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Chair

Mr. David Tilson

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● (0900)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): I'll call the meeting to order, please.

Good morning, ladies and gentlemen. This is the 32nd meeting of Standing Committee on Citizenship and Immigration, on Tuesday, November 3, 2009. The orders of the day are pursuant to Standing Order 108(2), a study of immigration application process wait times.

Could I have some order, please?

Before we start the meeting, I'm going to read a letter that was sent to me. Copies were sent to Mr. Bevilacqua, Monsieur St-Cyr, and Ms. Chow, but I have no idea whether other members are aware of it, so I am going to read it for the committee. The letter is addressed to me. It is dated October 29 and states:

Dear Chairman Tilson,

Earlier today, during a meeting of the Standing Committee on Citizenship and Immigration, Liberal MP Jim Karygiannis accused a longtime public servant in my ministry of wanting to stop the immigration of black people.

While questioning Claudette Deschenes, ADM (Operations) in Citizenship and Immigration Canada, about why processing times vary across different visa offices abroad, Mr. Karygiannis said:

"What happened in Kingston, Jamaica? I'll tell you what happened. They're black and you don't want to let them in."

This is slander. And it is an unconscionable attack on the integrity of the dedicated members of our professional public service.

Immigration officials in Canada's missions abroad work very hard—often under trying circumstances—to process immigration applications. However, very often situations beyond our control arise that make processing immigration applications in a particular country more difficult.

When officials in my ministry appear before the Standing Committee to answer questions from committee members on the policies and operations of the Department, they are entitled to be treated with respect. There is no excuse for committee members to harass, abuse, or defame public servants.

If Mr. Karygiannis continues his pattern of abusing officials from my ministry when they appear before the Standing Committee, I will direct them not to appear before the committee in the future.

That's the part that concerns me most. It continues:

I urge you and committee members to censure Mr. Karygiannis for his unacceptable conduct, and to ensure appropriate respect for Canada's public servants.

Yours sincerely,

The Honourable Jason Kenney, PC, MP

Minister of Citizenship, Immigration and Multiculturalism

As I indicated, copies were sent to the Honourable Maurizio Bevilacqua, Thierry St-Cyr, and Olivia Chow.

So I've read that into the record.

Mr. Dykstra.

Mr. Rick Dykstra (St. Catharines, CPC): Mr. Chair, following the letter the minister sent to a number of us and that you've just read into the record, I do want to comment on last Thursday, and I am going to be putting forward a motion.

Last Thursday at this committee, we were treated to an unpleasant spectacle. During a discussion of immigration wait times at various overseas Canadian missions, the member for Scarborough—Agincourt shamefully attacked a long-time public servant. He made a shocking accusation to her, and I quote verbatim: "They're black and you don't want them in". He said this in reference to immigration applicants processed in places like Nairobi, Accra, Port-au-Prince, Haiti, and Kingston, Jamaica. He later tried to partially climb down, claiming that he was referring to Africa. However, as any map will tell you, Haiti and Jamaica are not in Africa.

This forms part of the pattern of behaviour of the member for Scarborough—Agincourt, a pattern of disrespect toward witnesses, other members of the committee, and even the chair. This pattern contrasts sharply with the respectful and cooperative tone of every other member of our committee, who, when they have a disagreement, conduct themselves civilly and as honourable members should.

Allegations of racial bias are even more incendiary at this committee and should be taken most seriously. We owe it to Canadians, new and not so new, to keep a respectful and moderate tone when discussing our immigration system. So I would respectfully call on the member to apologize without reservation to the witness, the committee, and to the House.

In this regard, I will provide notice and move the following motion: That the member for Scarborough—Agincourt be reported to the House for disorder in relation to his unparliamentary outburst of Thursday, October 29, 2009.

● (0905)

[Translation]

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): I have not received a copy of Mr. Dykstra's motion which, according to committee rules, requires a notice of motion. Since this matter will have to be addressed when Mr. Dykstra's motion is tabled to the committee, I do not see why we should continue discussing it as this time. We are eating into the time set aside today for our witnesses.

[English]

The Chair: Mr. Dykstra, I agree. We need to have 48 hours' notice. I don't know. What's your...unless there's some sort of consent.

Mr. Rick Dykstra: I would ask for consent that we deal with this motion immediately; otherwise, we will deal with it on Thursday.

The Chair: That would have to be unanimous consent, Mr. Dykstra.

Mr. Dykstra has given us a notice of motion. He wishes to deal with it now. To deal with it now as opposed to 48 hours from now would require unanimous consent. Do we have consent to deal with Mr. Dykstra's motion now?

On a point of order, Mr. Karygiannis.

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): I'd like to know if the motion is in the proper form, if something like this could be brought to this committee. This is not a motion for the committee to deal with; this is a motion that Mr. Dykstra wants to bring against me. I did deal in a proper fashion with the witnesses. I communicated with them as well as I communicated here. I don't know why we are prolonging this. I'm just wondering if there is an underlying motive here by Mr. Dykstra against me. I'm not sure if this is something that's a proper motion that this committee can deal with.

You, Chair, being there in order to protect not only my rights and my privileges but those of every member of this committee, I don't think that you can deal with something like this. There are rules and regulations and I'm not sure if these are—

The Chair: Excuse me, sir. I didn't hear your last comment.

Hon. Jim Karygiannis: I said that I'm not sure if this is part of the rules. Are we setting a new pattern here?

The Chair: As I understand it, Mr. Karygiannis, this committee has every right to report to the House an apparent breach of privilege. Do we have the motion here?

A voice: I haven't seen it, sir.

The Chair: I haven't seen the wording of the motion. At this point, it's a notice of motion. I suppose that when I see the motion... At this point, it's a notice of motion. When the motion is on the floor, at that time it would be appropriate for me to rule whether it's in order or not in order. At this point, I haven't seen the motion. At this point all we're doing is asking for unanimous consent as to whether we're going to waive the 48-hour rule.

Hon. Jim Karygiannis: Mr. Chair, on the same point of order, I'm not sure if you can accept such a motion as it infringes on my privileges.

The Chair: At this point it's a notice of motion, Mr. Karygiannis. It's not a motion.

Hon. Jim Karygiannis: When you do receive it, Chair, I would recommend that you speak to the Clerk of the House to find out if it's appropriate.

The Chair: I am going to rule that at this point it's a notice of motion, it's in order, and I'm asking whether or not there is

unanimous consent for that motion to be dealt with now as opposed to 48 hours from now.

Hon. Jim Karygiannis: No.

The Chair: We do not have unanimous consent, Mr. Dykstra.

•(0910)

Hon. Jim Karygiannis: Mr. Chair, on a question of privilege?

The Chair: Perhaps, Mr. Dykstra, it would be helpful if a copy of that could be sent to the clerk for distribution, in French and English.

On a point of privilege, Mr. Karygiannis.

Hon. Jim Karygiannis: I would ask you to check with the Clerk as well as the Speaker to see if this motion is in proper fashion and if we can receive it.

The Chair: Well, when I see it, Mr.—

Hon. Jim Karygiannis: Before you receive it, sir.

The Chair: All right.

We're going to carry on with the meeting.

Good morning, ladies. Welcome to the committee. It's interesting here, isn't it?

I appreciate your coming this morning. On behalf of the committee, I welcome you.

We have two witnesses. You each have up to 10 minutes to make a presentation. We have Jennifer Pollock, who is a law student caseworker, immigration and refugee law division, with Parkdale Community Legal Services. As an individual, we have Elizabeth Long, who is a barrister and solicitor and partner with Long Mangalji.

I'm going to ask Ms. Pollock to make a presentation to the committee.

Welcome.

Ms. Jennifer Pollock (Law Student, Caseworker, Immigration and Refugee Law Division, Parkdale Community Legal Services): Thank you so much.

Good morning, Chair, Vice-Chairs, and members of the committee on citizenship and immigration. I consider it a great honour to be here with you today to speak on such a very important matter.

I would like to begin today by sharing a question that is on the minds of many Canadian families who are wishing absent family members were here in Canada as we speak. How long is too long? How long must Canadian families wait before they can be reunited with loved ones abroad? When can we begin breaking down immigration barriers in our system in order to bring Canadian families together? If this were your family, how long would be too long?

As a law student in immigration and refugee law at Parkdale Community Legal Services, also known as PCLS, I have seen that many families have already waited far too long. PCLS has worked for nearly 40 years in the low-income community of Parkdale in Toronto, providing legal services and carrying out community-driven law reform, education, and outreach. Historically, many residents of Parkdale are new immigrants and refugees, making immigration and refugee law a major area of work. Our goal is to ensure the voices of new immigrants and refugees are heard and that the issues affecting this vulnerable sector of our community are understood.

I would like to focus on just two—there are many—of the barriers to family reunification: first, the high rejection rates and long processing times for family class sponsorship applications at Canadian visa offices abroad and, second, the long delays and lack of appeal for refugees and persons in need of protection who apply to reunite with their family members in Canada.

These two barriers to family reunification speak to the pressing need to ensure our system lives up to Canada's international legal obligations and embodies the broader objectives of the IRPA. As a state party to the International Covenant on Economic, Social and Cultural Rights, Canada has undertaken to progressively realize the widest possible protection and assistance to the family. Canada is also a signatory to the 1967 United Nations Protocol Relating to the Status of Refugees, which states that state parties should ensure that the unity of the refugee's family is maintained.

At PCLS we have grave concerns about the exceedingly long delays—sometimes up to nine or ten years—facing families waiting to be reunited in Canada. It is time for us to generate the political will necessary to meet our international obligations and make this important goal a reality.

How long is too long for families to be reunited? When one in five cases of spousal sponsorship takes more than 20 months to process at the Accra visa office in Ghana, or more than 25 months to process at the Nairobi office in Kenya, we at PCLS believe that many family members have waited far too long already.

When the family member abroad is a parent or grandparent, those numbers grow. One in five families at the Accra office is asked to wait more than a staggering 52 months. With only four sub-Saharan visa offices processing permanent resident applications, it is little wonder that Canadians with African family members are forced to wait so long.

However, not only is the wait exceedingly long, but the rate of rejection is also alarmingly high. Of the four sub-Saharan visa offices, two—Accra and Nairobi—have spousal sponsorship rejection rates among the top five, at 46% and 27% respectively. In contrast, I'll ask you to think about the rate of rejection at São Paulo, which is just 4%. What accounts for this elevenfold discrepancy? Is the reunification of some families, based on country of origin, not as urgent for the Canadian government?

The Canadian Council for Refugees has recently released a report decrying the inequitable delays at the Nairobi office. Beyond the delays, we at PCLS have also become increasingly concerned with the reasons given for some of these spousal sponsorship refusals. I'm

going to tell you a story about one of our clients. I'm going to call her Ms. X.

Ms. X is a Tibetan woman whose family fled from Tibet. She is residing in India as a stateless person. She came to Canada through the live-in caregiver program. After fulfilling all of the extremely onerous requirements of that class, she became a permanent resident and is now a proud Canadian citizen.

●(0915)

She applied to sponsor her husband earlier this year. They celebrated their wedding in India, with family members providing pictures of their ceremony, which show both bride and groom receiving beautiful *kata* scarves from family members, symbolic of blessings wished for the future. However, during their interview with the New Delhi visa office, Ms. X's husband was questioned by the officer about why his wife had waited until "such a late age of 36 to get married". The officer further states:

You and your sponsor are incompatible in terms of age. Whereas an age difference of 5 - 7 years in favour of the male is considered an acceptable norm in your community, your sponsor (female) is 9 years older than you.

Is this reliance on compatibility appropriate to determine the bona fides of a relationship? We at PCLS feel that it's rife for a misapplication by visa officers especially where essentialized cultural norms such as these are used to establish that a spousal sponsorship is not genuine. Who determines the cultural values of a diverse community? Where else in Canadian society would we accept the determination that a relationship must be fraudulent because a wife is older than her husband? Luckily, Ms. X has access to the immigration appeal division, where the visa officer's decision may be overturned.

In a 2002 report, Leslie Macleod determined that approximately 40% of spousal sponsorship ADR mediations resulted in the appeal being allowed. This does not cover the appeals that were successful at the immigration appeal division. This means that of the thousands of spousal sponsorship applications that were denied, many based on the bona fides of the relationship, nearly 40% of these should have been resolved at the visa office abroad.

The cost of these unnecessary appeals is financially burdensome to the Canadian taxpayer, but the hardship felt by Canadian families amounts to a human tragedy. Where else would we tolerate waiting such a long time for decisions to be rendered that are incorrect 40% of the time? Increasing the accountability of visa officers abroad for overturned decisions would save Canadian taxpayers money and bring families together sooner.

Therefore, our two recommendations to the standing committee are: first, rectify the uneven processing times and rejection rates for family-class sponsorships at visa offices by investing resources where required and ensuring consistency among these offices; secondly, ensure visa office accountability for overturned decisions by making sure that no other family must face the hardship of delayed reunification because of inappropriate and discriminatory compatibility criteria.

While Canadians seeking to sponsor family members from abroad do have a right to an appeal, this is simply not true for refugees and persons in need of protection. After seeking refuge in Canada and often fleeing very precarious situations, successful refugee claimants and persons in need of protection cannot appeal to the immigration appeal division if their application to be reunited with a family member is denied.

The only way to challenge a visa officer's decision is to apply for leave to the Federal Court. However, the Federal Court rejects nearly 80% of these applications. This time-consuming process is costly and emotionally exhausting for refugee families. Even where leave is granted and where the court finds that the visa officer made an error of law, the matter will simply be returned to the visa office.

I would like to thank you very much for giving me this opportunity. I would like to hope that when you are confronted with the question on so many Canadian's minds—how long is too long?—you will stand with us in saying that Canadian families have simply waited far too long already.

Thank you.

● (0920)

The Chair: Thank you for your presentation.

Ms. Long, you have up to 10 minutes.

Ms. Elizabeth Long (Barrister and Solicitor, Partner, Long Mangalji LLP, As an Individual): Thank you very much for having me here today.

While my views do not reflect the views of the Canadian Bar Association, in preparing my submission for today I did canvass my colleagues, many of whom are in the Canadian Bar Association, for their input and experience. Today I'm presenting experiences and recommendations that have been shared with me by many of my colleagues.

I would like to speak to three topics today with regard to the issue of family reunification wait times. The first is the processing time in relation to the immigration appeal division. The second is wait times for parents and grandparents. The third is the issue of reunification for live-in caregivers.

My colleague, Jennifer Pollock, has spoken eloquently about some of the abuse of discretion by visa posts when determining whether sponsorship applications should be processed. There is an avenue of appeal to the immigration appeal division in the act, but let's look at the processing times for the immigration appeal division.

Even if a family has the money to hire a lawyer to help them go through the process, the entire process will take approximately three to five years. After the application is denied at the visa post, the

minister will usually take about 120 days, or four months, to send materials to the immigration appeal division. If the family is lucky enough to go through alternative dispute resolution, the entire process at the IAD will take approximately nine months. If they are not and it goes to a full hearing, it would take 18 to 20 months to get to the end and have a decision.

And that's not the end.

Once they actually get to the end of that decision, if it is a positive decision by the immigration appeal division, it will take three months for the visa post just to acknowledge that there has been such a decision. Afterwards, it's another four months or more, depending on the visa post, to get the PR finally issued.

So we're looking at people being separated from their families for anywhere from three to five years because of a wrong decision by the officer. I'd like to present some solutions to this problem.

Plan A is to appoint more board members. Waiting 18 to 20 months to get a decision is just too long.

Plan B, if that can't be done, is to at least have the visa posts act when the decision is made by the immigration appeal division. We live in an age of e-mails and faxes. It should not take three months for the visa post to acknowledge that a decision has been made by the immigration appeal division.

When a decision is made by the IAD, the case is supposed to have priority processing. That means that it's supposed to be processed—not wait in line to be processed. The more than eight months of waiting time it takes for the decision to be made is longer than it would normally take for a spousal application to be processed in the first instance. That's not reasonable.

I will now move to parents and grandparents. I don't need to tell you how important parents and grandparents are to the emotional well-being of Canadians. On an economic basis, they provide wisdom and experience that comes with age, and they provide child care in our country, which is without a national child-care program. They are very important.

It's currently taking 32 months—and this is advertised on the CIC website—for grandparents to receive just first-stage approval of the sponsorship, and another two years or more to be processed at the visa station. It takes about four to five years for these applications to be processed. To separate families for this long, and for children to grow up without their grandparents, is unacceptable.

There have been some short-term band-aid solutions proposed and enacted during this time. In April 2005, Minister Volpe issued instructions to visa posts to invoke a more flexible approach in issuing visas to parents and grandparents who are waiting for the PR applications to allow them to come to visit their families.

● (0925)

While this is a positive step in allowing them to visit Canada, there are many practical problems in this. First of all, many parents who are coming here are in their fifties or sixties. They are willing and able to work, but they can't because they only have visas. They are still dependent on their families to support them during this time. This puts a strain on their families. Parents who come here don't have medical coverage and the families can't afford for them to get sick. So really, in the long term, it's not a solution for most families to have them stay here for four to five years without medical coverage and without an ability to work.

There are some solutions to this problem.

Plan A would be to increase the number of parents and grandparents who are allowed to come to Canada each year so that the processing time can be shortened.

Plan B, if this can't be done, would be to at least shorten the time it takes for them to get first-stage approval. It currently takes one month for Mississauga to approve a sponsor for a spousal application, so it can be shortened. It doesn't need to take 32 months to get approval.

Then, once they have received approval, at least provide the grandparents with work permits and access to health care when they come over. The grandparents can undergo medical assessments before they come over so you can assess whether they would be medically inadmissible and represent an excessive demand on the system at that stage, but when they come over at least they would have health care coverage, so that if they break a leg or get the flu they're not afraid to go to the hospital.

They can then actually stay here and work. They would have the ability to transition smoothly into the Canadian workforce when they actually become permanent residents.

Thirdly, I'd like to speak about live-in caregivers. Currently in this program persons who apply are meant to eventually become permanent residents. However, the program specifically prevents spouses and children from joining the caregiver when they're working in the program, and really, the system prevents them from being reunited for at least four to five years.

Let's look at the time period. First of all, they have to work for two to three years, with the families not allowed to join them at this time, in order to fulfill the requirements of permanent residence. Then it takes eight months for them to obtain approval in principle in Canada. Once they have that, it takes 15 to 22 months in Manila, where most of the applications come from, in order to get approval for the families to join them. That's anywhere from four and a half to five and a half years.

What's the solution?

In plan A, we would propose to allow the family members to join the live-in caregivers. Highly skilled workers are allowed to have their spouses come here and their spouses get open spousal work permits. Why isn't this allowed for live-in caregivers?

In plan B, if that's not possible, we propose to at least speed up the processing time for the families. Allow them to be processed at the

same time as live-in caregivers. This is the case for skilled workers and Canadian experience class applicants, and it should be the same for live-in caregivers.

Thank you very much.

● (0930)

The Chair: Thank you. The questions you raised are probably asked in the constituency offices of every member of Parliament who's here.

We'll start off with questions from each caucus.

Mr. Karygiannis.

Hon. Jim Karygiannis: Good morning. Thank you for coming.

You mentioned Nairobi and Accra. I wonder if you can walk us through a scenario of spousal sponsorship. If somebody sponsors his wife from either of those posts, what length of time are we looking at for this person, this spouse, to join them in Canada?

Ms. Jennifer Pollock: It definitely varies. As I said about the 20-month processing time at Accra, you have the interview with the visa officer, at which point there is a determination whether the relationship is bona fide. As I mentioned in my previous submission—

Hon. Jim Karygiannis: I'm sorry. Let's say that it's a bona fide relationship.

Ms. Jennifer Pollock: If it's a bona fide relationship, it would be difficult to say if I don't have the exact facts, but presumably at the interview the permanent resident application could then begin to be processed if everything is deemed to be legitimate.

Hon. Jim Karygiannis: What is the length of time?

Ms. Jennifer Pollock: Well, 20 months in terms of processing, plus about three months to go to the visa office. That's 23 months in Accra and 28 months in Nairobi. Actually, probably at that point medicals have to be redone, because it's past the 12-month mark. That adds another how many months until medicals—

Hon. Jim Karygiannis: How many?

Ms. Jennifer Pollock: It's hard to determine exactly, but say, for instance—

Hon. Jim Karygiannis: Roughly.

Ms. Jennifer Pollock: Let's say roughly six months. What happens is that when you go for your medical and it's in Accra, let's say, you have to use a designated medical practitioner. That office then submits everything to the Paris office for the medicals to be examined. Depending on when you do your medical, you might not get those results sent right away. Usually the medical practitioner waits until they have a bundle of results and then they send them to Paris. It's sort of difficult to give you an exact timeline.

Hon. Jim Karygiannis: Am I hearing 30 or 35 months?

Ms. Jennifer Pollock: Yes. It's around that time for Accra.

Hon. Jim Karygiannis: That's about three years before a spouse is joined in Canada by their loved one. What happens if it's refused?

Ms. Jennifer Pollock: If it's refused, then it's a whole different battle.

Ms. Elizabeth Long: If it's refused and it goes to the immigration appeal division, it can be anywhere from three to four years at the immigration appeal division by the time the visa post actually finally issues the visa.

Hon. Jim Karygiannis: This is, what, six years before IRB orders the post to—

Ms. Elizabeth Long: You're looking at around 20 months for the IAD to issue a decision and then afterwards it goes to the visa post; it's around a year.

Hon. Jim Karygiannis: Let's just hold on here. We're getting to about 55 months before the IRB issues direction to the post.

Ms. Elizabeth Long: Once the decision goes to the IAD, it's anywhere from 18 to 20 months if there's a hearing.

Hon. Jim Karygiannis: Plus the 35 months before, that's 55 months.

Ms. Elizabeth Long: Yes.

Hon. Jim Karygiannis: How is the decision from IRB signalled to Ghana?

Ms. Elizabeth Long: I believe the materials are somehow sent. I am not exactly sure how that process works, but it takes around three months.

Ms. Jennifer Pollock: I'm not sure if this is correct—you can correct me if I'm incorrect—but I heard that it was through diplomatic bag. That takes a very long time, right?

Hon. Jim Karygiannis: How many times a year have your clients told you that diplomatic bags go from Canada to Ghana?

Ms. Jennifer Pollock: I've heard four times a year, but I—

Is it two times? Okay.

Hon. Jim Karygiannis: Two, verified by the post itself. So right now you're looking at 55 months before your decision is made. If a decision is made in the middle of June and the diplomatic pouch is going out at the end of the year, you're looking at about 60 months before they're ordered to look at the case.

If they're ordered to look at the case, what time for processing are they looking at again? Ten months, 12 months, or 13 months?

Ms. Jennifer Pollock: It's quite a long time. At that point you have to get a new criminal check and a new medical check. All that has to be processed again, along with waiting for the medical practitioner to send the results to Paris.

Hon. Jim Karygiannis: Do you have a guesstimate?

Ms. Jennifer Pollock: I'm not sure. Do you have an estimate? I'm not exactly sure.

Hon. Jim Karygiannis: Twelve months?

• (0935)

Ms. Jennifer Pollock: Yes.

Ms. Elizabeth Long: It depends on the visa post.

Hon. Jim Karygiannis: So you could be looking at about 70 months if the visa post decides they don't believe the bona fides of the marriage. Or if they do believe it, you could be looking at 35 to

40 months before the spouse is in Canada. That's three and a half years. Is that something that you think is fair?

Ms. Jennifer Pollock: No. In fact, that's what we were talking about in our submission. Parkdale Community Legal Services believes that this is simply not fair, especially when you look at the inconsistency in wait times across visa offices.

Hon. Jim Karygiannis: What would you want us to do?

Ms. Jennifer Pollock: The Canadian Council for Refugees released a report yesterday. Their recommendation is to have more resources at visa offices. They talk about Nairobi processing so many files from different countries; I believe it's 18 different countries that the Nairobi office processes. That sort of statistic simply doesn't make sense when you think families are waiting for—

Hon. Jim Karygiannis: Ms. Pollock, has that changed, to your knowledge, in the last three or four years? Or has it always been the same amount of people coming in, the same office, and the same officers? Has that changed?

Ms. Jennifer Pollock: Do you mean the number of applications?

Hon. Jim Karygiannis: The number of applications hasn't gone up or down. If you look at the numbers, it's still the same, but have the schematics of the application or the process changed?

Ms. Jennifer Pollock: Elizabeth was mentioning that the appointment of board members has—

Hon. Jim Karygiannis: That's the IRB. Let's forget the IRB. Let's talk about the normal process.

Has there been a change in the number of the officers they have or the number of cases coming over from Nairobi or Ghana? Are there more people coming from there so that all of a sudden we have twice as many people coming?

Ms. Jennifer Pollock: No. There are other visa offices that have more applications but shorter processing times.

Hon. Jim Karygiannis: So for Nairobi, Ghana, their source countries in Africa, instead of speeding up the process and making sure that it's fair with the rest of the globe, they're slow?

Ms. Jennifer Pollock: Yes. They're very slow.

Hon. Jim Karygiannis: Exceptionally slow?

Ms. Jennifer Pollock: Yes, exceptionally slow.

The Chair: Thank you, Mr. Karygiannis.

Madam Thi Lac, please.

[Translation]

Mrs. Ève-Mary Thaï Thi Lac (Saint-Hyacinthe—Bagot, BQ): Good day, and thank you for coming here this morning to share your experiences with us and also, for bringing us some data that will help the committee with its study.

You talked about family reunification, about the delays encountered in Accra and Nairobi which are now stretching to almost two years. This situation is truly unacceptable. In addition, in response to a question from my colleague, you also mentioned that applications from over 18 countries go through the Nairobi office.

You reminded us that very lengthy delays are encountered. In these countries, it is often difficult, as we know, to undergo an examination, to qualify or even simply to file an application. The process may be complicated because a person must provide security information, a criminal background check as well as up-to-date medical test results.

I'm interested in hearing your views on this situation. We know the medical test results are only valid for one year, but these results must be submitted at the start of the application process. These tests cannot be taken at random. The Canadian government has designated a number of doctors who are accredited to administer these medical tests.

The waiting period is now over 25 months long. This does not necessarily represent the amount of time required to process the application from start to finish, but rather the time it takes for the application to be put in the system. You talked about the entire process taking from three to five years. That could mean that persons may have to take their medical test over again several times while their application is being processed.

Instead of requiring medical tests and security checks at the beginning of the process, would it not be better, in your opinion, to wait until the application is actually being processed before asking people to supply these documents?

• (0940)

[English]

Ms. Elizabeth Long: Normally speaking, although the instructions provided by the visa post often ask for police certificates and medicals to be given at the very beginning, as a lawyer I would normally advise them to wait until the application is about to be approved before submitting these documents. I think there have to be better instructions in the packages themselves for applicants, saying to wait for the police certificates and medicals until a certain period of time because you're right: they absolutely do expire after a year and a half.

Ms. Jennifer Pollock: I would agree with Elizabeth. My only concern is that we've seen how long a process takes with the processing of grandparents, where there are two stages, and the medicals and the criminal checks are not required in the first stage. I would just be worried that this would not encourage faster processing and that it would then provide maybe a little bit more of a reason to delay processing, which would obviously be a definite concern, especially when we're already waiting so long.

[Translation]

Mrs. Ève-Mary Thaï Thi Lac: Do you have any statistics on family reunifications, on applications refused by officers and appeals that were allowed?

[English]

Ms. Jennifer Pollock: I do have refusal rates for all of the visa offices and there is this report I mentioned that talks about 40% of ADRs being successful. That does not include the immigration appeal division statistics.

However, I believe it might be a bit difficult. There might need to be an information request done in order to find more specific statistics, but I do have a list of all of the refusal rates.

[Translation]

Mrs. Ève-Mary Thaï Thi Lac: My colleague has some questions for you.

Mr. Thierry St-Cyr: I'd like to know your opinion of the current system.

First, a person's application is approved and then, there is a two-stage family reunification process. Do you believe that this is a logical way to proceed? Wouldn't it be simpler to change our system so that applications are all approved at the same time and persons can travel and arrive together?

[English]

Ms. Elizabeth Long: Absolutely. With regard to live-in caregivers, this approach of deliberately separating the families for four or five years is unacceptable. Why are live-in caregivers treated so differently from skilled workers and persons applying under the Canadian experience class? They are here to work. They will be members of our community. It's unacceptable that they are not processed together, at the same time.

[Translation]

Mr. Thierry St-Cyr: As with many bureaucratic procedures, delays are the result of problems with the management of supply and demand.

Since becoming immigration critic, I've begun to think more and more that delays are used as a management tool to keep the number of applications down and to discourage applicants so that only those who are highly motivated to come to Canada actually apply. Delays are used as an excuse to tell people that if they really want to come to Canada, they will have to wait. If these individuals are prepared to wait two, three, four or five years, it means that they truly do want to come to Canada.

Do you sometimes get the impression that regardless of the government in office, waiting times are used as a tool to manage immigration?

[English]

Ms. Elizabeth Long: Absolutely. With regard to the visa posts but also with regard to the categories, such as parents and grandparents, only 15,000 persons are allowed. The quota is there for those coming into Canada each year. How many parents and grandparents can be processed during that time?

There is no reason, other than a quota or some sort of policy, in allowing a certain number of people. For it to take 32 months to be processed in the beginning, for people to be approved for sponsors...? The whole reason for that is to limit the number of persons coming into Canada.

The Chair: We're going to have to move on. I'm sorry.

Thank you.

Ms. Chow.

Ms. Olivia Chow (Trinity—Spadina, NDP): I'll pick up where you just left off. In fact, the targets have dropped. In 2008 the target was 18,000. It has dropped by 3,000 to 15,000. For spouses, the target has dropped from 50,000 to 42,000, so you have 8,000 fewer spouses coming in.

That's one of the reasons the wait times continue to grow. If you have fewer people being allowed in, then of course you have to wait longer.

But let me come back to the spousal sponsorship. I didn't know that age difference was.... That's quite amazing.

One figure I've seen, because I requested it, is from the Hong Kong visa post, where the turndown rate is more than 50%, which means that if you are going through the Hong Kong visa office, 5 out of 10 applications to sponsor a spouse will be rejected. It's hard to believe that 50% of them are marriages of convenience. A lot of them win at the appeal board, but they have to wait three to four years. Am I right?

● (0945)

Ms. Elizabeth Long: Yes.

Ms. Olivia Chow: So from the time they get married and apply until they actually come together as a couple and are living together, we're looking at three to four years.

Ms. Elizabeth Long: It's five years and maybe more depending on the situation.

Ms. Olivia Chow: Given that 50% of them get turned down and then appeal, and that a lot of them actually win at the appeal division, you're looking at a couple being divided for five years. Often there's a child involved, so there will have to be a decision as to whether the child goes with mom or dad. Likely it'll be mom, but if the mom is overseas, then the child will be separated from the mom for five years.

Let me see if I have this clear on the recommendations from both of you. There's a need for faster application. The turndown rate should be lower, especially in some visa offices. If a case is rejected, the immigration appeal division process now takes a year and a half, so we need more board members in the appeal division in order to process these cases faster. It used to take six months. How long does it take now?

Ms. Elizabeth Long: It takes 18 to 20 months.

Ms. Olivia Chow: So it's close to two years that you have to wait for your appeal case. Once you go through the appeal division, assuming you win, then there really shouldn't be any excuse to make that person wait for another year or eight or nine months.

So your recommendation is that if the appeal division says that since this is a genuine marriage you should allow them to come, it should be two or three months before they arrive in Canada without having to repeat all the steps again.

Ms. Elizabeth Long: Yes, exactly.

Ms. Olivia Chow: Are you saying that once the visa office receives the go-ahead they should just process the visa, that they should just do the medical examination and security clearance and skip doing the interview again? Do they do another set of interviews?

Ms. Elizabeth Long: There is really no need for an interview. That issue of whether or not the relationship is genuine has been tested by the immigration appeal division and a decision has been made by them. The only issues are the medical and police certificates. That's usually what takes so long.

Ms. Olivia Chow: At the last stage, do they need to get interviewed again by the visa office?

Ms. Elizabeth Long: No, I wouldn't say that.

Ms. Olivia Chow: So why would it take seven or nine months to get the medical and security clearances?

Ms. Elizabeth Long: It doesn't. It takes three months just for the visa post to acknowledge that a decision has been made.

Ms. Olivia Chow: That the appeal was won.

● (0950)

Ms. Elizabeth Long: Those three months are completely unnecessary.

I would also like to talk about the types of interviews that are done at the first stage at the visa post in Hong Kong. At the visa post in Hong Kong, many of the interviews are done over the phone, where credibility cannot be easily assessed.

There's no system in which they say, okay, this is what we're going to do: we're going to have you come into the room, we'll ask you questions, and these are the standard questions that will be asked.

You can't assess credibility over the phone. That's why there's a 50% refusal rate. That's why there is such a high positive determination at the IAD.

Ms. Olivia Chow: Can I go now to the parents and grandparents? If they are in Canada, they should be allowed to work and have health care coverage. For those who are applying outside of Canada and who choose not to travel to Canada at that time, how long is it on average? Is it three, four, or five years?

Ms. Elizabeth Long: It's 32 months just to get the first stage approval. Then it goes to the visa post and that can take a year or two years.

Ms. Olivia Chow: So it takes three years just to get the sponsorship approved. Why?

Ms. Elizabeth Long: That's the question: why? When only 15,000 people are allowed in each year, that may be an answer.

Ms. Jennifer Pollock: I think one of the standard responses is that spousal sponsorships are prioritized, and that is the reason it takes so long. But I don't think that would—

Ms. Olivia Chow: Do you mean applying for a father or a mother?

Ms. Jennifer Pollock: Exactly, but that doesn't seem to justify the long wait time that exists.

I just want to say also that it is the submission of Parkdale that when a couple is denied a visa based on the bona fides of the relationship for something as trivial as age, we feel that such decisions should no longer be made at the visa office. The overseas processing manual should be changed in order to make sure that these things don't happen and stop families from being together.

This is even more important for new Canadians who are protected persons and convention refugees, because if their application to bring over a family member is denied, they in fact do not even have recourse to the appeal division. It's our submission that this be ended and that convention refugees and persons in need of protection who are applying for permanent residence should be able to appeal to the immigration appeal division if their sponsorship of a family member is refused.

The Chair: Thank you.

Mr. Dykstra.

Mr. Rick Dykstra: Jennifer, I appreciate the emotion around this issue that you present in terms of the changes or advancements you'd like to see. Part of the reason we're doing this work in terms of hearings is to do that.

There's one thing, though, that you haven't addressed, as I noted in an e-mail you sent regarding a release on November 2, which said that "processing times for privately sponsored refugee in Nairobi have increased from 31 months three years ago to 42 months now; 24% of pending refugee dependant cases worldwide are in Nairobi; 30% of the pending privately sponsored worldwide are in Nairobi". I'm quoting from your release.

Don't you think this is part of the reason that things take a lot longer in Nairobi, that it's just because when you look at the overall impact of the numbers, it's pretty obvious that we have a significant number of applications that have been sought out of the Nairobi office?

Ms. Jennifer Pollock: No. I would actually not agree with you there, because if you look at, for instance, the visa office in India, in 2008 alone there were 5,778 applications, yet the rejection rate was not nearly as high as in Accra and Nairobi. I feel that this demonstrates an inconsistency that really does need to be rectified, and I would actually like—

Mr. Rick Dykstra: No, thank you. I have only seven minutes, so you have to let me ask some questions.

My second question is this—

An hon. member: [*Inaudible—Editor*]

The Chair: Order, Mr. Karygiannis.

Hon. Jim Karygiannis: Why doesn't he allow the witness to fulfill her—

The Chair: Mr. Karygiannis, don't go there. You did that. I had my finger on the button trying to stop you throughout your entire testimony, so don't go there.

Mr. Rick Dykstra: I hope I haven't lost time based on that.

Jennifer, you haven't actually given any time to whether immigration fraud is actually occurring there. You haven't actually given time in your remarks to the issues of, for example, identification and lack thereof that people bring to the table, or potentially do not bring to the table, for their cases to be processed. That obviously has a significant impact. The fact that those are not brought to the table obviously impedes any officer's ability to process.

I note that you haven't brought that to the table in terms of addressing immigration fraud. The fact is that it does exist, and part of the reason these processes end up taking somewhat longer certainly is due to the fact that we want to ensure that fraud is not taking place.

• (0955)

Ms. Jennifer Pollock: But I will bring your attention again to the 40% rate of appeal acceptance at the ADR. I believe this demonstrates that the decisions the visa officers are making are not correct at least 40% of the time. In terms of the feeling that there is fraud in certain cases and discrepancy between certain officers, I feel that this is really a demonstration that there's a problem there.

Why is it that there is a feeling that there is over 50% fraud from the Hong Kong office versus 3% from the Taipei office? It doesn't make sense. Why is that discrepancy there?

Mr. Rick Dykstra: Well, it's because people are doing their job.

But I'll turn my time over to Ms. Grewal.

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you, ladies, for your time and your presentations.

When the Liberals were in power, more than 900,000 people were waiting in line. The wait times were about 58 months and the system was fully clogged. Now the wait times are less and we are clearing up the backlog.

I want to talk about fake marriages, marriages of convenience. I represent an ethnic riding, and almost two dozen people have come to my office to say their spouses left when they got to the airport. Regarding marriages of convenience, I think they submitted about 12,000 signatures to Parliament about one year ago. I think the officers in those missions are using their due diligence, because there is a big problem with marriages of convenience in our community.

Ms. Long, have you ever worked at a Canadian mission abroad?

Ms. Elizabeth Long: I have not, and I would like to address your comments about marriages of convenience. Absolutely there are marriages of convenience, but the issue is, how do you determine that?

If people are just called on the phone, a person who has been trained by a fraudulent consultant on what they are supposed to say can easily answer questions, so the officer is likely to determine it's not a marriage of convenience. In cases where they apply by themselves, where it's a genuine relationship, and where they have not prepared for the interview, they are more likely to give answers that lead the officer to think it is a marriage of convenience.

We need to examine how applications are assessed in the first instance so false marriages aren't allowed to come through and genuine marriages are processed accordingly. Asking about age is not appropriate.

Mrs. Nina Grewal: Because the officer is using his due diligence, he has to be very careful about these marriages of convenience. What questions do you think the officer should pose to the people in the missions?

Ms. Jennifer Pollock: I think they should focus more on the substance of the relationship. For example, knowledge of and familiarity with each other's families is something of substance that Canadians would understand. However, to wait so long and be refused based on your age is discriminatory and just doesn't make sense.

Mrs. Nina Grewal: Do you have any expertise on the conditions in foreign countries that might cause long wait times?

Ms. Jennifer Pollock: The issue is the discrepancy. For instance, in Abidjan the refusal rate of 8% is far lower than it is in Accra. I think the focus on barriers within the country is only warranted to a certain degree. We have to focus on the discrepancy that I think is at the heart of the issue.

Ms. Elizabeth Long: There has to be a standard across the board as to how the officers are trained and how they are to conduct the interviews.

•(1000)

The Chair: Thank you very much for coming here this morning to give us your comments and to answer questions. You've been very helpful. Thank you kindly.

We will suspend for a few moments to go in camera.

[Proceedings continue in camera]

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