec*.

**Mr. Ed Komarnicki:** But there are those who aren't legally providing services. How do you deal with them? What's the penalty? Narrow it down to that.

**Ms. Carmel Wiseman:** The Legal Profession Act provides that the law society can bring proceedings in the Supreme Court, and the law society does regularly bring proceedings in the Supreme Court and obtains injunctions against unauthorized practitioners.

**Mr. Ed Komarnicki:** Is that proceeding brought by the law society itself? For instance, would CSIC be in a position similar to the law society?

**Ms. Carmel Wiseman:** Typically that's how it's done in British Columbia, yes. Sometimes it's done by way of criminal proceedings.

**Mr. Ed Komarnicki:** There is a second thing I want to talk to you about. In the law society, it's lawyers governing themselves. They ensure there is a certain level of competence. They have professional standards, there's discipline for those who need discipline, and there are ethics that lawyers deal with. Would you agree with me that CSIC provides a similar function, or ought to provide a similar function, to ensure the public is protected vis-à-vis those three mechanisms?

**Ms. Carmel Wiseman:** Certainly it's my understanding that the objective in setting up CSIC was to provide something similar.

The one thing I would point out is that in addition to lawyers governing lawyers within the law society, the law society also has on its board of directors what are called lay benchers. They are directors who are not lawyers, and they also provide some public oversight into the program.

**Mr. Ed Komarnicki:** Just to clarify, are you asking for more stringent policing mechanisms with relation to those who are non-practising or non-registered with CSIC than you would have under the law society?

**Ms. Carmel Wiseman:** No. I think what we are asking for is similar proceedings, although I would say that some of the cases that I'm aware of that deal with unregistered immigration consultants really move into the fraud ground and go beyond the question of a civil matter.

• (1745)

**Mr. Ed Komarnicki:** I want to save a few questions for Alex.

With respect to Bill C-50 as it relates to immigration, you've gone through the provisions there and you made reference to the minister using her discretion—

**The Chair:** He was never one to follow his own point of order.

**Mr. Ed Komarnicki:** It's interesting that everybody in this room can talk about it except me.

**The Chair:** You were the one who brought up the point of order originally.

**Mr. Ed Komarnicki:** But nobody paid attention to it, including the presenter, and I think I'm entitled to question witnesses—

**The Chair:** I was somewhat lenient with Mr. St-Cyr, Mr. Komarnicki, so I'll give you the same recognition.

**Mr. Ed Komarnicki:** First, isn't there a difference between exercising discretion...? Bill C-17 is the one that's before this committee, and you talked about that.

**Mr. Alex Stojicevic:** Yes, absolutely.

**Mr. Ed Komarnicki:** The minister exercising discretion on a case basis is one thing, but issuing an instruction is something different from exercising discretion. Would you agree?

**Mr. Alex Stojicevic:** I agree absolutely—100%.

**Mr. Ed Komarnicki:** And the instruction is based on general broad policy considerations that the government of the day puts forward to the minister. Wouldn't you agree?

**Mr. Alex Stojicevic:** I agree absolutely—100%.

**Mr. Ed Komarnicki:** And the government stands or falls with the public with respect to those general broad policy considerations. Would you agree?

**Mr. Alex Stojicevic:** You're 100% correct again.

**Mr. Ed Komarnicki:** And both Bill C-17 and any other bills that deal with instruction have to be charter-compliant, do they not?

**Mr. Alex Stojicevic:** That's absolutely without question.

**Mr. Ed Komarnicki:** So it's open for the government to proceed in that manner if they choose to.

**Mr. Alex Stojicevic:** It is. However—

**Mr. Ed Komarnicki:** Now, let me finish.

You spoke about another issue you have, which is that we have a system presently that's not working because, as you mentioned, there's a backlog of 800,000 people. Do you agree?

**Mr. Alex Stojicevic:** According to the minister, it's 900,000.

**The Chair:** Mr. Stojicevic, I'm obliged to hear a point of order.

Mr. Karygiannis has a point of order.

**Hon. Jim Karygiannis:** Mr. Chair, I think Mr. Komarnicki should use the example he chose in the way he spoke on Bill C-50. Although he's not mentioning the words "Bill C-50", he's dancing very much on Bill C-50.

**The Chair:** There is no point of order here. There was no point of order for Mr. Komarnicki on the same point.

However, I did say to members that we wanted them to confine their remarks to the three topics at hand. Having said that, I allowed Mr. St-Cyr some leeway on that, I allowed Mr. Telegdi some leeway on that, and I will allow Mr. Komarnicki some leeway on that. We will enforce the rules rigorously come tomorrow.

**Mr. Ed Komarnicki:** I accept the ruling of the chair.

**The Chair:** Go ahead, Mr. Telegdi, on a point of order.

**Hon. Andrew Telegdi:** Perhaps the parliamentary secretary will realize that it's frustrating to have somebody yelling "point of order" at him.

The point I want to make, Mr. Chair, is we're on travel. Bill C-50 does very much come into play, and I have absolutely no problem with the parliamentary secretary's getting answers on Bill C-50 because we're not necessarily going to have these witnesses available to us at the point in time when we are talking about Bill C-50. So, Mr. Chair, there's absolutely nothing wrong with talking about Bill C-50. I think the parliamentary secretary brought it up; let him continue.

**The Chair:** To that point of order, there's no point of order.

**Mr. Ed Komarnicki:** It's not a point of order, and I respect that.

**The Chair:** You have a minute and some-odd seconds left.

**Mr. Ed Komarnicki:** I accept that. There will be a time and a place for that to be discussed.

Going back to Bill C-17—which we are discussing, and which we should limit our discussion to—it's absolutely appropriate.

**The Chair:** Yes, absolutely.

**Mr. Ed Komarnicki:** It's inappropriate to go otherwise, and this committee has been allowed to do that. I don't agree with that, but I think in fairness it needs to be balanced out.

You said there needed to be strong guidelines, as opposed to using Bill C-17 and the instructions that are there. What did you mean by saying strong guidelines would achieve the same results? First of all, we're dealing with vulnerability of workers; you're saying we could deal with that issue of protecting them because it's not restricted to a particular category of person. What do you mean by strong guidelines, and what might they look like?

**Mr. Alex Stojicevic:** My position—and I agreed with all of your points—is that the issue from the bar's perspective is the question of why the minister needs these powers. It's not that we take any issue with any of these individual points you've made. At the end of the day, if ministerial instructions pass, they will have to be charter-compliant and everything else.

**Mr. Ed Komarnicki:** My time is limited, and my question to you is to deal with what you meant by saying strong guidelines would achieve the same goal with respect to Bill C-17. That's what you made reference to.

**Mr. Alex Stojicevic:** If I may finish in answer to his point—

**The Chair:** You may, because we took a lot of time from Mr. Komarnicki.

**Mr. Alex Stojicevic:** The minister has the power to issue to her staff any instructions she wants that outline the government's operational mandate. Do they have the same force as these potential

ministerial instructions that have no judicial oversight will have, other than being charter-complaint? No, but that's how the system has run for the last quarter of a century; this is how she could accomplish almost all of her goals.

**Mr. Ed Komarnicki:** Please answer the question I posed to you with respect to Bill C-17. What are these strong guidelines that you suggest would achieve the same goals? What are they? That's the question.

**Mr. Alex Stojicevic:** If the goal of the minister would be, for example, as she tagged to Bill C-17, parameters to prevent certain vulnerable persons from being issued work permits, she can issue an operations memorandum on this point. She can have her staff instruct her people in the field to be very mindful of particular issues, and that will have an effect on how many visas are issued.

**Mr. Ed Komarnicki:** My question is, what might they look like?

**The Chair:** I'm sorry, but I have to bring it to an end.

I want to thank you for coming to our committee. I hope committee members can now see why we have to maintain a little bit of relevance to the three topics that we discuss.

Thank you very much, all of you, for being here.

The committee will adjourn until tomorrow.

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