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Chair

Mr. David Tilson

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● (1530)

[*English*]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): Good afternoon, ladies and gentlemen.

This is the Standing Committee on Citizenship and Immigration, meeting number 17, on Tuesday, May 25, 2010. The orders of the day are pursuant to the order of reference of Thursday, April 29, 2010, Bill C-11, An Act to amend the Immigration and Refugee Protection Act and the Federal Courts Act.

We have three witnesses today, three guests. One of them is coming via teleconference from St. John's, and we're having problems hooking that up, but there's no reason we can't start with the other witnesses and hope that it will happen. So I will introduce our witnesses.

I want to welcome you to the immigration committee to study this bill and hear your observations and comments. We have the Table de concertation des organismes au service des personnes réfugiées et immigrantes, with Stephan Reichhold, who is the director, and Richard Goldman, who is the committee coordinator to aid refugees. As well, we have Action Réfugiés Montréal, Glynis Williams, who is the director, and Maude Côté, who is the program coordinator.

Each group has up to seven minutes to make a presentation. Thank you for coming.

We'll start with you, Mr. Reichhold.

[*Translation*]

Mr. Stephan Reichhold (Director, Table de concertation des organismes au service des personnes réfugiées et immigrantes): Good afternoon. My name is Stephan Reichhold, and I am the director of the Table de concertation des organismes au service des personnes réfugiées et immigrantes, which represents 140 Quebec organizations working with refugees, immigrants and also people without status. We have worked very closely with the Canadian Council for Refugees; we worked with them on their brief. Our organization supports all of the principles in the Canadian Council for Refugees' brief. Several aspects of the bill are of concern to us, despite the fact that certain components are positive, as we mentioned in the brief.

I will give the floor to my colleague Mr. Goldman, who is responsible for protection in our organization, at the Table de concertation. He is going to speak to one issue in particular, that is the whole question of the study of humanitarian considerations that would be abolished for asylum seekers under the current bill. This is one component we wish to discuss with you. I will now give the floor to my colleague.

[*English*]

Mr. Richard Goldman (Committee Coordinator to Aid Refugees, Table de concertation des organismes au service des personnes réfugiées et immigrantes): *Merci, Stephan.*

Mr. Chairman, honourable members, thank you for this opportunity to appear before your committee. My name is Richard Goldman. As Stephan mentioned, I'm the refugee protection coordinator for the Table de concertation. I'm also the coordinator for the Committee to Aid Refugees, a small church-funded, non-governmental organization that assists refugee claimants. On a personal level, I've worked with the refugee determination system in various forms since before the creation of the IRB in 1989.

For the purposes of our presentation, we feel that a real-world example always gives the clearest picture of the real-world impact of a law. So we're going to present a real case that is currently running its course. We'll change the name, of course. This case was the subject of an opinion article that Paula Kline of our sister organization, the Montreal City Mission, and I wrote.

I gave it in. I don't know if it has been distributed and translated. It has? That's great.

We believe it illustrates the real-world impact mainly of the question of the humanitarian applications, but also of the short timelines.

Just briefly, the story goes like this. It's the story of Brihan. That's not her real name. It means “light” in her native Amharic. She was given into marriage at age 12 by her parents. She was the eldest of nine children. She was born in a village in northern Ethiopia. She never got to go to school. On the day after her 14th birthday, she gave birth to her first child, a boy. In the next five years she had another son and two daughters.

In 1998, the Ethiopian-Eritrean war broke out. Her husband was called to fight in the war and is presumed to have died in combat. Meanwhile, the Ethiopian authorities began picking up and expelling people of Eritrean origin. Brihan's mother, who is Eritrean, was expelled to Eritrea. Brihan was arrested herself and held for a week in a tiny cell with more than 40 other detainees. She was beaten, tortured, and brutally raped. Aside from the emotional scars, she was left with a serious medical condition.

After that horrific week in prison, she was released and fled to Sudan, where she worked at odd jobs for five years. She was always afraid of being deported to Ethiopia. Of course, she had to leave her four children behind. Finally, in 2004, one of her friends arranged for her to get on a plane and make it to Canada.

She arrived in Montreal with no identity documents and no knowledge of English or French. She was actually illiterate, even in her native tongue. Because she had no identity documents, she was held in immigration detention for three months, which actually had the effect of speeding up her refugee hearing. I'm sure you've heard that many people wait two years or more for their refugee hearing, but because she was in detention, it was sped up a great deal.

As she had had little access to her legal aid lawyer or to interpreters and she had had little time to properly prepare for her case, her refugee claim was refused. However, with the assistance of the Committee to Aid Refugees and the Montreal City Mission, she subsequently presented an application for permanent residence on humanitarian grounds, showing evidence of the medical condition contracted during her assault. This evidence had not been available at the time of her refugee hearing. With that evidence, and also in light of other compelling humanitarian considerations, like the best interests of her children, notably her two daughters, who faced the same risk she had of being given into forced marriage at a young age, the humanitarian application was accepted. If all goes well, she should be reunited with her children very shortly.

As I mentioned, this is a real case, and as a matter of fact, we got the wonderful news last week that the visas for her four children were issued by Nairobi, and therefore her four children should be coming literally in days from now, if all goes well. They will be reunited with their mother after a ten-year separation.

Meanwhile, Brihan has done a very good job of integrating. She has learned to read and write in both of Canada's official languages, and she has already gained some Canadian work experience. If the proposed reforms were in place as they are currently presented under C-11, she would not have been able to file this agency application. She would have been deported to Ethiopia within 12 months, possibly to her detention and death, leaving her children as orphans.

● (1535)

The Chair: You have one minute, sir.

Mr. Richard Goldman: Okay. I will skip over the short timeline and talk just about the H and C applications.

We feel that Brihan's story represents the finest aspects of Canada's humanitarian tradition. When it comes to immigration, we feel it makes no sense to close off this important avenue. It's the only instance that looks at the best interests of the child in deciding whether or not a child or a family can stay in Canada. It makes even less sense when we consider that humanitarian applications do not suspend removals. Our recommendation, therefore, is to either keep humanitarian applications as they are, possibly with more resources to reduce timelines, or to give jurisdiction to the IRB, whether at the first level or through the RAD, to accept somebody on humanitarian grounds.

Thank you.

The Chair: Thank you very much, sir.

We now will go to Ms. Côté or Ms. Williams, one or the other, just not both at the same time.

Ms. Glynis Williams (Director, Action Réfugiés Montréal): We won't do that.

The Chair: You have up to seven minutes as well, Ms. Williams. Thank you.

[*Translation*]

Ms. Glynis Williams: I would like to thank you for giving us the opportunity to present our concerns on this bill, and particularly to thank Mr. St-Cyr who sent our request to appear to the committee.

● (1540)

[*English*]

Action Réfugiés was founded in 1994 by the Anglican and Presbyterian churches in Montreal. Our mandate since then has been to assist refugee claimants who are being detained in the Canada Border Services Agency detention centre in Laval. We also match women refugee claimants with volunteers at the beginning of their time in Montreal. And our third program is sponsoring refugees from overseas.

We believe that one of our strengths is that we work with both inland refugee claimants and refugees who are overseas. This is a somewhat unique situation in Canada.

Twenty-two years ago, I started working with refugee claimants who were being detained. As the founding director of this organization, we chose to make the detention program a priority, which you'll hear more about soon.

In 2007, I participated in a very short-term deployment program with the United Nations High Commissioner for Refugees in Syria, interviewing Iraqi refugees. Having listened to the stories of more than 350 Iraqi refugees in four months, I really don't have words to describe the enormous suffering and violence that was unleashed in Iraq. Therefore, we welcomed the minister's announcement of the increase in overall resettlement numbers, which I know is not part of this bill. However, it is extremely unfair to make the increased numbers conditional on the passing of this bill. Suggesting that one group merits Canada's protection while the other group is bogus—in other words, pitting inland claimants against refugees overseas—is a strategy unworthy of Canada's humanitarian tradition.

I want to give you a real-life example. A young Iraqi man whom we met—I will call him Yousuf—was kidnapped in Baghdad. A large ransom was demanded and paid by his father. Yousuf had been tortured, and his family sent him to Syria upon his release, but even there he did not feel safe from his captors. Then Yousuf's father was kidnapped and a ransom of $200,000 was demanded; it was paid, and his body was returned. He was killed by the terrorists.

That man's brother is a Canadian citizen, who was deeply disturbed by his own brother's violent death and by the trauma of his nephew, Yousuf. So he assisted Yousuf to travel to Canada. Action Réfugiés met him while he was detained in the Canada Border Services Agency detention centre, having claimed refugee status right at the airport. Yousuf would unquestionably have fallen under the UNHCR referral categories, but was terrified to stay in the region, so he came to Canada. His story illustrates why we must not even imply that refugee claimants are less deserving than those who are refugees overseas.

The designated safe countries of origin emphasizes this idea that some refugees are more deserving than others. The provision is discriminatory and fails to recognize that most countries can be unsafe for some of its citizens at some point—gender claims and victims of sexual orientation are obvious examples.

The fact that refused claims from countries designated as safe will be denied access to the refugee appeal is really worrisome. Refugee claims are by definition based on individual risks of persecution, so safe country designation is a contradictory principle. It seems likely that designating countries as safe will result in increased requests for judicial review for claimants of these countries should they be denied. The Federal Court is likely to grant the review for people who have at least had an appeal at the RAD.

We understand concerns regarding demonstrably weak refugee claims, so why not allow the CBSA to designate a certain number of claims for priority processing at the IRB? This fits much better with the principle of refugee status determination, which is an individualized status.

[*Translation*]

I will now give the floor to my colleague, Maude Côté.

Ms. Maude Côté (Program Coordinator, Action Réfugiés Montréal): Thank you. I am the Program Coordinator for Action Réfugiés Montréal. As Ms. Williams mentioned, our organization visits the Immigration Detention Centre every week in order to provide legal information and moral support to the detainees. The centre is one of three immigration detention centres in Canada.

Although some people may be held in custody before facing a removal, one reality that is little-known and is part of our daily experience is that of asylum seekers who are detained on grounds of identity following their arrival. We believe it is critical not to confuse the cases of people in detention because of an imminent removal and those who are there on the grounds of identification, following their claim for refugee status.

We believe that the wait time for an interview during the first week after the claimant's arrival, as well as the holding of a hearing within 60 days, are totally unrealistic for asylum seekers who are detained. We are extremely concerned by the fact that these new proposed measures would be very harmful to them, both because of their right to seek the advice of a lawyer in order to help them to prepare their file, and because of the very great difficulty in obtaining documents or in being able to move their file forward as they are being detained by the authorities.

For example, a Congolese asylum seeker, who is fleeing the conflict and is unable to contact his or her family, because he has lost track of them for these very reasons, can be held in detention for several months, traumatized and unable to provide the identification requested. This situation is unfortunately the reality for several people.

We are also concerned by the fact that an official, during the weekly interview, would “help the claimant fill in the forms properly”. This role actually belongs to an independent lawyer acting as counsel on behalf of the claimant in order to protect his or her rights. This right to counsel is provided under section 7 of the Canadian Charter of Rights and Freedoms and should in no way be cut off, particularly in legislation that must protect such vulnerable people.

Since the detention facility conditions do not make the collection of documents easy—detainees must obtain calling cards, have no access to the Internet, the detention centre is far from the city—it is risky to force the holding of hearings too quickly, because this is to the disadvantage of claimants, who will not be ready in time. Moreover, as the refugee appeal section will be limited—both in its form and in its substance—we risk seeing a higher number of applications piling up in this appeal section, with people rejected in their initial appeal and ultimately rejected because of the restriction of presenting only new evidence subsequently. This would seriously affect Canada's reputation as far as the protection of refugees is concerned.

Moreover, because the proposed timeframes are so short, we believe that detention will be favoured, because of the accelerated process that Minister Kenney wishes to have, in order to keep better control of the situation. Because the effects of detention on asylum seekers fleeing persecution—who for the most part have never being detained in the past—are significant, we are concerned about the consequences of an increase in the detention of people seeking refugee protection in Canada.

● (1545)

[*English*]

The Chair: Madame Côté, I wonder if you could wind up soon.

[*Translation*]

Ms. Maude Côté: In conclusion, we would like to present the five following recommendations: first, we recommend deleting subsection 100(4) concerning the interviews within a week of the person's arrival in Canada.

Second, we recommend allowing the IRB Refugee Protection Division to set the date of the hearing in consultation with the claimants and their counsel, according to the availability of the documentary evidence and their level of preparation, without obliging them to appear at a hearing within 60 days of the interview.

Third, we recommend amending subsections 110(3) to 110(6) and paragraph 113(*a*) so that the Refugee Protection Division would systematically hold hearings, while taking into consideration all evidence related to the claim for protection.

[*English*]

The fourth recommendation is to delete clause 12 proposing a new section 109.1 of the Immigration and Refugee Protection Act for the designation of safe countries of origin.

The last recommendation is to address manifestly unfounded claims by amending the act to give authority to the Minister of Public Safety to identify a limited number of claims that the IRB would be required to hear on a priority basis.

Thank you.

The Chair: Thank you.

Our final witness, on video conference from St. John's, is Julia Porter with the Association for New Canadians. She is a settlement social worker.

I'd like to welcome you to the immigration committee. I look forward to hearing your comments on this bill.

You have up to seven minutes to make a presentation to us, Ms. Porter.

Ms. Julia Porter (Settlement Social Worker, Association for New Canadians): Thank you very much.

Thank you for the introduction. My name is Julia Porter and I am the settlement social worker with the Association for New Canadians. We're an organization that's community-based, not-for-profit, based out of St. John's, Newfoundland. We offer resettlement assistance programs and immigrant and settlement assistance programs to newcomers in St. John's, Newfoundland. We primarily work with government-assisted refugees and immigrants. We don't often work with refugee claimants.

One of the main things I wanted to speak about with respect to the bill, concerning my own experience, is around the strict timelines. Going from 60 days to 19 months seems like quite a large leap. Working with the clients that I work with, who may come from rural areas or who may have family members scattered over different parts of the world, it's really very difficult to get certain documents or everything in order that they may require. So 60 days before the time of the hearing is pretty strict. As well, for the eight days it would be really important that some practices or approaches be put in place, given the sensitive nature of many claims, and maybe even developing partnerships in the community with respect to having certain lawyers who may have to work with the refugee claimants.

I do think it's fantastic that they are planning on resettling more refugees under the private sponsorship program as well as the government-assisted refugee program, but as some other people have mentioned, it's too bad the refugee claimant process is affected by that.

That's everything I have to say from our perspective. As I said, we work primarily with government-assisted refugees, and I'm very glad I got the opportunity to sit here at this meeting.

● (1550)

The Chair: We're glad you did, too.

We now have some questions from some committee members. There are four caucuses, and each caucus will have up to seven minutes for the first round.

The first questions come from Mr. Karygiannis. You have the floor, sir.

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): I thank everybody here, and to you joining us from St. John's. It's wonderful of you to give us an opportunity to hear what you have to say.

I think the contentious items...there are a few points. There is the eight days, the sixty days, and not being able to go before an agency and use the same information you have submitted at the refugee hearing.

I was wondering if you could give us your view on the eight days. Is that long enough? Right now, if I'm not mistaken, it's supposed to be twenty-eight days. Is there a time at which you think the first hearing should take place? Should it be eight days? Should the people have only an interview? Should they have the right to submit a PIF?

I understand that in St. John's you were saying we should have legal counsel on standby in order to give them advice. Can you give us your feelings on the eight days and sixty days, as well as the agency not being able to use the stuff that you submitted to the refugee hearing?

Ms. Maude Côté: I work primarily with refugee claimants who are in detention. Often I meet them after eight days. I visit the centre once a week. They haven't found a lawyer. They do not know how to contact a lawyer. We are there to give them the first tools to initiate the refugee claim process. Therefore, I think it's unimaginable for them to have to complete the first primordial step in a refugee claim without that crucial assistance.

Hon. Jim Karygiannis: In your case, these people are in detention. If they don't have the right to legal counsel, how does that sit in the legal system? You know, if you're arrested you're given a duty counsel. Am I to understand that these people are not given any counsel whatsoever, they cannot contact a lawyer, or they don't know how to contact a lawyer?

Ms. Maude Côté: Actually, there's a distinction to make. Right now, the process is 28 days to fill out the personal information form. That's done with the help of legal counsel. Obviously, people have the right to access a lawyer to do that, but what we're concerned about is the fact that within eight days, and if the form is filled out by an employee of the government, they will not have had the chance to consult a lawyer. That is a basic right that they currently have, and that right should still be maintained under the new legislation.

Hon. Jim Karygiannis: Correct me if I'm wrong. I understand that under the new legislation the first time you sit down will be an interview, so you will not fill out a PIF, a personal information form. It will be an interview. Is this what I understand?

Ms. Maude Côté: That's our understanding.

Hon. Jim Karygiannis: Who would be able to transcribe this PIF? If you sit down for a hearing, it can last an hour, two hours. If there are no people... If you go for an examination for discovery, if you're bringing a lawsuit there's somebody there who knows how to divide it.

How would that work?

Ms. Maude Côté: I'm not sure if one of my colleagues wants to answer.

Mr. Richard Goldman: We really don't know how it would work. I have to say very honestly that many of us in the advocacy community are very baffled by the purpose of this interview.

The practicalities my colleague Maître Côté has spoken to, and I agree completely, eight days is rarely enough for anybody to become the least bit oriented, to get access to legal counsel. As you probably know, many people arrive traumatized, vulnerable. There are special procedures in place at the IRB to deal with vulnerable claimants in terms of how their testimony will be taken and so on. No one could even be identified as vulnerable within eight days. It takes an examination or a meeting with a psychologist and so on.

So all of the practicalities seem totally unrealistic to us, and even the purpose seems very unclear. Will it replace the PIF? Will it not replace the PIF?

● (1555)

Hon. Jim Karygiannis: Should we continue to have the PIF? Is the PIF useful?

Mr. Richard Goldman: Yes, at least in my opinion and in the opinion of many others. This is a part of the system that doesn't seem particularly problematic: 28 days is a reasonable time. You fill out a form. Some people do have trouble even with the 28 days, let alone the eight, but it seems to be working fairly well. It's hard to see how sitting down with somebody after just eight days, without a clear purpose, is going to speed up things. Basically it's just adding a procedure that doesn't exist already. It's adding a new procedure, whereas the government says the bill is to streamline procedures. We find that baffling.

Hon. Jim Karygiannis: Should people be able to use the facts and figures that they used on their application for refugee status for H and C when they apply later on or simultaneously? Should they be allowed to use things that they've said?

Mr. Richard Goldman: Yes.

Hon. Jim Karygiannis: Right now the proposal is that whatever you do with your refugee claim, you can't use the same statements and the same facts when you're applying for H and C.

Mr. Richard Goldman: We find that equally baffling. The idea that you could not include what we call section 96 or section 97 factors—in other words, the refugee definition, section 96 of the law, or cruel and unusual punishment or torture, section 97—that you could not invoke them on an H and C, we just cannot understand that at all.

As was pointed out in much greater length in the brief of the Canadian Council for Refugees, the dividing line between, say, discrimination, which is a hardship, and persecution is almost impossible to draw. We just cannot see how in practice you can have an H and C in which you can't talk about factors that could also be considered persecution or risk to life. We just don't understand what this bill is getting at with that.

Hon. Jim Karygiannis: Right now, before you're removed, you're able to get another kick at the can and do what's called a pre-removal risk assessment, PRRA. In your understanding, is Bill C-11 supposed to do away with the PRRA?

Mr. Richard Goldman: Bill C-11, as it's drafted, would do away with the PRRA for just about all refused claimants except those who were not removed within 12 months. But obviously the intention is to remove people within 12 months.

Hon. Jim Karygiannis: So somebody who comes over, claims refugee status, and things in their country of origin are even getting worse... Although the information we have, let's say, on January 1, 2010, by the time they're removed January 31, 2011, could have changed, we cannot take that into consideration. The changes where they're coming from...we will not be able to take those into consideration under the new proposal.

Mr. Richard Goldman: That's our understanding. There would be no mechanism for considering change of circumstances.

Hon. Jim Karygiannis: Does that worry you? Does that ring any alarm bells?

Mr. Richard Goldman: Absolutely. It's very frightening that there could be a major change in circumstances and no mechanism in place to take that into account.

Hon. Jim Karygiannis: Thank you.

The Chair: Thank you, Mr. Goldman.

Monsieur St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): Thank you for being here today.

I would like to come back to the issue of the interview that you raised, Ms. Côté. I will admit that we have not discussed this much here at the committee. It is interesting. The government presented this as an advantage for the claimants, because filling out the forms is not always easy, people are not always comfortable with writing, etc. There was talk of having them sit through an interview with a specialist who could assist them and point them in the right direction.

Am I to understand that you do not necessarily support this point of view and that you would prefer to keep the current form, that is to say the written form?

Ms. Maude Côté: Precisely. You are talking about a specialist responsible for assisting claimants. In my opinion, this is the lawyer's role. He is the one who is a specialist in refugees' rights. There is a kind of void. We do not know in what context the interview will be held, and what questions it will include. It is as though you were going to fish information out of a box. One would have to know whether or not this information would be relevant. People are traumatized when they arrive, they are very fragile. They do not trust the authorities and they do not know how to answer the questions. It is important that they receive the services and the assistance to which they have the right in order to be able to answer important questions that will decide their fate.

● (1600)

Mr. Thierry St-Cyr: In short, you are suggesting that we withdraw the interview and that we keep the personal information form. As far as timeframes are concerned, there is currently nothing indicated in the act. It is in the regulations. They talk about one week.

Do you think that the legislation should include a minimum timeframe, so that people could have a certain number of days, at least if they request it? What should the timeframe be?

Ms. Maude Côté: Perhaps my colleague could answer.

Mr. Richard Goldman: A 28-day period seems reasonable to us, as I mentioned earlier. From my experience, it does not suit everyone but it is nevertheless reasonable. We cannot understand what was behind the idea of one week. As far as the hearing is concerned, I think that some people are ready within 60 days and have no problem moving forward.

However, others require medical or psychological expertise, documents coming from their own country, etc. If they are not ready within 60 days, why bother setting a hearing date in order to then ask for an adjournment? It is a waste of time. We should proceed when they are ready to do so.

Mr. Thierry St-Cyr: If we were to establish another timeframe, for example 120 days, as some other organizations who appeared before you suggested, do you feel that would be more reasonable?

Mr. Richard Goldman: As a starting point, by default, yes. I think that most claimants and rights advocate groups would be very satisfied with such a timeframe. We know some Haitians, for example, who wait two years before getting a hearing, whereas their family is in the street in Port-au-Prince. A four-month timeframe would be reasonable, but on condition that an extension could be requested if someone is awaiting expert advice, in particular.

Mr. Thierry St-Cyr: There is no timeframe within the legislation currently. That is entirely in the regulations. But if we don't include one, the current minister, or a future one could decide, through regulation, to set any timeframe. That is the case with the current 28-day timeframe. That is what concerns me.

Do you share this concern? Do you believe that the committee should put minimum timeframes into the legislation during which people could ask for recourse? If they want to move more quickly, of course, that is all very well.

Mr. Richard Goldman: It is not a bad idea, but at the end of the day, if the resources are not available, it will be a phantom timeframe.

Mr. Thierry St-Cyr: You spoke earlier about the multiplication of levels, as far as the interview is concerned. From your understanding of the bill as presented, is the interview in addition to the PIF, that is the individualized form, or does it replace it?

Mr. Richard Goldman: It is not clear to me. I don't know if that was clarified before the committee—

Mr. Thierry St-Cyr: I was counting on you to do so.

Ms. Maude Côté: I think that according to documents that are currently on Citizenship and Immigration Canada's website, including a grid, it replaces it. That is at least what I understand.

Mr. Thierry St-Cyr: All right. I believe it was clear in all of your presentations that the concept of designated countries should be withdrawn from the legislation. The CCR proposed something that was also suggested by Ms. Williams, I believe, which is to allow the Canada Border Services Agency to identify cases on an individual rather than a national basis, for example those who are more questionable. We propose that these cases be dealt with through an expedited process.

Would the other two witnesses also be favourable to that kind of expedited measure?

Mr. Richard Goldman: Yes, that would be the best way to proceed with cases that the agency considers to be unfounded. In my opinion, it is important that the roles remain clear. It is not the IRB's role to identify the cases in advance: it is the agency's. In fact, we are talking about a contradictory role, such as when the agency intervenes regarding exclusions. It is up to them to put forward arguments against the claimants when they believe it is the right thing to do. That is not the role of the IRB or of CIC. At least in that way it is transparent. It is not up to the IRB to decide which cases should be priority cases because of the fact that they are considered to be unfounded, in one way or another.

Mr. Thierry St-Cyr: Ms. Porter, what do you think of this proposal? Did you hear it?

● (1605)

[*English*]

Ms. Julia Porter: About...?

[*Translation*]

Mr. Thierry St-Cyr: It concerns a mechanism intended to speed up the process.

[*English*]

Ms. Julia Porter: Yes.

[*Translation*]

Mr. Thierry St-Cyr: Are you in favour of it?

[*English*]

Ms. Julia Porter: Yes. One of the main concerns of the clients I work with, who are government-assisted and with H and C, is that those applications take a very long time. So if the processing could be quicker, that would be ideal.

The Chair: Thank you, Ms. Porter.

Ms. Chow.

Ms. Olivia Chow (Trinity—Spadina, NDP): The New Democrats, and I believe the Bloc, have said from the outset that we do not support the safe countries designation. We believe all refugees should be treated equally. No matter which country they come from, they must be examined as individuals.

At this point, the Liberal Party has not said they would or would not support the safe countries designation. Some MPs have said they would; others have said they wouldn't. The critic seems to have said he has no trouble with it, but I don't want to speak on their behalf. That's why I want to focus on this. There had been discussion on the eight days, etc., but I think the safe countries one is really...given that about 10% of the refugee claimants come from so-called “safe countries”, given the experience in other countries that we've seen...

So perhaps starting with Ms. Côté, how are you trying to explain to some of the members of Parliament, whether they're Liberals or Conservatives, why this safe countries designation is a serious problem? I would like to invite each of the witnesses to comment on this. And perhaps you could also comment on how you are notifying the people you serve, whether it's your organization or your members, that this element is not acceptable as part of this package.

Ms. Maude Côté: I'll let my colleague, Ms. Williams, answer this question.

Ms. Glynis Williams: For those who have worked in immigration for a very long time—and it's a very long time—we once had a credible basis, a *minimum de fondement*. The idea at the time seemed to be almost identical to what we're doing, what is being proposed in the law right now.

Designating safe countries is an effort or an attempt to minimize, to reduce, the number of claims. That seems to be one of the driving forces for this new legislation. But it really is at odds with individual status determination. The whole convention relating to the status of refugees is that an individual needs to prove why they have been persecuted or had a threat to their life, and we're taking that away when we designate entire countries. As we mentioned before—you could even possibly suggest the case that Richard presented earlier—gender cases, cases of sexual orientation... You may be from a country that has minimum human rights standards. But there are always people who will be targeted.

Look at what Malawi is doing in cases of sexual orientation, Zimbabwe, others, etc., in Africa. It will be a nightmare, I think, to designate those countries. And it doesn't need to be. It really is a contradiction in the law. But at the same time, we understand—I think most people are quite realistic—that there are some concerns about claims that are weaker, as we describe them, that do not seem to have the same level.... Why not prioritize those claims? The process of accelerating, of giving a chance for them to be heard, for a decision to be rendered and to go to appeal—we hope—if that is the intention of individuals, then why not do that?

What do we do with our own client group? We're a responsible organization. We meet people in detention. We have no agents working overseas helping people or identifying what to say or when to say it. I think it's going to be very hard for people to understand that there are two different streams here—one, if you come from one country or several countries, or, two, from others—and to know how to prepare. Again, it always comes back to documentation. And some of them—

Ms. Olivia Chow: That wasn't really my question. The question was, how are you letting your elected representatives know that this is not acceptable?

Ms. Glynis Williams: Well, we hope today's intervention will have some effect on that. This is a humanitarian program, and it's a complex humanitarian program. Everybody agrees. Immigration is not easy at all.

We're here today. As Action Réfugiés Montréal, we have also written our MPs. The members of our board have all signed this document, suggesting that this is unacceptable and that in fact it will not meet the goals of speed or of fairness. It will not reduce the numbers. The minimum credible basis, *le minimum de fondement*, in 1989 was a complete and utter failure. It created another whole level of bureaucracy that has to be paid and it didn't serve the purpose. Why repeat that error?

● (1610)

Ms. Olivia Chow: Thank you.

[*Translation*]

Mr. Stephan Reichhold: I feel the same way as Ms. Williams. Watching what has happened in the European countries who have made several attempts... Several countries tried to use the concept of designated countries in order to reduce access or to be able to send people back more quickly, and in every case, it was a disaster. It did not work.

Here is a final example: currently, in Germany, in a case before the Constitutional Court, the fact that Greece is being designated as a safe country is being challenged. The chances are good that the Constitutional Court will accept the fact that Greece is not in fact a safe country for a removal.

Without a decision, it is unmanageable, both regarding the criteria under which a country would be designated, as well as for the diplomatic maze that it could result in.

[*English*]

Mr. Richard Goldman: If there is a desire to streamline or to accelerate things, we think that access to an appeal is perhaps one of the worst ways. The refugee appeal division would be designed to correct errors, so it seems to make no sense to cut out a step that is there to correct errors and to establish clear jurisprudence.

Using Mexico as an example, Peter Showler, former chair of the IRB, has pointed out that many people are in danger in Mexico. Perhaps some are not. It's those types of decisions, which are often based on credibility, that need the benefit of the study by the appeal board, and the appeal could set down clear jurisprudence that would then make it much easier for the first level to decide cases.

The Chair: Thank you, Mr. Goldman.

Ms. Grewal, please go ahead.

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

I have a few questions, but my questions are very simple. I want to ask you if you think the grant system is vulnerable to abuse.

Mr. Richard Goldman: Yes, it is definitely vulnerable to abuse. We agree totally. We're not starting from the Garden of Eden here. The system does have problems, and they need to be addressed.

One of them, as the government has pointed out, is the extremely long wait for refugee claims. The longer a person waits, the more injustice there is to genuine refugees, but the more of a pull factor there is for fraudulent refugee claimants. That absolutely has to be addressed.

There are certain things about the nomination procedures for members of the board. There have been great improvements over the years, but it's still not a completely depoliticized system. We believe that it should be based entirely on merit and that the nominations should be by the Immigration and Refugee Board itself, based entirely on merit. That's maybe getting off the abuse question.

There are improvements that need to be made, but it is inherently a very strong system and a model for countries around the world. We believe it's a very sound concept to have the first-level decision made by a professional independent tribunal; if you get the best possible decision the first time out, then you have the least worries about correcting errors and the least chance of having people abuse the system.

Mrs. Nina Grewal: Would anyone else like to answer as well? That's fine, then.

How are these reforms good for claimants?

Mr. Richard Goldman: Do you mean the present reforms?

Mrs. Nina Grewal: Yes.

Mr. Richard Goldman: Well, there are some positive things. Since 2001, when IRPA was passed, we and many others have been saying that there should be a refugee appeal division. We congratulate the government for finally introducing that.

In terms of the delays, we think eight days and 60 days are really fantasy, unfortunately, based on working with the system for 20 years or more. These unrealistic delays go by the wayside very quickly, but the idea of having a hearing and a decision, whether in two months, four months, or six months, would be an enormous improvement for genuine refugees.

● (1615)

Mrs. Nina Grewal: Given the implementation of this new refugee appeal division and continued access to the refugee's goal, do you think it is reasonable to limit access to additional avenues of recourse and to allow a brief window to remove a failed claimant?

Ms. Glynis Williams: I think you can only remove a failed claimant once they've gone through the entire process. The refugee appeal division, as Rick has just mentioned, is extremely welcome. We've been waiting since 2002, since it was passed, and we think it's wonderful that this reform will institute it.

Mr. Richard Goldman: If you're referring to the pre-removal risk assessment and to the H and C, the pre-removal risk assessment does not work very well. We certainly are much happier with a refugee appeal division that works than with the pre-removal risk assessment. That's an excellent trade-off in terms of fairness, in our opinion.

In terms of the humanitarian application, as I said a little earlier in my presentation, we cannot see the justification for closing that off. It's the only instance in which the best interests of the children, for example, our obligations under the Convention on the Rights of the Child, are actually examined in deciding whether a child or a family will be able to remain in Canada or not, and it does not suspend removal. So we see absolutely no justification for closing off that avenue.

The Chair: Dr. Wong.

Mrs. Alice Wong (Richmond, CPC): My question is for the Association for New Canadians. It seems that you haven't had the opportunity to comment on the two questions Mrs. Grewal just asked. Do you think the current system is vulnerable to abuse, according to your experience?

Ms. Julia Porter: I do think the current system is vulnerable to abuse, and that's one of the reasons why some of the colleagues were speaking about a prioritization system. It's a good opportunity to have the claimants speak about their stories and not closing off... having those systems in place. But at the same time it's a really difficult place to draw the line around who says somebody's claim isn't correct or reasonable enough to get refugee status.

Mrs. Alice Wong: How much time do I have?

The Chair: You have a whole minute.

Mrs. Alice Wong: I understand that in England they're using this safe country of origin. In Ghana, for example, the men would not be considered to be vulnerable for refugee claims, but the women are because of certain practices that are against women in their country. Do you see that as a possible sort of solution, if those are your concerns?

Anyone can answer this question now.

Mr. Richard Goldman: I don't think we quite understand the question.

Ms. Julia Porter: One of the problems that I—oh, sorry.

The Chair: You go ahead, Ma'am. We can hear you.

Ms. Julia Porter: One of the problems I have with the whole safe country issue and countries designated as being safe is that it discounts individualized cases. There could be a gentleman in Ghana who is experiencing something that is quite horrific, but would his case be listened to in other safe countries, especially a country like Mexico?

Mrs. Alice Wong: I'm sure these claimants will be heard right in the beginning.

The Chair: Sorry, time's up.

Mr. Dryden, welcome back to the committee. You have up to five minutes.

Hon. Ken Dryden (York Centre, Lib.): Thank you, Mr. Chair.

All of you have spoken quite strongly about the eight days and the 60 days and the designated countries. What I'd really like to ask you is to imagine that this system goes into place tomorrow, and this is five years from now and we've had five years of experience in watching this work. What would happen? What would the experience be of each of these claimants? Who would succeed? Who would fail? Why would they fail? If in fact this happened, what would happen?

● (1620)

Ms. Glynis Williams: I think we would see some people sent back to unknown fates, having been refused their claim. We are talking about people. We've all tried to introduce human beings with whom we have worked over the last years, and refugee law is about people and their lives. In the detention work we have seen people excluded from making a refugee claim when that was their intention, and in some cases they have been sent back and ended up in jail. I have worked with Iranians who ended up in Evin prison.

I think we should not lose sight of the fact that five years from now we could be speaking about more cases of people who may have been wrongfully refused, removed very rapidly, and live the consequences, which we do not live.

Hon. Ken Dryden: Is there anybody else?

Mr. Richard Goldman: I would definitely agree. I have to say, frankly, that it's hard to imagine that the system, as it's presented, could work. There are just so many question marks that we have. What is the purpose of the eight-day interview? How would it be done?

But let's say it did go ahead. There are certainly many people who are not prepared to talk at all. I have sat down in my own office with people who had been here two years and were still so traumatized that it took me an hour before they were willing to talk about—

Hon. Ken Dryden: What I'm trying to get at, again, is imagining this system is in place. These refugee claimants have eight days for this interview. You've talked about how that's an inappropriate period of time. They have only eight days and then they get to the 60-day period. A lot of things have to happen within that 60-day period of time, and a lot of information is not easily available during that period of time. They have to present a case and they have to sort of win the argument when that hearing comes up that many days later, having less access, it would seem, to information that is going to be able to prove the authenticity of it.

That's what I'm trying to get at, concretely. What is going to happen? Who's going to get penalized by all of this? What is the individual circumstance that is going to be problematic out of this?

Mr. Richard Goldman: I think I understand your question better now. In terms of who would be penalized by the eight-day interview, there's been a whole experience over the years with what's called port-of-entry notes, where a refugee arrives at the border, or at the airport, and has a short interview in which the questions are very unstructured and the notes are taken in a very summary fashion. We have seen very often over the years those same notes used at a refugee hearing to say, “Oh, why didn't you mention such-and-such during your interview?” or “You said something slightly different at the airport”, and this is used with very grave consequences for a person's credibility.

Actually, this is a battle that has been played out at the IRB and in the courts for the past 20 years or so, to the point where Citizenship and Immigration Canada and CBSA have more or less dropped the port-of-entry notes because they cause more problems than they solve. Yet the government—

Mr. Rick Dykstra (St. Catharines, CPC): A point of order.

The Chair: A point of order.

Mr. Rick Dykstra: I'm sorry, the suggestion and recommendation of what the eight-day triage is going to be and talking about this in terms of some notes that are taken at the port of entry is unfair. They are absolutely separate and different things.

Hon. Jim Karygiannis: That's not a point of order, Mr. Chair.

The Chair: I don't think it's a point of order.

Mr. Richard Goldman: I'd like to say, even whether or not it's a point of order, that we do not know the purpose, so if that isn't it...

Mr. Rick Dykstra: I'd be happy to talk to you about it. I'd be happy to let you know.

Hon. Jim Karygiannis: Chair, a point of order, if I can.

Mr. Rick Dykstra: A point of order, Mr. Chair.

The Chair: A point of order, Mr. Karygiannis.

Hon. Jim Karygiannis: Mr. Chair, I think a question was put to the witnesses. They have a right to answer it. I don't think Mr. Dykstra should be jumping up and down and harassing them.

The Chair: Mr. Karygiannis, I have spoken to Mr. Dykstra and we're moving on.

Mr. Goldman.

● (1625)

Mr. Richard Goldman: To answer your question as best I can about who would be penalized, in my opinion this would re-enter the port-of-entry note type of problem into the system. People who could be very vulnerable, unable to talk about their experiences, would then have some notes that followed them through the whole process, which could be held up to say, “Why didn't you say this?“ or “You said something a little differently. You're not credible. We don't believe you. You're not a refugee.”

The Chair: Thank you.

Mr. St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: I will ask my questions all in a row, because I would like your opinion on a certain number of issues.

In the bill that is before us, there is a new subparagraph 25(1.3), according to which, during the consideration of an application for permanent residency on humanitarian grounds, the minister may not consider the “factors that are taken into account in determination of whether the person is a Convention refugee”.

Do you support removing this section from the act?

Mr. Stephan Reichhold: Yes, I believe Mr. Goldman mentioned that. He explained the reasons why it is not a good idea, in fact.

Mr. Thierry St-Cyr: You agree with him? Good.

The same section, in paragraph 25(1.2)(*c*), mentions the ban on a request on humanitarian grounds in the 12 months that follow, including cases where the claim was abandoned before the hearing was even held.

Do you not believe that we should, rather, allow people who abandon a claim before the hearing has been held to make a claim on humanitarian grounds, if only for reasons of efficiency? In that way, people who realize they have made a mistake would not be blocked in the refugee claim process, when they should have invoked humanitarian grounds.

Mr. Richard Goldman: In any case, as we have said, we see no justification in doing away with the possibility of making claims on humanitarian grounds. If it was really necessary, it would at least be better to open the door to those who have abandoned their refugee claims. In any case, we cannot see how the elimination of the humanitarian grounds claims can in any way be justified as far as efficiency and fairness are concerned.

Mr. Thierry St-Cyr: All right.

Ms. Glynis Williams: In addition to those reasons, we want to keep the door open to humanitarian claims because we have realized that, on occasion, one may read in IRB decisions that some people who have been rejected as refugees should be accepted on humanitarian grounds because they are in need of protection, but they do not correspond to the definition of a refugee.

It is very important that we maintain this recourse as an option.

Mr. Thierry St-Cyr: In fact, we discussed making the right decision at the outset. Some people who have testified before us suggested that the officials who would be considering the case at the first level, rather than being appointed under the rules of the public service, should be appointed by the chairman of the board—somewhat like the director general of elections appoints his returning officers. Therefore, we should allow the chairman of the board, of the commission, to go directly to the public to find people who are particularly competent on this issue.

Do you support this proposal?

Mr. Richard Goldman: Absolutely. We have nothing against public servants, but we believe that the pool of candidates should not be limited to them. Furthermore, it should be merit-based, whether we are talking about an official, a community worker, a lawyer or an academic. It should be completely based on merit and the people should be appointed by the commission itself.

Mr. Thierry St-Cyr: Do you support that, as well?

Ms. Glynis Williams: Yes.

Mr. Thierry St-Cyr: As it now stands, several provisions authorize the minister to regulate claimants' representatives and when a claimant can be represented during his application process.

However, there is nothing specific—in my view—which says that at any time in the process, a person can be represented by a lawyer, perhaps, at the very least accompanied and advised by a lawyer. I have not seen this in the act.

Do you share this concern? Do you think we should, to very clear, state in the act that, at any time, at any stage, a lawyer can accompany a claimant and provide advice?

Ms. Maude Côté: It is clear that a lawyer should be present at every stage of the process. Currently, a lawyer is not always present at the airport interview, which takes place with an immigration official. It is clear that a lawyer should be present.

[*English*]

The Chair: Thank you.

That concludes our session with you. I'd like to thank you all for your contribution to the committee. Your remarks have been noted, and we thank you very much for coming. Thank you.

And thank you in Newfoundland.

Ms. Julia Porter: Thank you.

● (1630)

The Chair: Okay. We'll suspend this meeting for a few moments.

● _____ (Pause) _____ ●

The Chair: We'll reconvene, ladies and gentlemen.

We have four witnesses.

Each of you will have up to seven minutes, if you wish to say something about Bill C-11.

We have before us in the committee room John Norquay, who's the staff immigration lawyer with the HIV and AIDS Legal Clinic in Ontario.

Where is that in Ontario?

● (1635)

Mr. John Norquay (Staff Immigration Lawyer, HIV and AIDS Legal Clinic (Ontario)): Toronto.

The Chair: Toronto. Okay.

Welcome, sir.

Mr. John Norquay: Thank you.

The Chair: We have, by video conference, Mr. David Matas, who is a lawyer.

We have a representative from the Canadian Centre for Victims of Torture, Ezat Mossallanejad, who is a policy analyst and researcher.

Finally, we have by video conference from London, Mr. William Bauer, who is a former Canadian ambassador and a member of the Immigration and Refugee Board of Canada.

We're going to start, and we'll give you each up to seven minutes.

We'll start with Mr. Norquay, who is in the committee room with us.

Mr. Norquay, you may proceed.

Mr. John Norquay: Thank you.

I wish to thank the standing committee for the opportunity to appear this afternoon to provide my clinic's perspective on Bill C-11. My presentation will be limited to the proposed changes to the humanitarian and compassionate consideration sections of the IRPA.

I strongly urge the committee not to overlook the changes to the H and C system when dealing with the other important issues raised in the bill. While many of the refugee system proposals are procedural in nature, the H and C changes include a change to the types of cases that can be accepted. They represent a marked departure from Canada's decades-long tradition of humanitarian consideration and the general common law principle of equity upon which they are founded.

The Chair: Excuse me, sir. I'm sorry. This is all being translated into French, so you'll have to talk a wee bit slower.

Mr. John Norquay: I'm sorry. Thank you for that helpful hint.

The HIV and AIDS Legal Clinic Ontario is a non-profit legal aid clinic that has provided legal services to people who are living with HIV/AIDS in Ontario since 1995. Of the 4,000 requests for our services we receive on an annual basis, a significant proportion are in the immigration and refugee law area, and we have provided legal assistance over the years to hundreds of HIV-positive individuals seeking refuge in Canada.

Just to give a bit of context before I move into remarks on the bill, the situation of HIV-positive Canadians has improved dramatically over the past 20 years. With the advent of effective anti-retroviral treatment, many Canadians now enjoy a close to average life expectancy.

Unfortunately, in many parts of the developing world, HIV remains effectively a death sentence. The problems range from a vastly reduced lifespan due to a lack of HIV medications to the interference that general civil strife and economic instability pose to the delivery of health care services, and of course to a public hostile to HIV-positive persons in a way that would be difficult for any of us to fully comprehend. I am speaking about outright rejection by family and friends, expulsion from communities for fear of disease, and near impossibility of finding employment or housing.

The situation faced by HIV-positive asylum seekers and others without status in Canada highlights the very reason why H and C relief has historically been available and remains critical today. The idea behind H and C relief is to provide discretionary relief in cases not anticipated by the immigration legislation; that is to say, for those people who fall through the cracks.

One oft-cited tribunal case from 1970, Chirwa, characterizes H and C relief as applying in those cases that would induce a reasonable person in a civilized community a desire to relieve the misfortunes of another. It's an analysis that entails looking at an individual as the whole of their parts, in all of their circumstances.

Of course, H and C relief is discretionary and the onus is on the applicant to prove his or her case. There are no hard and fast rules about which cases ought to be accepted. The department's guidelines on H and C applications speak only of undue, undeserved, or disproportionate hardship.

Over the past 15 years, countless of my clinic's clients living with HIV who face extreme hardship in their countries of origin have been accepted on H and C grounds. This goes equally for failed refugee claimants and for those who've never made refugee claims.

If Bill C-11 is accepted in its current form without amendment, most if not all of those successful H and C applications would have been impossible to make in the first place, or, if made, would not have been accepted. The result would be deportations of individuals and families with HIV—who may be leading healthy and productive lives in Canada—to situations abroad where their lives are in danger due to impoverished health care systems, or to lives of misery generally because of serious restrictions on basic human rights.

The two sections of concern are, first, the proposed subsection 25 (1.2), which bars H and C applications from refugee claimants during their claim or for one year following a refused claim. The other section is proposed subsection 25(1.3), which prevents all H and C applicants from raising arguments related to personalized risk.

On the issue of the one-year bar, it is very common for HIV-positive claimants to make an H and C application immediately after their refugee claim is denied when there is inadequate health care for HIV in their country. The Immigration and Refugee Board is not able to consider a risk to life owing to inadequate health care because it's excluded explicitly in IRPA under subparagraph 97(1)(b)(iv).

The IRB is simply not able to accept these claimants where their life is at risk owing to their HIV status. An H and C officer can and—in practically all circumstances that I have experienced—does accept those cases. The one-year bar on H and Cs will make these applications impossible.

To make matters worse, most asylum seekers are not aware of their HIV status until they report for the medical examination required of refugee claimants. By then it's too late to choose to file an H and C application in lieu of a refugee claim, because even those who withdrew their refugee claims would face the one-year bar.

We believe the one-year bar would also result in driving refused claimants who have a strong H and C case underground. After all, if an individual knows they have a strong H and C case and the harm they face in their country is substantial, it's natural that this person would do everything in their power to evade enforcement and stay in Canada, hoping that after the one year has passed they might be able to file an H and C application that could be considered. This of course would lead to increased enforcement expenses and costly litigation.

● (1640)

As has been stated by witnesses who have appeared before the committee, the fact of filing an agency application does not result in any kind of hold on removal proceedings. Many witnesses have questioned the need for the one-year bar, or the bar on simultaneous agency applications, and I echo those comments.

The Chair: You have less than a minute.

Mr. John Norquay: Thank you.

I'm also very concerned about proposed subclause 25(1.3), which restricts the factors an immigration officer can consider in an H and C application. The section purports to eliminate consideration of factors related to refugee determination decisions or to risk to life or risk of torture decisions under section 97. Currently, H and C officers are not limited in any way in terms of the facts they are able to present. I imagine this section is intended to block refused refugee claimants from having another kick at the can—that is to say, from raising their refugee facts in an H and C application to see if that will work. The problem is this section reaches far beyond that goal in a way that, I submit, cannot be justified. First of all, it limits consideration of all personalized risk factors, whether or not a person has even made a refugee claim in the first place, let alone raised the same risk factors in an H and C application. For my clients, it would mean an immigration officer would not be able to consider the fact that they would not be able to find work because of mandatory HIV testing, or that they would be kicked out of housing because of HIV status.

The Chair: You're going to have to wind up soon, sir. Sorry.

Mr. John Norquay: Perhaps what I can do, just in the interest of time, is—

The Chair: I know that committee members will ask you questions to cover all this.

Mr. John Norquay: Exactly, and I'll try to fit in what I have to say in my answers.

The Chair: Thank you, sir.

Mr. David Matas.

Mr. David Matas (Lawyer, As an Individual): Thank you very much.

Bill C-11 is entitled the Balanced Refugee Reform Act. It supposedly balances improved protection for refugees with enhanced prevention of abuse.

For the bill to realize its aim of balance, five requirements must be met: one, there must be a need to improve protection for refugees; two, the bill must be effective in improving that protection; three, there must be a need to enhance prevention of abuse; four, the bill must be effective to enhance that prevention; and five, improved protection for refugees and enhanced prevention of abuse must be roughly equivalent, balancing each other out.

Does the bill meet these five requirements? It certainly meets the first. There is indeed a need to improve protection for refugees, because now there's no appeal system and there needs to be one.

Does the bill remedy that defect? The answer is, only partially. The bill does allow for the appeal division of the board to come into effect, but there are three problems. One is that not every refused claimant can appeal; those from designated countries cannot. Secondly, even for claimants not from designated countries, there is a two-year lag potential in the proclamation of the provisions about the appeal. Thirdly, the system weakens protections in other areas by the partial elimination of recourse to humanitarian applications, temporary residence permits, and pre-removal risk assessment.

As to the third question, is there abuse of the system that needs addressing? In my view, the system is too long. There are delays, and whether those delays are the result of abuse or not, we needn't determine, because long delays are in the interest of no one, genuine refugees as well as the system itself, of course.

Is the bill effective in removing delays? In principle, there are two causes for delays. One is fragmentation of the system. Each step takes time. If there are too many steps, that means too much time. If there are unnecessary steps, time is wasted. The present bill does not address this cause of delay. Right now, the system has two unnecessary steps—eligibility determination and pre-removal risk assessment—but they still remain. That is not to say that eligibility and pre-removal risk assessment are irrelevant, but it's important to distinguish between steps and standards. Not every different standard needs a different step. Eligibility determinations could be made by the board as matters of exclusion or jurisdiction. Pre-removal risk assessment could also be made by the board on a reopening application.

What the bill does, actually, is introduce a new step, these interviews, which are going to generate more time to the system. We've heard discussions about eight days and 60 days—eight days for the interviews and 60 days for the hearings of the board after the interviews—but this discussion has an air of unreality about it. First of all, neither the government nor the minister decides these times; only the chair of the board does, as a matter of the rules. Secondly, the fact of the matter is that the times can only be realized if they're workable. Having an interview eight days after the matter gets to the offices of the board is not workable either for the claimant or for the board. Indeed we've had a history of legislated times in the system that simply do not get realized because they are unworkable.

Take, for instance, the three-day rule, which says there must be eligibility determination within three days of a claim. The fact of the matter is that the three-day rule is almost never respected for inland claims, and the way it's respected in form is that the three-day clock starts ticking from when the officers are able to meet the three days. That is the practicality of what will happen with the interview.

Unless we have new resources, resources will have to be diverted from existing tasks to complete the interview task. How much the new step will add to the overall time of the process is speculative, but it's likely to be substantial.

● (1645)

One step that does not cause delays, but which the authors of the bill seem to think does, is an application for permanent residence on humanitarian grounds or a temporary residence permit, as a result of which there's a restriction on applications for these procedures that in fact does nothing to shorten removal because removal is possible now pending these procedures.

The other cause of delay besides unnecessary steps is backlogs. If the system gets overwhelmed, there is queuing. The backlog problem is not necessarily an abuse problem; it's a matter of claimants relative to capacity.

There are two explanations for the current backlog. One is the change in the appointments process from the old government to the new government and nobody being appointed for a couple of years until the appointment system was changed, and that generated a long backlog. We're now back at full complement, but that backlog is still there. The other is the claims from the Czech Republic and Mexico before visas were implemented. But now the visas are there, so those delays will eventually disappear.

The bill authors seem to be of the view that by speeding up the system they can lift visas from the Czech Republic and Mexico and perhaps other countries. In my view, that is unrealistic. Any time that is so short as to deter people from coming from non-visa countries, there is going to be a claims system that will not be effective to protect real refugees.

The bill fails on the test of balance on its own terms because of the staging of implementation: the enforcement measures, the decrease in access to humanitarian temporary resident permit applications comes into force immediately, and the appeal division of the Immigration and Refugee Board comes into force potentially two years later.

But the problems are more acute than that. Because we have a weakening of protection, a denial of access to a number of procedures that are now available, we have in balance a system where we've moved one step forward with the appeal division of the Immigration and Refugee Board and two steps backward. The net result is—

● (1650)

The Chair: Excuse me, sir, you'll have to wind up. I'm sorry. Can you conclude?

Mr. David Matas: I have one concluding sentence.

The Chair: Perfect.

Mr. David Matas: The net result is deterioration.

Thank you.

Mr. Ezat Mossallanejad (Policy Analyst and Researcher, Canadian Centre for Victims of Torture): Thank you very much.

I speak on behalf of a front-line agency helping survivors of torture, war, genocide, and crimes against humanity. I also speak as a front-line worker at the centre and as a former refugee who has gone through the process.

For 33 years the Canadian Centre for Victims of Torture has served more than 16,000 survivors from 130 countries. I am going to share with you some of our concerns.

Our first concern is about the provision of the interview at eight days. Based on our experience, 50% of refugee claimants who come to Canada have experienced war or torture. When they come here, they are highly traumatized. Most of the time, upon their arrival they are unable to disclose everything they have endured. This is especially true for survivors of rape and other types of gender-related torture.

Second, we submit that the provision of 60 days is neither fair nor feasible. Torture victims often require medical or psychological assessment about torture. Medical assessment sometimes take us two months because they need X-rays, MRIs, and so many things. Also, it sometimes takes me two months to get an appointment from a psychologist or a psychiatrist to assess the torture of a person who has come from a tyrannical regime. It is not at all feasible. How can we expect them to submit everything?

Also, survivors of torture and other international crimes develop a sense of withdrawal in regard to sharing their fearful experiences. This is true specifically about other types of gender-related persecution. Right now, we have the pre-removal risk assessment. We have H and C. We have some kinds of remedies for them, but I strongly believe that we should continue with H and C. Because if you deny them H and C for one year, it is no longer humanitarian; it is no longer H and C.

Also, there is the issue of the problem of safe countries, because we have certain survivors—from any country—who go through torture due to their sexual orientation. It is sometimes due to gender persecution and some types of harassment. I don't think we should just say that they have come from a safe country and they are being denied access to the refugee determination system.

Also, another issue of concern is the future of the Immigration and Refugee Board. Right now, we have a quasi-judicial system. On the question of civil servants, we don't know what will happen under the new bill. Experience from other countries has shown that some of these civil servants are not competent. They don't know, and they go with bureaucratic considerations.

Another issue is the principle of *non-refoulement* to torture. Under article 3 of the convention against torture, article 7 of the Canadian Charter of Rights and Freedoms, and article 12 of the charter, we cannot send anybody back to torture to any country. That is also based on the ruling of the Supreme Court of Canada in the year 2002 in the Suresh case.

I'm afraid that implementation of Bill C-11 would lead to keeping new people in limbo, because definitely legislation like that cannot overrule Canadian international obligations as rendered in conventions against torture or Canadian constitutional provisions. What will happen if they have hundreds of rejections? Will we keep them in limbo? We cannot remove them. Limbo is also a technique of torture, and there are many tyrannical governments. It has also already led to the re-traumatization of our clients. I submit that the issue of *refoulement* to torture would also traumatize our present clients. They feel that Canada is not taking care of this important issue, and it might lead to re-traumatization.

● (1655)

I submit that this Bill C-11, if it becomes law, would impose new costs to the Canadian taxpayers for enforcement, removal, and detention, all those things.

Finally, I submit that since 1976, the Immigration Act has gone through amendments 52 times and it has not improved the system.

There is one main defect that I want to bring to your attention as respected legislators. It's the issue of linking victims' immigration and human rights and the issue of the need for an ombudsperson responsible to Parliament to hear grievances about the implementation of refugee acts.

Thank you very much.

The Chair: Thank you, sir.

Our last presenter is on video conference from London. Mr. Bauer, you have up to seven minutes.

Mr. William Bauer (Former Canadian Ambassador, Member of the Immigration and Refugee Board of Canada, As an Individual): Shall I start now?

The Chair: You can start now. One of the tricks that we're all getting used to is that there's a short delay between when you speak and when we speak, so we have to realize that.

Thank you. You're on the air.

Mr. William Bauer: Okay.

I don't have enough time, really, to deal with all aspects of Bill C-11, so I'll try to concentrate on the aspects that have produced the most attention.

The designated safe country of origin is one of the more controversial aspects. It's been systematically attacked by I think every lobby group that's appeared before you, and indeed it is an extremely sensitive subject for some people.

Most of the EU countries utilize some form of this, which is simply an attempt to avoid clogging the whole system with manifestly unfounded or frivolous claims. The criteria for designating safe countries of origin set out by the EU council are very precise, and although those applied by individual countries may vary in detail and procedures, the fundamental criteria must be met.

There are many sources for determining SCOs, but I would mention two that are used all the time. The United States Department of State human rights reports are issued every year on every country in the world, including Canada. They are generally considered quite unbiased and objective, and they have been used for many years by the IRB and by counsel. The British Home Office also maintains a country of origin information service.

I don't think our government, in its proposal, is planning to have a very long list, but I agree very strongly that they should have a procedure for establishing the list, if indeed that's the way they go, that would produce a list that's accurate and objective.

One criticism that I've heard is that a system would be discriminatory and that each claim must be individually assessed. Even now, the IRB is using discriminatory procedures in its national streamlining directions, which allow for determination of claims from about 20 different countries without a hearing at all, with just a simple interview. I've heard no complaint from any organization about this, probably because it almost automatically produces a positive decision.

The original legislation also provided for a list of safe third countries, which envisaged rejection of claimants who on the way to Canada pass through a country that had a respectable refugee determination system, human rights, and all that. The theory was that anybody fleeing persecution would apply for asylum at the first place they arrived at, rather than shopping around for something they liked a little better. This received quite a bit of pressure, similar to what the SCO is being subjected to now, and in the end, it has never been promulgated, and I presume it never will be. There's never the political will to put this through.

On the question of timelines, we've talked about the refugee claimant talking to a civil servant for about half an hour within eight days of arrival. I don't see anything wrong with this, and the criticism strikes me as being very disingenuous. As it stands currently, he meets an immigration officer and has a port-of-entry interview, which is held under the worst conditions, when everybody's tired, when the noise is about, and with practically no satisfactory description of what was actually said. The eight-day period would enable a claimant to describe the case more thoroughly in a much better environment and then be set for a hearing of his claim in 60 days. I doubt if the 60-day target will be met, but it's a desirable objective, and it certainly provides adequate time for preparation.

● (1700)

Regarding the staffing of the IRB, I'm all in favour of staffing it with public servants. I've heard public servants criticized by many lobbying groups as being incapable of exercising independent judgment, as being anti-immigration, and as being generally inferior to almost any other pool of talent among the Canadian population. The criticism has arisen again during the discussion of Bill C-11, and I find all this criticism shoddy, offensive, and inaccurate.

I've worked with immigration officers for 40 years in various countries of the world, and I found them well trained, sympathetic, and fair, sometimes in the most difficult conditions you could imagine. They carried out the law of Canada; they didn't carry out ministers' wishes. I think that should be understood. That's what we're all trying to do—carry out Canadian law as passed by Parliament.

The worst bias and interference I ever encountered was from an order in council appointee to the IRB who had a very strong bias against any negative decisions. I've always argued against patronage in the IRB, and I've watched the attempts in the past few years to eliminate it or at least dilute it, and I have some hope that these attempts will be fruitful.

On the appeal division, the original reason for putting it forward was to compensate—

● (1705)

The Chair: You'll have to wind up, sir.

Mr. William Bauer: Okay.

I produced an eight-page paper for the committee last October when you discussed the private member's bill. The reasons I think it's ill-advised and not going to advance anything are all in that paper. The original submission has probably been made available to you.

I think the RAD would not only perform no useful function but would reduce the effectiveness and the fairness of the existing system.

I'll leave it at that, but I would like to say that there hasn't been much indication, from my reading of testimony and the number of letters that have been put out to be mailed to MPs and so on, of any willingness to compromise on this bill among large groups of people. If 80% of the Canadian public thinks the system is failing and is inadequate, I think some way must be found to hear it from the 80%, rather than from the few professional organizations whose job it is to lobby.

I'd be glad to answer questions about any of the things I've said or anything else, at your leisure, Mr. Chair.

The Chair: Thank you for your presentation, Mr. Bauer.

Mr. Karygiannis, you have up to five minutes.

Hon. Jim Karygiannis: Thank you.

Mr. Bauer, can you tell us in which countries you were an ambassador?

Mr. William Bauer: Well, let's say where I've served. I served in Poland from 1953 to 1955 during the Stalinist period. I served in North Vietnam when they were burying peasants up to their heads in order to produce land reform. I've served in Geneva, where I was attached to the ILO, to the Intergovernmental Committee on European Migration, and to various things. I served in Rome, where I was in charge of the consular service. I served in Washington, where I dealt with the Vietnam War and Eastern Europe.

I was ambassador to Thailand, Laos, and Burma from 1975 to 1979, just after the fall of Saigon. I was ambassador to South Korea between 1981 and 1985. My last four years as ambassador were to the Conference on Security and Co-operation in Europe, where I fought for human rights and the Helsinki Process.

Hon. Jim Karygiannis: Mr. Bauer, does a member of Parliament have a role in making representations abroad to consular services?

Mr. William Bauer: Well, certainly. They always do.

Hon. Jim Karygiannis: That's not what you said a couple of years ago, is it, sir? You know exactly what I'm talking about.

Mr. William Bauer: No, I didn't. Tell me what I said, if you've researched everything I said.

Hon. Jim Karygiannis: Anyway, sir, I would leave it at that.

Mr. Bauer, you certainly do not appreciate—

Mr. William Bauer: What did I say? Mr. Chairman, I don't know what I said two years ago.

Hon. Jim Karygiannis: Mr. Bauer, my question is this, sir. You say that the IRB—

The Chair: Mr. Karygiannis, you opened this thing up. I'm going to let Mr. Bauer defend himself.

Hon. Jim Karygiannis: I will get—

The Chair: You just pause and let him say what he wants to say. You started this.

Hon. Jim Karygiannis: Mr. Bauer, my question to you, sir—

The Chair: No. We're going to let Mr. Bauer speak now. It's his turn.

Go ahead, sir.

Mr. William Bauer: Thank you, Mr. Chair.

Mr. Karygiannis talked about something I said two years ago, and I'd just like to hear what it was. Perhaps I could clarify it for him.

Hon. Jim Karygiannis: I'm the one asking the questions.

Mr. William Bauer: I don't like these things left on the table without following them up.

Hon. Jim Karygiannis: That's fine, Mr. Bauer.

You said today that on the IRB there should not be political appointments.

Mr. William Bauer: No, I said I was opposed to patronage.

Hon. Jim Karygiannis: But you also received a patronage appointment when you were a member of the IRB. Am I not correct?

Mr. William Bauer: You are absolutely not correct.

Hon. Jim Karygiannis: But it says here, "Member, Immigration and Refugee Board of Canada".

Mr. William Bauer: Yes, of course, but not all appointments to the IRB are patronage appointments. I had a career of 40 years fighting for human rights. I knew many countries. I was appointed on the basis of my merits as a public servant.

Hon. Jim Karygiannis: Well, what about the rest of the people who were appointed to the IRB?

● (1710)

Mr. William Bauer: I can name you IRB members who are extremely good and were also patronage appointments, for that matter. I'm not saying patronage does not permit good members to serve. What I am saying, though, in a functional term is this: if patronage is a prominent part of the choice, people who are good, who are trained, and who become excellent members may find themselves out of a job if the government changes. Then a whole lot of newcomers have to start. That is not an effective way to run a tribunal. That's all.

Hon. Jim Karygiannis: Mr. Bauer, you said you served in Rome. Were Rome and Greece under your purview at the time?

Mr. William Bauer: I served in Rome from 1959 to 1961.

Hon. Jim Karygiannis: Then you're familiar with the Balkans, correct? Would you say that Greece is a safe third country?

Mr. William Bauer: I would say that Greece is subject to the rules of the European Council and the European Court of Justice. I've read the reports on Greece, because you seem to ask a lot of people that question.

Hon. Jim Karygiannis: Is it a safe third country, sir? Yes or no.

Mr. William Bauer: I have no idea. There is no yes or no, Mr. Karygiannis.

Greece has a number of flaws at the local level—

Hon. Jim Karygiannis: If there's no yes or no, then we don't have a list of safe third countries. There's no yes or no.

The Chair: I hate to end this, but it's Monsieur St-Cyr's turn.

Mr. William Bauer: I haven't mentioned Greece, Mr. Karygiannis.

[*Translation*]

Mr. Thierry St-Cyr: In any case, it is my turn. I will change the subject, but it will not make much of a difference.

I will take advantage of the fact that we have two lawyers with us. I have a more technical question about the bill and its interpretation, and it deals specifically with the right to counsel, for a claimant, at every stage in the refugee claim process.

At section 8 of the bill, section 91 of the act would be amended to give the minister the power to make regulations governing who may or may not represent, advise or consult with a person who is the subject of a proceeding or application before the minister, an officer or the board. The bill states: "...including an interview before an official referred to in subsection 100(4.1)". In other words, it says specifically that the minister will have the power to determine which claimant has a right to be represented or advised by a lawyer during the interview.

Further in the bill, at section 23, subsection 167(1) of the act would be amended to read: "A person who is the subject of Board proceedings and the minister may, at their own expense, be represented by legal or other counsel." I am concerned that this provision does not indicate that this also applies to the interview with the officials referred to in subsection 100(4).

That is the technical aspect. My conclusion is that this provision appears to be vague. So, during the interview, does the bill guarantee that a claimant can be represented by a lawyer, or will that depend on the minister's authorization by way of regulation? My question is for both lawyers, but the other witnesses can also respond if they wish. Do you interpret this provision the same way I do, or am I mistaken? If you support my view, does that concern you? If so, should the bill not specifically say that a lawyer can advise a claimant at every stage, including during the interview?

[*English*]

The Chair: I think we have three lawyers.

Mr. John Norquay: I would defer to Mr. Matas on that point.

The Chair: You're on, sir.

Mr. David Matas: I'm happy to try to answer that.

The bill itself doesn't address that issue, and there has been some concern. Elsewhere in the legislation it says you have a right to have a lawyer before the Immigration and Refugee Board for the actual hearings. In my view, it would be a useful addition to this bill to assert a right to counsel at these interviews.

Basically clause 8 says that if there is a counsel, it can be limited to perhaps being lawyers and members of the Canadian Society of Immigration Consultants, which is the way it's limited now before the Immigration and Refugee Board, but it's silent on the right to counsel, and in my view it should not be.

● (1715)

[*Translation*]

Mr. Thierry St-Cyr: Fine.

I like your clarification. I understand better now.

Further, in section 167(1), it says: "A person who is the subject of Board proceedings and the minister may, at their own expense, be represented by legal or other counsel."

Regarding "who is the subject of Board proceedings", in your opinion, does that include the official who will conduct the interview, within the meaning of the act, or is this limited to the hearing per se in the hearing room?

[*English*]

Mr. David Matas: Section 167 right now, as I understand it, deals only with the hearing itself and not with the preliminary interview. If you want the legislation to have something that deals specifically with the interview, there should be a specific provision inserted.

The Chair: Thank you.

It's Ms. Chow's turn.

Ms. Olivia Chow: I have a question for Mr. Norquay from the HIV and AIDS Legal Clinic. Malawi and Ghana especially are on England's safe country list, but it seems to me that being gay or lesbian in Ghana is punishable by law. Can you describe some of the situations you think would happen if gay men, for example, were sent back to places like Ghana or Malawi, and what your experience with HIV and AIDS spread has been in some of these African countries that claim to be democratic and would be safe? Certainly in my mind they're not.

Mr. John Norquay: I know that other witnesses have raised the issue that, for example, claims based on domestic violence or homophobia would perhaps get short shrift because often countries that might be considered democratic do have problems with those issues. I would certainly say that discrimination related to HIV and AIDS is another type of discrimination to add to that list. I see absolutely great potential for my clients to be refused an appeal.

I'll give the example of Mexico. Mexico is a country where for the most part gay men are being refused refugee status right now whether or not they're HIV positive. There's a wealth of evidence that demonstrates that there's very serious hardship, for example, with respect to employment. So if someone doesn't have the right evidence the first time, or if after 60 days they're not able to marshal that very particular kind of evidence, they might be refused at the first hearing, but they would have been successful at the RAD, depending on whether an office in Mexico was on that list. If it was, then they'd lose that opportunity.

Ms. Olivia Chow: Right now, the Bloc and the New Democrats have been very clear that we are against a provision, which is I think proposed section 109.1, which designates some countries as safe, so that the refugee claimants from these countries would not have an appeal given to them. Has your organization talked to other organizations to try to persuade members of Parliament that this is not a good procedure and this is not a good amendment to IRPA?

Mr. John Norquay: Yes. I've been bringing the perspective of my office to other groups of lawyers—for example, the Refugee Lawyers' Association of Ontario and the Canadian Council for Refugees, among others—and absolutely informing them of our perspective. Since the energies are focused in those organizations, I've been allowing them to take the lead. But it's certainly one of the issues of concern for my office, although, to be perfectly honest, if I'm going to be frank, the restrictions on the humanitarian and compassionate—

● (1720)

Ms. Olivia Chow: They're also terrible.

Mr. John Norquay: —system are really of much graver concern for me and for my clients.

Ms. Olivia Chow: Can I ask the same question to the Canadian Centre for Victims of Torture and to Mr. Matas on designating safe countries? Have you seen examples where, if it is designated, some of the refugee claimants from these countries would not have a right to appeal? Therefore, what kinds of consequences do you think it would have?

Mr. Ezat Mossallanejad: Thank you very much.

Unfortunately, in the first decade of the 21st century, the threshold of torture has gone up. No country is immune to torture, including advanced industrial countries; therefore, anybody could be subjected to torture. I think there is no safe country in the world.

We have a problem with the designation of the United States of America as a safe country. Many people come and then they are sent back. The refugee determination system is different in the U.S. and in Canada. The rate of acceptance is much lower in the U.S. Also, there is no quasi-judicial body like the IRB.

One example I have is that there were claimants from St. Vincent. St. Vincent is a very democratic country, with a parliamentary system, but it is not at all democratic for gays and lesbians. I have plenty of clients coming from St. Vincent. They have been subjected to torture by the community, by their family, by religious people, and with no protection whatsoever from the police. I think they need protection in Canada. For the first time in the history of the Canadian Centre for Victims of Torture, I have accepted clients who claim torture against some democratic countries, unbelievably.

And then, unfortunately, torture—

The Chair: Thank you very much, sir. The time is up.

Mr. Calandra.

Mr. Paul Calandra (Oak Ridges—Markham, CPC): Thank you.

Mr. Norquay, Ms. Chow brought up Ghana and Malawi. Would Ghana and Malawi, in your opinion, be safe countries if we were to have a safe country of origin?

Mr. John Norquay: Based on the experience I've had with those countries, they don't seem safe to me, absolutely not.

Mr. Paul Calandra: This is going to sound like a stupid question, but do you think it would be unreasonable to assume that a trained public servant could also not make that same assessment as you have through your experience?

Mr. John Norquay: Well, yes, if they were trained public servants looking at the same evidence I'm looking at.

Mr. Paul Calandra: The proposed legislation allows us to identify safe countries but also to look at groups or regions within safe countries and—I don't want to say isolate them, that's a bad choice of words—but look at them and say that perhaps there are some additional protections that are needed.

Would this not, in your opinion, help us—no matter the person's religion or whatever might be the issue—in addressing some of the concerns that you and other people have raised?

Mr. John Norquay: I think the concern is around the criteria for establishing the list, and oversight as well. Those, to me, are the major issues, and there are no provisions in the bill for determining either of those. I think that's where the alarm is coming from, because we just don't have enough information.

Mr. Paul Calandra: But ultimately, if we use a process that includes advice from individuals such as yourself, groups such as yourself, and trained public servants such as Mr. Bauer, who has over 40 years of experience, we could potentially come to a reasonable list that also identifies the groups and the regions. Is that something we could probably achieve?

● (1725)

Hon. Jim Karygiannis: Oh, please.

Mr. John Norquay: To be honest, I'm very concerned about the timeframes proposed for the first hearing, the 60-day hearing. For example—

Mr. Paul Calandra: I want to focus in specifically on the safe country of origin.

Mr. John Norquay: My issue is that the safe third country is what cuts out the right to an appeal. A lot of times you'll be at that first 60-day hearing and not presenting your full case, for a variety of reasons. For example, many of my clients would have just received an HIV diagnosis for the first time and be reeling from that and experiencing all the shock. To expect them to be able to properly present their case is not reasonable.

Moreover, the—

Mr. Paul Calandra: But ultimately, wouldn't you agree that we could come to an understanding of what a safe country is if we used the expertise of people such as you and the public service?

Mr. John Norquay: If there was oversight and accountability for that decision, then—

Mr. Paul Calandra: It's something we can look at, as long as it's focused a little bit more and has identifiable approaches on how we —

Mr. John Norquay: I personally am not categorically opposed to having designated countries, but the charter would most likely have something else to say about that.

I fully understand that there is a need to streamline the system to get out bogus claims. The problem is throwing out legitimate claims, and it's just not right to do that. It needs to be more balanced.

Mr. Paul Calandra: Yes, I understand that. I appreciate that. Okay.

I'm sorry, but I didn't get the name of the gentleman with Mr. Matas. You don't appear on my list, so I'm not sure what your name is, but you mentioned that one of the problems is that it takes a long time to get all the information required. Is there no way in which the requirements that you need can be addressed? Can putting additional resources into the system help alleviate the delays?

Mr. Ezat Mossallanejad: Thank you very much. I expected you to mention my name.

Yes, additional resources are definitely important, but additional resources don't resolve the problem. Now we have to assess physical and psychological scars of torture. We need to send them to a physical practitioner—

Mr. Paul Calandra: I don't disagree with you on that. I only have five minutes—

The Chair: You have 30 seconds.

Mr. Paul Calandra: I just have 30 seconds, so I wanted to make sure you would be in agreement on resources.

I'll end with a comment.

Mr. Bauer, a lot of us talk about a lot of different things around this place, but you, after 40 years, have actually been fighting for a lot of things, and I think it behooves us to take your advice when we are considering what we're doing. I want to thank you for 40 years in some very difficult spots around the world and for your service to this country.

With that, my 30 seconds are done.

The Chair: I want to thank you gentlemen in Toronto, London, and Ottawa for coming today and giving your views on this bill to us. I thank you very much. That concludes our time with you. Thanks for coming.

A witness: Thank you for inviting us.

A witness: Thank you.

The Chair: We have two more things to do, committee members, before we adjourn. I'll keep talking in public until someone tells me to go in camera, because I don't think it will take long.

You have before you two budgets. The larger amount is the expenses for the video conferencing for Bill C-11, and that's estimated to the end. The smaller amount is the expenses with respect to the Haiti issue.

Everybody's looking at me as though you don't know what I'm talking about. Do you understand?

I'd like a motion to approve these budgets and authorize that the amounts be paid. Ms. Chow and Mr. Karygiannis.

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

Ms. Olivia Chow: Mr. Chair, on a point of order, just to be clear, the hearing on June 1 would be from 3:30 to 5:30—

● (1730)

The Chair: Yes.

Ms. Olivia Chow: And then June 3 would be 3:30 p.m. till 11:59.

The Chair: Forever. I shouldn't say that. Until possibly 11:59, yes.

Ms. Olivia Chow: At the latest. That would be the time when we do clause-by-clause consideration of Bill C-11.

The Chair: Those two dates would be clause-by-clause. Yes.

Ms. Olivia Chow: I just want to be very clear about that.

The Chair: It's a good question.

Ms. Olivia Chow: So yes, that is what—

The Chair: That is what is being planned.

Ms. Olivia Chow: So may I dare to ask, if we can't get it done in those two days, what do we do?

The Chair: The chair's interpretation of the motion that was made by Mr. Bevilacqua, I believe, is that if we haven't finished by 11:59 on the third, there will be no more amendments. So you'll have to get all your amendments in. Someone can challenge me, but that's my interpretation of what was said.

Ms. Olivia Chow: So we have the amendments, but we will need to have a vote to make sure it's done, right?

The Chair: My problem is that I interpret it as—and if someone wants to correct me, do—

Mr. Rick Dykstra: You're asking now, but later...

The Chair: That's the chair's ruling. If someone wants to overrule me, they will have to challenge me.

Yes, Monsieur St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: I would simply like to add that I suggested we extend our hearing until we have completed our work, to avoid this situation. The committee has to study each amendment, period. We can move quickly on to the discussion. I have the impression that we will finish early.

However, if the chair decides to stop proceedings before the indicated time, which means that all amendments will fall by the wayside, then we will have to come back on what we had agreed to with the government, that is, that we will complete our study by the agreed upon date. We would then have to schedule additional meetings to complete our work. I cannot believe that we will get into a situation where one party would engage in a filibuster until 11:59 p.m. to prevent the bill from being amended. That doesn't make sense. Everyone was acting in good faith. If we sit until 1:00 a.m., it will not be the end of the world. But I don't know if it will get to that.

[*English*]

Ms. Olivia Chow: So we can do it in one day.

The Chair: Can you show me where Mr. Bevilacqua's motion is?

Ms. Olivia Chow: Mr. Chair, just a point of order. It's 5:30. Do you want to figure that out and tell us later on?

The Chair: My ruling stands, unless someone can show me that the motion says something different.

Mr. Rick Dykstra: I can certainly explain.

The Chair: I know you can.

Mr. Rick Dykstra: If you'd give me a chance to explain while you're looking, it would be great. Do I have the floor, Mr. Chair?

The Chair: Just give me one second. We had a motion for four days of clause-by-clause. That was amended to make the clause-by-clause two days, the 1st and the 3rd. That's why there's a little bit of confusion up here.

It said with respect to the last two days there would be additional evenings, of up to three hours' duration, beginning the 6th, and on the last day to the end, which means 11:59.

So my interpretation is that we don't have any more meetings after 11:59, unless there is unanimous consent. That was the decision.

● (1735)

Ms. Olivia Chow: Why don't you folks work this out?

Mr. Rick Dykstra: Olivia, you asked a question. There is such a simple answer to this. We all agreed that we are going to conclude our meetings by June 3 at 11:59. What was included in that condition to be able to get it back to the House—we could have third reading and get it over to the Senate before we rose for the summer—was an agreement that, number one, we were going to meet as a subcommittee to go through what all the potential amendments were going to be from each of the four parties, so we could make sure we laid out a process to go through clause-by-clause that was fair to everybody, so all amendments could go and there would be no surprises, and there was—

Ms. Olivia Chow: Before the 1st...

Mr. Rick Dykstra: Yes, that's right, before the 1st, so we need to set that meeting.

The final, most important part of that is that there is an agreement here that we are going to make sure—and we in fact agreed with each other and have guaranteed it—that there will be no filibusters, no attempt to get out of any type of vote on any one of the clauses by trying to carry this out to 11:59.

So I think we have a pretty darn good process in place to take us through for those two days, and in fact I can assure the chair that we are not going to individually—I'm speaking from a party perspective—try to hold up or change anything or try to not include something for discussion or debate prior to 11:59.

The Chair: The chair doesn't recall some of those things, like agreements for no filibustering. I assume that's an agreement between the—

Mr. Rick Dykstra: It is, Chair. I didn't mean that for your ears.

The Chair: I assume that's an agreement between the critics.

As far as I'm concerned, however, this dealing of the hearings and the clause-by-clause ends on June 3 at, if necessary—I put those words in—11:59.

Ms. Olivia Chow: Mr. Chair, just for argument's sake, I'm not saying it would happen, but what would happen if a member of the government decided, because they don't like the amendments, because they think the amendments would pass, that we'd just keep talking until 11:59 and we'd never get to vote on the amendments?

The Chair: It's now been said by Mr. Dykstra, which I don't think is in the motion, and I gather the way he's saying it he can confirm this, that there's an agreement between the critics that there will be no filibustering.

An hon. member: That's right.

The Chair: There are no time limits on debates, so I'm relying on you people. It's your show.

[*Translation*]

Mr. Thierry St-Cyr: In any case, the majority will always win. There is no way around that. Everyone was acting in good faith. We will get through this. If we are dealing with a minority partner who is not acting in good faith, this partner will not be able to hold up our proceedings, because, at the end of the day, the committee will decide what the bill will look like once it has completed its work.

[*English*]

The Chair: Are you happy, Ms. Chow?

Ms. Olivia Chow: Yes, I'm always happy.

The Chair: All right.

This meeting is adjourned until six o'clock.

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