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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. We'd like to call the meeting to order.

This is the Standing Committee on Citizenship and Immigration, meeting number 29, on Wednesday, October 27, 2010. Pursuant to the order of reference of Thursday, September 23, 2010, we are studying Bill C-35, An Act to amend the Immigration and Refugee Protection Act.

We have a number of guests before us. Some of the guests are on the video conference from Winnipeg.

However, before we start, I'd like to make three announcements. One, Mr. Rafferty and Madame Beaudoin, perhaps, if you could tell Monsieur St-Cyr and Madam Chow that if there are any amendments to this bill, we will be doing clause-by-clause a week today, which is November 3. Amendments must be at the clerk's office, or given to the clerk here, on or before noon on November 2, which is the day before.

There is a notice going out today. You could pass this on to Monsieur St-Cyr and Ms. Chow, although they will get notices: the subcommittee will be meeting on Monday after this meeting, which is at 5:30 p.m. on Monday, November 1, unless there are votes, in which case, I guess, it will be cancelled. Assuming there are no votes, we'll have a subcommittee meeting on Monday.

Also, just so you don't come down here, all meetings next week will be in Centre Block.

Those are my preliminary remarks. I'd like now to introduce to members of the committee our guests, our witnesses.

Before us here is Matrixvisa Inc., immigration law and international recruitment. We have Cobus (Jacobus) Kriek, the director, before us here in the committee room.

We have, by video conference, the Government of Manitoba, it says here on our agenda, and we have two people before us. Fanny Levy is the acting director of the Manitoba provincial nominee program and Dave Dyson is the executive director of the employment standards division with Manitoba Labour and Immigration.

Can the two of you hear me?

• (1535)

Ms. Fanny Levy (Acting Director, Manitoba Provincial Nominee Program, Government of Manitoba): Perfectly, yes.

Mr. Dave Dyson (Executive Director, Employment Standards Division, Manitoba Labour and Immigration, Government of Manitoba): Yes, perfectly.

The Chair: Thank you for coming.

Mr. Kriek, you will have up to seven minutes to speak first. Welcome to all of you.

Mr. Cobus (Jacobus) Kriek (Director, Matrixvisa Inc.): Mr. Tilson and respected committee members, my name is Cobus Kriek. I'm a member in good standing of the Canadian Society of Immigration Consultants. I'm also the owner of Matrixvisa Incorporated. Thank you for the opportunity to allow me to share my thoughts with you today. It is a privilege and an honour to be here.

I only have two suggestions. The first suggestion has to do with proposed subsection 91(1) of Bill C-35, and the second suggestion is about the definition of immigration law advice. I will start with my first suggestion about proposed subsection 91(1).

The proposed wording of subsection 91(1) reads that "...no person shall knowingly represent or advise a person for consideration...in connection with a proceeding or application" under the Immigration and Refugee Protection Act. I suggest that the wording be changed or expanded to include anyone who induces, aids, abets any ghost agent to directly or indirectly represent or advise for consideration under the Immigration and Refugee Protection Act. Such a change would discourage a federal employee inside or outside Canada from accepting submissions from or communicating with an unauthorized ghost agent about immigration cases, which I have seen happening in 2010.

This brings me to my second suggestion on defining immigration law advice. Under the current dispensation, that is, in the pre-Bill C-35 era, it is perfectly legal and, one could say, ethical for anyone to provide certain immigration law advice without being a member of CSIC, the bar, or a public notary in Quebec.

I hold in my hand chapter "IP 9—Use of Representatives Paid or Unpaid" of the department's immigration manual. Paragraph 5.4 reads as follows:

...there are many individuals who receive payment for filling out forms and applications... However, as these individuals do not meet the definition of an authorized representative, there are functions that they cannot perform. These functions include making interventions on behalf of the applicant during processing, and requesting information about the progress of the application. In order to make interventions and request information on behalf of the applicant during application processing, these individuals must be members of one of the regulatory bodies.

It is clear that CIC believes that immigration advisers only need to be authorized representatives when intervention is needed or inquiries are made. According to CIC, any immigration law advice given prior to an inquiry can be completed by anyone.

If an unauthorized representative or ghost agent is allowed to complete forms and applications, it implies that the unauthorized representative or ghost agent may provide advice about the appropriate immigration class, such as the investor class, federal entrepreneur class, federal skilled worker class, etc., as this activity would logically precede the completion of forms and applications. The completion of forms and applications would only be possible after an analysis of the person's experience, education, and financial status.

It is very obvious that the completion of forms and applications is not merely an administrative action, but requires in-depth knowledge of immigration law. Consumers cannot be protected if any untrained person can assist a member of the public to complete immigration forms and applications.

On 18 October, Mr. Nigel Thomson mentioned before this committee that CSIC has about 1,600 to 1,700 ghost agents in its intelligence system at CSIC. Given the wording of chapter IP 9, which I have just read, many of these ghost agents are not in contravention of any act and are conducting their immigration work completely legally. The existence of ghost agents in the immigration law industry is directly related to the wording in the immigration manual's chapter IP 9, which I have read to you. This wording in turn is the result of the policy vacuum that exists in the current legislation, as immigration law advice is not defined in the Immigration and Refugee Protection Act or regulations.

In order to prevent the continued unauthorized practise of immigration law, it is suggested that the words "advise...under this act"—or immigration law advice—be clearly defined in Bill C-35 and not be left to be defined in the regulations. The following wording is suggested:

Advice would be any guidance offered by one person to another on any immigration matter where profit is directly or indirectly a result of the advice. Specific cases (not limited to):

- (a) Recruiters may not provide immigration advice or advise under the act;
- (b) Education agents may not provide immigration advice or advise under the act;
- (c) Recruiters for provincial nominees may not provide immigration advice or advise under the act;
- (d) Assistance with the completion of forms is also immigration advice or to advise under the act.

● (1540)

Specific examples in the act will prevent a misunderstanding of the intention of the lawmaker. Furthermore, specific examples are already being used as a technique in the case of immigration regulation 187(2).

It must be recognized that ethical recruiters who comply with provincial laws play an important and valuable role in the immigration process, both for permanent and for temporary entry. However, recruitment is a function related to human resources management, not immigration law. Recruiters are not trained in immigration law and the immigration activities of recruiters are not regulated to ensure the protection of the public.

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

We will now hear from the representatives of the Government of Manitoba.

I assume, Ms. Levy, that you will be making the presentation.

Ms. Fanny Levy: Yes, that's right.

The Chair: Thank you for coming, both of you.

You may proceed. You, too, have up to seven minutes.

Ms. Fanny Levy: Thank you for the invitation to appear before the committee on Bill C-35 to share with you Manitoba's position and some of the efforts we have made in Manitoba in regard to regulating the activities of third party immigration consultants.

We're very pleased that the federal government is proactively addressing the issue. As you may know, the protection of vulnerable immigration clients, such as temporary foreign workers, has been a priority in Manitoba that we are addressing through provincial legislation called the Worker Recruitment and Protection Act.

We believe that complementary provincial and federal regulatory systems will advance protective measures for immigrants, and we have some suggestions in regard to the selection of a regulator for immigration consultants.

We believe that regulatory capacity needs to have the power to sanction and regulate immigration consultants and to seek judicial enforcement of the disciplinary consequences imposed on the members.

We also believe that it's important that dissatisfied members and the public and others are able to influence the regulatory body's internal functioning through a formal review process.

We believe the Government of Canada should be involved in the affairs of any new regulator until it's fully functioning.

We also support the view that the relevant federal regulatory and enforcement authorities should work with their provincial partners to coordinate investigation, communication, and enforcement efforts to ensure that unregistered immigration consultants are either referred to the appropriate authorities for sanction or are prosecuted under existing federal provisions.

We believe the Government of Canada should ensure that the new immigration consultants regulator institutes a third party, no-cost complaints process in respect of unauthorized or improper representation to support immigrants who lodge complaints. We also want immigrants to be informed that their complaints to the regulator will have no negative impact on their immigration applications or proceedings and that the regulator has a prosecutor or investigator who will represent the public interest in prosecuting misconduct.

I mentioned the Worker Recruitment and Protection Act that came into force in April 2009 in Manitoba. I want to share with you some of its highlights.

First of all, it extended coverage to include the protection of children in the modelling industry from sexual exploitation, but it also protects foreign workers from unscrupulous recruiters and employers. It requires Manitoba employers to register with the province prior to undertaking any foreign international recruitment efforts.

It allows the province to provide two different types of service. First, it will educate employers about what they have to comply with in terms of the legislation. Second, it will help them access support for the ethical, coordinated international recruitment of skilled workers through international agreements with Manitoba. Employers can also receive assistance to identify a local pool of immigrants who are already in the province. There is no cost for this service.

I will list some of the key provisions of WRAPA in terms of the provisions for employers. They must register with the province. They have to declare that they are using the services of a third party recruiter, who must be licensed to provide those services in Manitoba. They must pay any recruitment fees owed to a licensed recruiter; temporary foreign workers cannot and should not be responsible for paying any recruitment fees. Also, they cannot apply for a labour market opinion before being registered by the Province of Manitoba.

Employers using an unlicensed recruiter are liable for fees charged to workers, and fines can go up to \$50,000 for corporations. Of course, they may be ineligible to reapply for registration.

In terms of recruiters, they must be licensed by the province, and to obtain the licence they need to be members of the Law Society of Canada, the Chambre des notaires du Québec, or, currently, CSIC, and they must present a letter of credit for \$10,000. Also, they are liable for charging any recruitment fees to workers.

•(1545)

To date, we have about 2,400 employers who have been registered through this legislation. We receive an average of 150 applications a month, with an average of 135 approvals. These registrations are completed in two or three weeks.

We've seen many improvements with this legislation. First of all, information-sharing agreements that we have developed with governments, law enforcement, and regulatory agencies allow the province to monitor, investigate, and enforce legislation. It gives us the ability to refuse or revoke a licence, to investigate, to recover money on behalf of workers, to prosecute offences of WRAPA, and to fine individuals up to \$25,000—and \$50,000 for corporations—for non-compliance with the legislation.

We firmly believe that it has been very successful in preventing countless workers from being exploited, and it provides the province with the tools needed to protect these workers once they are already in the province. We have created a new special investigation unit to administer WRAPA and to handle all investigations related to it.

Thank you.

The Chair: Thank you, Ms. Levy.

To the witnesses now, each caucus has up to seven minutes to ask questions and for answers to be provided.

The first person to have the floor is Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj (Ettobicoke Centre, Lib.): Thank you, Mr. Chair.

Mr. Kriek, on page 7 of your submission, you list categories (a) to (f) that are acceptable and legal for a recruiter to do work in. Then you make your argumentation after you list these off.

I note that (a), (b), (d), (e), and (f) quite directly involve themselves with the Immigration Act, etc., but (c) is strictly a submission of a request for a labour market opinion pursuant to the immigration regulations. Perhaps someone could do a labour market opinion without actually being engaged on a case file. Would you consider that this one perhaps shouldn't necessarily be lumped together with the rest of the ones you've listed off in (a) to (f)?

Mr. Cobus (Jacobus) Kriek: I think it should be lumped together. Bill C-35 clearly indicates that, in order to represent a party under any submissions under the act, proposed section 91 does not exclude LMOs and AEOs. I'm just following what's written in Bill C-35.

Mr. Borys Wrzesnewskyj: Here's what I'm curious about, though. What if it's not a submission on behalf of an actual party? What if it's strictly to get a labour market opinion?

•(1550)

Mr. Cobus (Jacobus) Kriek: It is a submission on behalf of a party, which is an employer. It's an employer-driven program.

Secondly, LMOs are an extremely complicated part of the law. It's not as plain or straightforward as people would believe it is. We see a significant number of refusals in British Columbia and Alberta. I have the statistics here; I can look them up and give them to you.

But given the fact that proposed section 91 indicates that all submissions under the act should require representation, and the complexity of regulation 203, I believe it's...

Mr. Borys Wrzesnewskyj: Thank you.

Ms. Levy, you have a very successful program in Manitoba. It appears that you're recruiting about 1,500 people per year and you seem to have put in place a pretty good regime in terms of enforcement.

The maximum penalty, if I heard correctly, is \$50,000. Is that adequate? Do you think the \$10,000 maximum penalty that the federal legislation envisions is adequate?

Mr. Dave Dyson: I can answer that question. I administer WRAPA, and it's my enforcement people, my investigators, who investigate it. It's built into my employment standards division.

The business registration process is such that if we catch employers doing something wrong, for instance, using an unlicensed recruiter, we will not provide them another business registration, meaning they will not be able to apply for LMOs for the federal government, and meaning we won't allow them to bring in foreign workers anymore. We find that on the employer's side that's a much bigger stick versus prosecution.

In dealing with recruiters, if we catch licensed recruiters who would be either CSIC members or law society members, the first thing we would do is report them to their governing body. We have a very strong information-sharing provision. It would mean that they could potentially lose their CSIC membership for violating our provincial legislation, which again I think is a far bigger stick than prosecution. I don't believe we'll ever have to go down those roads.

Mr. Borys Wrzesnewskyj: Thank you. That's actually quite helpful as we go forward on this legislation.

I'm also curious about some of the details. We have a program that's viewed as a successful program. What are the major source countries for your foreign workers?

Ms. Fanny Levy: For foreign workers, the Philippines will be one of our main source countries, along with China and Colombia. Those will be the top three. We also get workers from Germany and the U. K.

Mr. Borys Wrzesnewskyj: I'm curious about the program and Ukraine. I know that it's actually been lauded as well. I believe there was a real lack of skilled workers when it came to butchers in the province of Manitoba. It's a very specialized field, in fact, and many people were brought in under that particular category.

Who would the province work with in Ukraine? Obviously it would go through our consular section at the embassy, but who are their contacts? Is it the oblast governments—the equivalent of provincial governments—or any particular oblast government, or is it the national government there?

Ms. Fanny Levy: I believe we work through the Canadian embassy. When we talk about the main source countries for this specific occupation, it would be Colombia and Central America mostly, with some workers from China, and also some from Ukraine. I think it's been focused on Colombian workers in the past year. But we work with the Canadian embassy.

Mr. Borys Wrzesnewskyj: Okay. So you don't know who they actually work with in the consular section in Kiev at our embassy. Do they work with the local equivalent of provincial governments or with the national government?

Ms. Fanny Levy: I don't have that information. I can get that information for you.

Mr. Borys Wrzesnewskyj: If you could, and also if there's a specific agreement that was signed with government authorities there, it would be helpful. Thank you.

•(1555)

The Chair: Thank you.

Monsieur Plamondon.

[Translation]

Mr. Louis Plamondon (Bas-Richelieu—Nicolet—Bécancour, BQ): Thank you, Mr. Chair.

I would first like to address the people from Saskatchewan.

Ms. Levy, you talked about immigrant workers: 1,500 per year. I have a question that is somewhat related to my Liberal colleague's question. On the question of recruiting, I assume you usually go through the Canadian embassy, mainly the one in Hong Kong, to be able to ask to select your skilled workers, which moves them ahead of the others on the waiting list for immigration. Is that right? These people immigrate via the Embassy of Canada as skilled workers. As well, you recruit on the international scene yourself. Is that accurate?

[English]

Ms. Fanny Levy: We ourselves don't recruit. We assist employers to recruit internationally. We provide the supports they need and the links they need to service Canada and local embassies. The province itself doesn't recruit these workers. We provide the support, as I've said.

[Translation]

Mr. Louis Plamondon: This is support for companies that do their own international recruiting or go via the Canadian embassy—you mentioned the case of China—in Hong Kong, I assume.

There are special programs, for example in Newfoundland, that allow Canada to do selection. For example, if 100,000 people are waiting to be able to enter Canada, criteria are applied. The first involves family reunification and the second affects the skilled workers needed by the provinces, obviously on behalf of businesses. That is how Newfoundland is able to recruit skilled employees. I assume you also work that way where you are. No? The businesses arrange it themselves?

[English]

Ms. Fanny Levy: No, that's not quite the same in Manitoba. We have to make a difference between the recruitment of foreign workers and the provincial nominee program. Its objective is permanent immigration, not temporary, and—

[Translation]

Mr. Louis Plamondon: I understand. You also talked about the criteria that are applied in the case of authorized recruiters. Are those criteria more stringent where you are than in other regions of Canada? How do you make sure that these are competent, honest recruiters? Is there a special section of the police that handles this or do you rely on people's good faith? For example, are they required to have knowledge about the law? What criteria are applied for you to grant them the privilege of becoming an authorized recruiter?

[English]

Mr. Dave Dyson: It's a fairly lengthy process. They have to disclose to us all their personal interests, such as any ownership of companies, directly or indirectly, which is a very arduous process. They have to sign statutory declarations that they'll abide by the legislation. They also have to put up \$10,000 to me in an irrevocable letter of credit that I will use if I find out that a worker got charged something.

I think the biggest part in the legislation is that if one of our recruiters is acting as a recruiter, the only fees they can receive must be from the employer. They can never receive any moneys whatsoever, directly or indirectly, from the worker. When the workers come in, we interview those workers, and if we find out that they paid moneys, we'll take the money from the \$10,000 letter of credit, do an investigation, potentially revoke the recruiter's licence, and report them to their governing body.

[Translation]

Mr. Louis Plamondon: Thank you.

Mr. Kriek, in the document you gave us, there is a quotation from the Second Secretary at the Embassy of Canada in Bucharest concerning unauthorized recruiters of exotic dancers. In the short document you gave us, there are a lot of file or form numbers.

Could you tell us a bit more about the problems the Second Secretary wanted to inform us of in that way?

• (1600)

[English]

Mr. Cobus (Jacobus) Kriek: Thank you for the question.

I was using both of those examples from *Lexbase* to show that, across the world, recruiters are practising immigration law. These are the only facts that I could find quickly to demonstrate that recruiters are practising immigration law abroad.

My submission is that they should not. Recruiters should recruit. Experts who are trained in immigration law should deal with immigration law. They are two different fields. But unfortunately, the immigration manual, at chapter IP 9, paragraph 5.4, indicates that recruiters may submit immigration applications or work permit applications.

[Translation]

Mr. Louis Plamondon: I would like you to tell me, as an authorized recruiter, what basic requirements people who want to perform this function should have to meet. Should candidates have to be lawyers, for example? That would be asking a lot. People can't all be lawyers, but it is really dangerous to appoint just anyone as a recruiter.

Are there basic requirements you would like to see included in Bill C-35?

[English]

Mr. Cobus (Jacobus) Kriek: I didn't give it much thought. I just believe that provincial legislation, whatever it might be, must be adhered to. British Columbia has regulations about registration of recruiters. Alberta has rules about that as well, and Manitoba and Ontario have with regard to live-in caregivers, I believe.

The Chair: *Merci, monsieur Plamondon.*

Mr. Rafferty, welcome to our committee. You have up to seven minutes.

Mr. John Rafferty (Thunder Bay—Rainy River, NDP): Thank you very much, Chair.

Hello, everyone. This is the first time I've been at this committee. I guess I get invited so I can cause some trouble, so let me see what I can do.

I'm just kidding, Mr. Kriek. I'm not really going to cause any trouble.

I'm going to ask some questions. I'd like both Mr. Dyson and Ms. Levy to also answer these questions if they have some comments to make.

The first is about CSIC itself. When it's re-established, what do you see it looking like, particularly in terms of investigation and enforcement?

Mr. Cobus (Jacobus) Kriek: Mr. Rafferty, thank you for the question.

I don't have any particular comment on the new regulator. I didn't give it much thought. My objective today was only to address the two issues, which I have.

Mr. John Rafferty: You are a member of CSIC, though.

Mr. Cobus (Jacobus) Kriek: That's correct, yes.

Mr. John Rafferty: But you don't have any thoughts you'd like to share as to how it could run better, perhaps...?

Mr. Cobus (Jacobus) Kriek: No.

Mr. John Rafferty: Mr. Dyson and Ms. Levy?

Mr. Dave Dyson: What I'll say is that I don't have a comment on who a specific regulator should be. I will say, though, that the CSIC board has been very supportive of our legislation.

As I mentioned earlier, the fact is that in Manitoba it's illegal for an immigration consultant, when they're acting as a recruiter, to charge the worker for anything. For the most part, a large portion of the CSIC membership was against that, and the board basically endorsed that part of our legislation and came to our committee hearings, because—I don't want to put words in their mouths—they saw that as being a hugely problematic area when an immigration consultant who is also acting as a recruiter has the ability to charge on both sides of the equation. From my world in employment law, you have to ask yourself the fundamental question: who's the client?

Mr. John Rafferty: Ms. Levy, do you have anything to add there?

Ms. Fanny Levy: As I said during my presentation, we want to ensure that whichever regulatory body it is, it will have the ability to prosecute unlicensed immigration consultants as well, which is the gap that we see in the legislation today.

• (1605)

Mr. John Rafferty: Thank you very much.

One of the sticking points seems to be about consultants who are working abroad and how to deal with those consultants. Under a new and re-established CSIC, do you see a way to somehow make them more accountable or to deal with them so they do the jobs they're supposed to do? I'm not under any illusion that they're going to disappear, so is there a way for a new body to deal with that? Is there something you see that they could move ahead with on that?

Mr. Kriek.

Mr. Cobus (Jacobus) Kriek: There are many sides to this.

Defining immigration law advice would be a good start. There has been a lot of discussion in the media and elsewhere about ghost agents, but the term "immigration law advice" has never been really defined in detail. That's really important so that we're all on the same page and all speak from the same foundation. That would be a good start.

Second would be changing proposed section 91 to ensure that nobody can assist a ghost agent, not somebody outside the government, and not somebody inside the government.

Those two things would go a long way in moving forward, as would making it an offence to act as a ghost agent, so that people doing that could face arrest upon arrival in Canada.

Mr. John Rafferty: Ms. Levy and Mr. Dyson.

Mr. Dave Dyson: I have a comment. Again, what our legislation does is that makes either the employer or our licensed recruiter completely responsible for any fees that a worker may be charged. So if one of those parties is using somebody offshore and we find out about it, we recover those moneys from the licensed recruiter or the employer directly.

In our statistics, we find that we have employers who will register with us and indicate that they are recruiting directly. We kind of question ourselves on how they know somebody in China who they can bring over to work in their factory and they say they just have contacts. Then, when we educate them on that part of our legislation, they withdraw their business registration, which in my mind is a clear indicator that there was a ghost recruiter involved. So because that business registration is now stopped, we've eliminated the exploiting of a worker by a ghost recruiter.

Mr. John Rafferty: Chair, do I have time for one final question?

The Chair: Yes, sir.

Mr. John Rafferty: I have a quick question about the minister. As you see it now, should there be more power or less in the minister's hands in this department? Do you have an opinion on that?

Mr. Dave Dyson: I don't have an opinion.

Ms. Fanny Levy: If I could go back to your previous question, one model that has worked for Manitoba is having agreements with other countries. One example is our memorandum of understanding with the Philippines. The province will work only with those recruiters in the Philippines who are licensed by that government to find these workers. That has been very helpful for us.

The Chair: You have time for another brief question, if you wish.

Mr. John Rafferty: I did want to ask a question about lawyers. It seems that lawyers are exempt from just about everything, and I

know they're not, but they seem to be able to practise immigration law even if they're not immigration lawyers.

If you are a lawyer and not particularly skilled in immigration law, I guess you can you still do it, can you? Any of you could answer and make a comment.

Ms. Fanny Levy: I have no comment.

Mr. Dave Dyson: That's my understanding of how it works.

Mr. Cobus (Jacobus) Kriek: My understanding is that a lawyer can practice criminal law for 40 years and then, in year 41, decide to practise immigration law. That's my understanding.

Mr. John Rafferty: Is that a problem?

The Chair: There you have it, sir. Now you're over the time.

Ms. Grewal.

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

My questions are for Ms. Levy and Mr. Dyson in Manitoba.

First, I will express my gratitude to these officials and Mr. Kriek for agreeing to testify before our committee to share their insights on this very important issue.

To begin, could you please explain how this bill might support initiatives within your own province to address the issue of unscrupulous immigration representatives?

• (1610)

Ms. Fanny Levy: First of all, it gives workers overseas the confidence to come to work in this province, because they know they will be protected. Also, it educates employers. It works with employers to help them comply with the legislation. So far, we have received great support.

Mr. Dave Dyson: I'm not sure if your question was about our legislation or about the bill.

Mrs. Nina Grewal: It was about the bill. How will it help?

Ms. Fanny Levy: We have seen great results with the provincial legislation, so we are sure that it will be supported as well.

Mr. Dave Dyson: My experience is that there's not any one agency that's able to resolve this issue. We work very closely with Canada Border Security, inland security, the RCMP, our local police, Service Canada, CIC, and CSIC. I think any agency that has more authority, more enforcement powers, is another step in the right direction.

Mrs. Nina Grewal: The Province of Manitoba addresses the Immigration Consultants Act and regulations, so what prompted your province to take such action? Could you please explain?

Mr. Dave Dyson: It really resulted from foreign workers showing up on our doorsteps. We heard stories about how they paid some unbelievable amount of money for a job, or how they came here for a job but there was no job, and there might not even have been a business by that name. We heard stories of indentured servitude, and I could even be so bold as to say slavery.

It really started in probably 2004 and 2005, when we first started experiencing labour shortages, and it grew. Most of those people were coming to us as the labour standards people and, quite frankly, I didn't understand the problem. It was our previous minister who asked us to do some work on it and that resulted in this legislation.

Mrs. Nina Grewal: Ms. Levy, do you want to comment on this?

Ms. Fanny Levy: I'll echo Mr. Dyson. Not only have we seen great support, but we've also seen less complaints coming forward. People are complying with the legislation and workers are also receiving support for the next step of the process, which is to become permanent residents. So not only are employers educated, but so are workers in terms of what their rights and obligations are, and there is a path that they can follow now.

Mrs. Nina Grewal: Mr. Chair, I would like to pass the rest of my time on to Mr. Dykstra.

Mr. Rick Dykstra (St. Catharines, CPC): How much time is left, Mr. Chair, just so I know?

The Chair: You have about two and a half minutes.

Mr. Rick Dykstra: One of the aspects in the bill that I wanted to get the Manitoba folks' perspective on is the whole aspect of the bill granting the minister the regulatory authority to "provide for measures respecting any transitional issues raised by the exercise of...[the] power to designate".

One of the things that we're obviously doing here is that the minister is going to designate the authority or body that will regulate the industry. They'll report to him or her and obviously give him or her the opportunity to ensure that the regulatory body is in fact implementing the strategy that it is setting out. I just wanted to get your perspective on that aspect of the bill in terms of the minister's authority.

Ms. Fanny Levy: Well, as I said earlier today, in terms of the minister's involvement we believe that it's very important until this body is fully functioning, but of course we also understand that these bodies should be independent to be able to be fair as well.

Mr. Dave Dyson: I have no comment on that.

Mr. Rick Dykstra: So the body in Manitoba, who do they report to?

Mr. Dave Dyson: I report to a deputy minister who ultimately reports to a minister. Now, having said that, I'm a regulatory body, and I don't share with my minister or my deputy any of my investigations, where I'm going, and what my conclusions are. I don't ask for permission to regulate my act.

• (1615)

Mr. Rick Dykstra: But you're not a statutory body?

Mr. Dave Dyson: I'm governed by statute. Yes, I am.

Mr. Rick Dykstra: You're governed by which statutes? How are you set up?

Mr. Dave Dyson: Oh, no, in terms of that, no; I'm not a self-governing body.

Mr. Rick Dykstra: All right. thank you.

Mr. Kriek, one of the aspects of the bill that I think you try to point out in your document is the whole issue around the work taking place, or the research, or the actual body, I guess, that would do work on behalf of an individual—a consultant who works on behalf of an individual.

As of the new piece of legislation, it would actually be that where they would have to comply is before the application is actually filed. I just wanted to clearly get your thoughts on that in fact being the proper way for the government to move in terms of direction.

Mr. Cobus (Jacobus) Kriek: Yes, I fully agree. If Bill C-35 could go ahead, it would make the immigration manual's paragraph 5.4 in chapter IP 9 ultra vires. This needs to be changed. This is the root cause of the problem. The existing law is not detailed enough. According to the status quo, anybody can assist a foreign national with an application, and even submit it, but cannot make an inquiry. That's the root cause of the whole issue. That's where it all starts.

The Chair: Thank you.

A point of order, Mr. Wrzesnewskyj?

Mr. Borys Wrzesnewskyj: Yes. Several times we've had reference to the Manitoba legislation. I was wondering if that could be provided to us: the legislation dealing with the Manitoba provincial nominee program and the related legislation.

If that and the previous information you've committed to provide to the committee could be given to us by Monday, if possible, it would be tremendously helpful.

Thank you.

The Chair: That's not a point of order, but it's a reasonable question.

Could you provide that to us, sir?

Mr. Dave Dyson: Absolutely.

Ms. Fanny Levy: Yes, for sure. I just want to clarify that it's not related to the provincial nominee program, but to the recruitment of foreign workers.

The Chair: Mr. Trudeau.

Mr. Justin Trudeau (Papineau, Lib.): Thank you, Chair.

I'm interested in hearing from our friends from Winnipeg a little more about what has been—you referred to it earlier, Mr. Dyson—effective in terms of deterrents and cutting down on ghost consultants and poor advice infiltrating the process.

I'd like to hear you expound on those a little bit, because one of the things that has been in this bill, which is all about cracking down on crooked consultants, is the idea that more penalties and longer sentences are a powerful deterrent. But you seem to say there are other ways that have been effective in your case.

Mr. Dave Dyson: I need to think about that question. Our legislation does not regulate immigration consultants. It regulates recruiters. It just so happens that most recruiters are immigration consultants.

On regulating the recruitment piece of it, prior to our legislation we didn't even know which employers were recruiting employees. From an employment standards perspective, I spent a lot of my time trying to protect vulnerable workers. A temporary foreign worker can only work for a single employer—absolutely a vulnerable worker—but prior to our legislation we didn't know where those workers were. We didn't have a clue.

Because of our legislation, we now know where those workers are. We know which employers are bringing in those workers. So I can send out my investigators into those workplaces, interview those workers, and ensure that the terms and conditions of the labour market opinion are being abided by.

So if we're dealing with an unscrupulous recruiter who does what we call the bait and switch—if in the LMO document they promise to pay \$20 per hour and once the worker shows up they say, well, we've changed our minds, or they say that the worker doesn't have the skill set so they're going to pay \$9 per hour—our legislation allows us to enforce all the terms and conditions of the LMO. The plane ticket home, the benefits...it doesn't matter what it is, we can enforce those.

So we can deal effectively with the employer and, because of our licensing scheme, we now can control the recruitment side of it too. It's really because we're aware of it before it occurs. They have to come to us before they even make application for the LMO document.

• (1620)

Mr. Justin Trudeau: You were talking about sending out agents to interview and investigate. Obviously before this new legislation was brought in, you didn't have those capacities. I'm curious to find out, with the new legislation that was brought in about protecting vulnerable immigrants, and specifically recruited foreign workers, how much it cost. How much money came with the legislation for you to be able to set up an enforcement branch?

Mr. Dave Dyson: I've always had an enforcement branch. This whole legislation is integrated into my employment standards branch. Manitoba has 1.2 million people. We have 600,000 workers and about 34,000 businesses. In my employment standards branch, I have about 35 investigators.

With this legislation, we received an additional five positions, two to handle the business registration, and three to deal with the investigation side, the enforcement side. What I've done is that I've used my existing resources in the employment standards side to set up a team of six people, with a manager, and for the most part they've been dealing almost full time with the worker recruitment issues.

We now believe that we're in a position where I can start moving those resources back into employment standards, because most of our illegitimate recruiters have left the province and are now working in other provinces. Our unanticipated problem now is that recruiters are bringing the workers into jurisdictions that don't have this type of legislation and are now bringing them into Manitoba. We've had numerous cases that we've dealt with in that regard.

Mr. Justin Trudeau: Thank you, Mr. Dyson. You're highlighting one of the challenges that we have as federal regulators and

legislators. We have to make sure that there are no movements like that possible.

It interests me... If you hadn't received the funding for an extra five people, you would have had to significantly cut back on other areas of enforcement in order to respond to the setting up of this. Is that right?

Mr. Dave Dyson: Yes, but I'll go back to my statement that in employment standards our whole mandate is to protect vulnerable workers. This is clearly a vulnerable segment of our workforce, so if I hadn't received the resources, maybe I wouldn't have been able to do as good a job as we've done, but I think we would have still taken it on.

The Chair: Thank you, Mr. Dyson.

Mr. Plamondon and Madame Beaudin, do you have questions? If not, we'll move on to Dr. Wong.

Mrs. Alice Wong (Richmond, CPC): Thank you, Mr. Chair.

Thank you to all of you for coming here to shed light on what you've found and what you have practised.

I wanted to get a clarification. These questions may have already been asked, but perhaps because of time we did not get a full answer.

First, I'd like to address Mr. Kriek. You mentioned the fact that the bill should probably include the recruiters, but these recruiters are probably overseas. How would you suggest strengthening the rules regarding fraudulent immigration representation overseas? That has been around for some time.

Mr. Cobus (Jacobus) Kriek: My intention was not to include the regulation of recruiters in Bill C-35. My intention was just to clearly identify what is the practice of immigration law or immigration law advice and to expand proposed section 91. I believe that recruitment is a function that should be dealt with by the provinces, not in federal legislation.

As for how to deal with overseas ghost agents practising immigration law, follow these two suggestions: have an intelligence system to follow those people and, once they enter Canada, prosecute them for their actions abroad. I think it would be very difficult for the Canadian government to go after these people right around the world. I don't think it's practical.

• (1625)

Mrs. Alice Wong: What about doing like Manitoba? In Manitoba they have agreements with foreign governments to make sure that they also have a set of rules governing their recruiters out there, like in the Philippines. How would you consider that?

Mr. Cobus (Jacobus) Kriek: If there are resources to do that, I'm sure it's a possibility, but I have difficulty in seeing how they could go to 50 countries around and get agreements with all those countries. I think it would be hard.

Mrs. Alice Wong: It would be hard for us to do all of them, but at least we could start working with foreign countries overseas.

Mr. Cobus (Jacobus) Kriek: Yes, I agree.

Mrs. Alice Wong: The government has had many round tables with the stakeholders and also with victims of fraudulent immigration representation. How significant do you consider the issue of unscrupulous immigration consultants to be? Also, what kind of misconduct is most prevalent, according to your experience?

Mr. Cobus (Jacobus) Kriek: I'm not in a position to answer that. The CSIC regulator may be able to give more information to the second part of your question about how serious this is.

The biggest concern I have experienced is recruiters practising immigration law abroad and inside Canada. They also use the labour market opinion process to get access to employers. A recruiter in Alberta, let's say, would go to an employer in Saskatchewan and say, "I think I can obtain a labour market opinion for you". That person probably has very little knowledge of immigration law, but uses this to move into the field of immigration.

In my view, recruiters trying to do immigration work inside and outside of Canada is my biggest concern.

Mrs. Alice Wong: So you're commenting on the fact that in order to stop that from happening, we do need to have stronger rules to discourage people from doing that.

I'd like also to have your opinion on this. The new bill we are suggesting right now includes all stages of the application, starting with filling out forms.

Mr. Cobus (Jacobus) Kriek: Yes.

Mrs. Alice Wong: What do you think of this being a necessity to be included? Also, if these people are not registered or certified and they charge a fee, do you think they should be ruled by this new bill?

Mr. Cobus (Jacobus) Kriek: I fully agree. I'm not sure if I understand the question correctly, but I fully agree that immigration law advice starts right at the beginning, when forms are completed, and even when assessments are done. The practising of immigration law should not start when an inquiry is made. It should start when consultation takes place with a client. If that is changed, then that will be a big step forward to prevent the unregulated practising of immigration law.

Mrs. Alice Wong: In other words, you do agree that the creation of this offence works to protect the integrity of the immigration system and also to protect the people participating in it?

Mr. Cobus (Jacobus) Kriek: Yes, for sure, I fully agree.

Mrs. Alice Wong: Right.

I have questions for Manitoba as well. Looking at the present bill, how would you see the federal government working hand-in-hand with your province in order to make our immigration system a good one and to attract good people to come into your province and also the whole nation?

Ms. Fanny Levy: We think they should complement each other, the provinces, and we also feel very strongly that all provinces should be on board. You've heard about what's happening right now, which is that there's more abuse of the system in some provinces, provinces that don't have legislation such as ours.

Also, all information-sharing agreements should be in place so we can collaborate and exchange information, not only with Citizenship

and Immigration Canada, but with the RCMP, CBSA, Service Canada, etc. That has to be in place for sure.

Mrs. Alice Wong: Right.

Again, I'd like to ask your opinion on how we should actually work to prevent phony recruiters or recruiters who are not really registered or qualified to do the recruiting, both in the provincial nomination program and also in the federal programs.

• (1630)

Mr. Dave Dyson: Yes. I can almost repeat what Fanny said, which is that, prior to our legislation, I cannot remember us ever having a meeting with anybody from CIC or Service Canada.

The manager of my enforcement unit has weekly meetings with Service Canada, CBSA, and CIC, and we share concerns and we talk about issues. I firmly believe that's the answer. It's the communication and the sharing of the information, because it's a shared responsibility, and I don't believe that any one agency has the ability to deal with this problem.

The Chair: Thank you, Dr. Wong.

Ms. Levy and Mr. Dyson in Winnipeg, and Mr. Kriek here in Ottawa, I want to thank the three of you for participating with the committee and making your comments. You've been a big help. Thank you very much.

We will suspend.

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_____ (Pause) _____

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• (1635)

The Chair: We're going to reconvene the meeting. We have two witnesses. One is here in Ottawa with us and the other is via video conference from Toronto.

The individual who is here in Ottawa is an immigration consultant from Ideal Canada.

Can I call you Selin Adam? I don't have to use that middle name?

In Toronto, we have Joel E. Tencer, who is an immigration lawyer and member of the Canadian Society of Immigration Consultants.

I welcome both of you to our committee.

Ms. Adam, you can speak first. You have up to seven minutes to make a presentation. Thank you.

Ms. Selin Deravedisyan-Adam (Immigration Consultant, Ideal Canada, As an Individual): Thank you.

I will do it in French, please.

[Translation]

My name is Selin Deravedisyan-Adam. I am here today as a full member of the CSIC, and I am also the president of the Canadian Migration Institute for Quebec. I am here to make a few points that I think are essential.

While you all know that the CSIC is a young organization, you need to be aware that the organization has nonetheless come a long way in less than six years. That process has resulted in the creation of an enormous machine and a solid structure and framework. If we compare the organization to a person, I might say it is at the developmental stage of adolescence. The CSIC is also not an entirely perfect organization. We are also here today to talk about that. If I can stay with the adolescence metaphor, we are going through the pimply teenager years.

Everyone criticizes. But we have to stay objective in our criticism, and most importantly be realistic. Even I have criticisms, as a member of the CSIC. For example, client services for members are virtually non-existent. When we ask for some simple administrative information, it is very hard to get a result. Do you think this is a valid reason, for example, to bad-mouth the CSIC? No, frankly, no. Nor is it a reason to dismantle an organization the size of the CSIC.

Why consider deregulating the profession? Why let other bodies seize the opportunity and wipe our profession off the map, if we may refer to a map? Why, with this bill, invite other organizations to apply? What purpose is there in this? Now that the CSIC has achieved a majority of its objectives, what we have to do is support it. Now is when we have to give it all the support it needs and stand behind it so it can move forward. We are not a long way off from maturity; the fruit is emerging. I concede that the fruit is sometimes unsightly, but we will get there. We are reaching maturity.

The CSIC and we, its members, since I am also a member, have taken on a Herculean job. Let's not forget that the government handed the Canadian Society of Immigration Consultants a minefield, and I would even say a sandpit, full of quicksand. But the CSIC has found its way, in spite of all the pitfalls. It has tried to sweep clean, to ward off the weeds, the infamous consultants you are judging today. Why should we throw the baby out with the bathwater? Why are we doing nothing to clean up the water, at least, and try to keep the lovely baby, that's healthy now and is going to continue to be?

The evidence of this is that today we have a board of directors that has diversified as a result of the various positions of the members who sit on it. So everyone is represented on that board.

Another point about the board of directors, it is also increasingly transparent. Why? Because there is a growing body of management policies, by adopting and applying strict rules, whether for discipline or for ethics. Certainly someone who does not want to comply with the rules and abide by the code of ethics and professional ethics has no business either in the CSIC or in any organization. They should absolutely not be working in immigration. This is a profession that calls for integrity, and I am hear today to attest to that.

Training is also a crucial point. In Quebec alone, for nearly a year, we have been taking training courses, one after another, day and evening workshops, all of it, to acquire skills, tried and tested professionalism on the part of everyone who calls themselves a certified member of the CSIC.

In the last year I have also observed that at the meetings and various events organized—not by me personally—there are more and more positive comments, rather than negative comments, being

voiced. This is quite simply because there has been a real collective realization brought about by the new generation of consultants who are in practice and are members in good standing. In fact, there is a real sense of solidarity.

• (1640)

These people are fully aware of the directives and requirements of the CSIC.

I can tell you that the new generation does not feel not remotely concerned with the old disputes and tales, and the differences of opinion there may have been.

What gives me confidence is that in spite of the many criticisms voiced by some members about membership fees, for example, the CSIC also offers us a sound, working budget. On that point, I have never really heard any criticisms saying that we don't manage our affairs properly. We often hear that we charge high membership fees, but you can't have your cake and eat it. If we want to have an organization that will stay the course, that has a certain level of prestige and, most importantly, provides the public with a service, it has to have the resources to do that. So that is a sacrifice we have to make, as members, by paying the necessary membership fees, but we get what we are after.

In closing, I have two or three comments about the bill. Why did the government allow a transition period of several years when the CSIC was created?

The only result was confusion and animosity among the members and other recalcitrants who took advantage of the situation. In any event, those people were never members of the CSIC, and it is often the dissenting voices that are heard.

As well, did the CBSA not also have to play a more active role in “hunting down” crooked consultants?

And last, why use the term “consultant”? When I hear “crooked consultant” or something else, I almost feel insulted. I certainly do not see that situation as referring to me, but in terms of the bill, that label really has to be changed. They should be called either uncertified or illegal immigration representatives, call it what you want, or certified immigration “*conseillers*”. This word “consultant” should be banned. It's bad publicity, it puts out a bad image.

I can tell you that the people who get caught or fooled by these infamous crooked consultants, also call themselves or consultants or something else.

So I am proud to be a member of the CSIC, today, and I hope to give you as much information as I can provide.

[English]

The Chair: Thank you for your presentation, Ms. Adam, and that will come.

Mr. Tencer, thank you, sir. You have up to seven minutes.

• (1645)

Mr. Joel E. Tencer (Immigration Consultant and Member, Canadian Society of Immigration Consultants, As an Individual): Thank you very much.

I have a couple of preliminary comments.

My proper professional title is “Member of CSIC, the Canadian Society of Immigration Consultants”. I'm not an immigration lawyer nor am I a member of the law society. I do practise immigration and refugee law as a member of CSIC, just for the record, to clarify that.

Number two, yesterday, for the benefit of all of the members of your committee, I e-mailed to you my letter of August 10 that I sent to the Honourable Ken Dryden setting out my support of CSIC—which I'll refer to as “the society”—and why I support CSIC continuing to be the professional regulatory body. I sent that yesterday to Julie Prud'homme. I hope the members all have it and—

The Chair: Sir, just for clarification, the clerk does have it.

Mr. Joel E. Tencer: That's great.

The Chair: It has to be translated into French. Once that is done, the members of the committee will get it. They do not have it now. It has to be translated, but it will come.

Thank you.

Mr. Joel E. Tencer: Thank you.

In the over six years—it's about six and half—that the society, which is of course the Canadian Society of Immigration Consultants, has been in existence, they've made tremendous strides, as Ms. Adam has correctly stated.

They have taken their work very seriously as a professional regulatory body of all people who are not members of a provincial law society. They have put forward very comprehensive and detailed rules of professional conduct, for example, which all of us, as licensed members, are required to adhere to. It can be seen on their website, which is csic-secci.ca.

The rules are very sensitive for consumer protection; that's the primary mandate of the society. The rules require all of us as members to act professionally at all times and to be knowledgeable and skilful. For example, they forbid us to take on work that we're not experienced or skilful at. They define what improper conduct or professional misconduct means. They require all of us as members to prepare retainer agreements, for example, so that clients know what professional work they're getting from us and what the fee is. There are even advertising sections in the rules, which require us to advertise honestly and properly to the public.

Providing professional immigration and refugee services must be done properly and professionally and that's the main mandate of the society: to protect the public. They are vulnerable and need protection.

The society also has continual professional development seminars, which is part of the rules in that we are required as members, sir and committee members, to rack up a total of 40 professional points every two years. We must attend seminars or online videos and answer skill-testing questions, which keeps us up to date in all changes and amendments to the immigration regulations of Canada as well as the refugee regulations.

There is a strict complaints and discipline committee, and that is in order and is working very properly at the society's office in Toronto. There have been well over 200 immigration consultants who have required disciplining because they have run afoul of and have

violated one or more rules of professional conduct, or they have run afoul of the act—by the act, I mean the Immigration and Refugee Protection Act of Canada. This committee—complaints and discipline—takes its very work very seriously, and if people need to be suspended, fined, or have their licence revoked, it has been done, and it continues to do so. The public is aware of this, and certainly complaints can go down to the society.

We are very strict about the public money as well. Any money given to us as licensed consultants is required to go into a designated bank account, called a client's account—as I call it—and all clients' moneys must go there. Moneys must not be touched or taken out until the professional services are rendered and invoices are prepared and sent to the client. Only then are we allowed to take any money from the client's bank account.

The society also has a compliance audit, whereby auditors who are employed by the society will do random spot checks—which is very important, as it is in any profession, whether it's lawyers or engineers or doctors—to make certain that we run our practice in a proper way. They will check our files and make sure that our backup files are done properly and that our bank accounts are in good order. The society has just set up a compensation fund recently, whereby if a consultant is convicted of a criminal conviction and there was a monetary loss to the client, a compensation fund is there and available and a monetary loss can be compensated to the client.

This is a fulfillment of conditions that the Minister of Citizenship and Immigration has required the society to do. The society has fulfilled every single condition that the Minister of Citizenship and Immigration has required them to do.

There is also errors and omissions insurance, sir. If there is negligence, we are required, of course, to own up to that. We pay membership fees every year and we pay errors and omissions insurance premiums every year to cover any negligence on our part. Negligence can occur from time to time.

• (1650)

Any amendments to the immigration and refugee laws are sent to us immediately by e-mail. I get e-mails on a regular basis, as I'm sure all licensed members do, advising us of changes to Citizenship and Immigration Canada operational policy and proposed changes to the Immigration and Refugee Protection Act so we can render a very proper, professional service to the public. That is most important.

Sir, annual meetings are held by the society, which we all attend regularly online. Financial statements are given to us every year and they've been audited by outside auditors. Every year, the auditors have given a positive, clean record that the financial statements of the society are proper and everything is done properly.

Membership in the society is not given willy-nilly, sir. We now have to pass a designated comprehensive immigration practitioner course—

The Chair: Could you wind up your presentation, please?

Mr. Joel E. Tencer: I will wind up. In addition to passing that, the society requires that its entrance exams be passed.

There are many other good points to the society. There's a 24-hour hotline for members of the public.

In my opinion, it's come a long way. I believe the society should continue to act as a professional regulatory body of licensed members who meet the professional standards.

Thank you.

The Chair: Thank you very much, Mr. Tencer.

Mr. Oliphant, you have up to seven minutes.

Mr. Robert Oliphant (Don Valley West, Lib.): Thank you, Mr. Chair.

Mr. Tencer, I'm a little confused. This committee is discussing legislation to make significant changes. In this legislation, it says that the minister, not us, will appoint a regulatory body. Unilaterally, the minister is able to hire and fire a group of people to be the regulatory body.

You've made a very impassioned appeal on behalf of one of those possible applicants. Do you think Parliament will have a say in picking this body?

Mr. Joel E. Tencer: My answer to you, Mr. Oliphant, is the following: that's actually one of the comments I have on Bill C-35 and particularly on proposed subsection 91(5), where it says, of course, that the minister "may designate a body...". Rather than the minister having this extraordinary power, it's my respectful submission that a body ought to be set up—or possibly in cabinet or with a committee of some sort—and they are the ones who should decide whether the society should continue—that is, CSIC—or a new regulatory body should be set up.

I'm not totally experienced in politics. It's not an area that I profess expertise in, but I believe that a certain body or cabinet, after discussions and meetings, ought to decide whether the society, CSIC, should continue or a new one should be appointed—

Mr. Robert Oliphant: Thank you, Mr. Tencer. I'm going to interrupt you because my time is limited, but that was my concern. Because you're making an appeal without having said that in fact the legislation will not do that. The legislation is not like a regulatory body for other professions.

This is a unique situation, so I wanted to clarify that this was your concern. Because we won't have any say over what body does this work. We're simply not involved in it. This legislation is quite determinedly pointing in another direction.

Thank you. I just wanted to clarify that.

Let me practice this name—I'm like our chair—Madame Deravedisyan-Adam.

Ms. Selin Deravedisyan-Adam: Just use "Adam", please.

Mr. Robert Oliphant: Madame Adam, is that correct?

Ms. Selin Deravedisyan-Adam: *Oui. C'est parfait.*

Mr. Robert Oliphant: *Ça suffit?*

•(1655)

[Translation]

Ms. Adam, there are two subjects I would like to address: the program and the governance for the program.

Under the program, in Quebec, are there other opportunities, other continuing education programs or initial training?

Ms. Selin Deravedisyan-Adam: There are two. In Quebec, to get training in order to write the exam to become an immigration consultant, you have to take the training in English offered in the various institutions certified by the CSIC or enrol in the well-known online program, e-Academy. That program is also offered in French. That's what there is at the moment.

Mr. Robert Oliphant: How many members does the CSIC have in Quebec?

Ms. Selin Deravedisyan-Adam: We have about 150 in Quebec.

Mr. Robert Oliphant: Five—

Ms. Selin Deravedisyan-Adam: One hundred fifty: one, five, zero.

Mr. Robert Oliphant: How many people who are not members of the CSIC do you think are practising the administration of justice and consultant work in Quebec?

Ms. Selin Deravedisyan-Adam: We could easily say four, five, six or seven. The figures may be unbelievably high because at the moment, for example, it is very easy to call yourself a consultant. That's why I made a comment about the term "*consultant*" just now, which is misused, which is used to cover just about anything. Very simply, someone can very well enrol today at Lasalle College, take an immigration consultant training course, that's what the diploma is still called, hang the diploma up in their office and then go and get a nice document from the ministère de la Justice with the seal of the ministère, saying "commissioner of oaths", and hang it up. The regulations at Immigration Québec are coming in just in time to control all that.

[English]

Mr. Robert Oliphant: Is it possible to run your operation of the institute in Quebec at a cost-recovery level or do you need *les subventions* or *une bourse*, to do that?

[Translation]

Ms. Selin Deravedisyan-Adam: When you say institution, you're talking about the CSIC, probably?

Mr. Robert Oliphant: I'm talking only about the Canadian Migration Institute.

Ms. Selin Deravedisyan-Adam: Right. For that organization, for the moment, we do not get any subsidies at all, from the government or otherwise. We are totally independent.

Mr. Robert Oliphant: It's completely independent?

Ms. Selin Deravedisyan-Adam: Yes, to my knowledge. At the provincial level, in any event, I have never personally had to solicit funding from any government department or anywhere else.

[English]

Mr. Robert Oliphant: Are there profits from the operation?

[Translation]

Ms. Selin Deravedisyan-Adam: The Canadian Migration Institute is in fact, at the moment, still a for-profit organization, but that kind of information is handled by head office in Toronto.

[English]

Mr. Robert Oliphant: When you're designing courses, do members, notaries, or lawyers in Quebec take courses from the institute?

[Translation]

Ms. Selin Deravedisyan-Adam: The difference is that the Institute is not officially a training body. It is there to protect the public, to help consultants, specialists, be they lawyers, notaries, members of the Barreau du Québec or simply certified immigration consultants, get access to various training sessions, but also to participate in events. We are also involved in working round tables with the various immigration authorities. Even lawyers are involved in those round tables.

[English]

Mr. Robert Oliphant: Perfect.

Mr. Tencer, you gave a passionate defence of CSIC, and even though we are not going to be choosing it, as members of Parliament we have heard many concerns about CSIC from members. We have heard concerns about the high cost of the dues to join and the high cost of educational materials. We've heard about the problem of not having enough services in French. We've heard about some governance issues.

• (1700)

The Chair: You're way over, sir. Maybe you could wind up your question.

Mr. Robert Oliphant: Are there no problems in CSIC?

The Chair: That question is to you, Mr. Tencer.

Mr. Joel E. Tencer: I didn't realize that. Thank you.

With any organization that has close to 2,000 members—we have approximately 1,850—one or more people will have some complaints. Not everybody will be happy with everything. You can't satisfy all of the people all of the time, to use an old expression.

I know that every professional organization requires money to operate. Whether its members are doctors, engineers, or lawyers, you have membership costs. If I recall correctly, there was a chart sent out to all of our members comparing our membership fees—

The Chair: We have to move on, sir.

Madame Beaudin, you have the floor.

[Translation]

Mrs. Josée Beaudin (Saint-Lambert, BQ): Thank you, Mr. Chair.

Good afternoon, everyone.

My questions are going to be for you, Ms. Deravedisyan-Adam, so I can be quite sure I understand what you have said. First, you must know, since you are in the field, that there are consultants, people who call themselves experts in the field; there must be crooked consultants.

Ms. Selin Deravedisyan-Adam: Yes.

Mrs. Josée Beaudin: I would like to understand what you're saying. You are familiar with the new regulations in Quebec. Do you think they are sufficient to resolve this situation?

Ms. Selin Deravedisyan-Adam: There are a lot of changes in Quebec. Everyone who can work directly with the ministère de l'Immigration et des Communautés culturelles is going to have to make a mandatory declaration when they fill out the forms. There is a parallel with Bill C-35. I didn't come here just to criticize. The positive point is that anyone who advises another person will have to be a member in good standing of an organization. Quebec has already focused on this, and at its site we can see today that it does indeed talk about members in good standing of the CSIC. That is a positive point.

Mrs. Josée Beaudin: Do you think there might be duplication between the federal government and the provinces, in terms of legislation?

Ms. Selin Deravedisyan-Adam: Those are more political issues. In fact, it is going to be very complementary. Don't forget that Quebec has the unique feature of having its own immigration programs and there are many very worthwhile programs. As a result, a lot of people use Quebec as an access route. So it is entirely to be expected that this province would want to control the flow of applications submitted to it.

Mrs. Josée Beaudin: Several of us have mentioned the power given to the minister under this bill. In 2008, this committee made some recommendations. In the June 2008 report, it recommended that a new organization be created under a separate statute. Under Bill C-35, the organization would be under the direct authority of the minister. Don't you think that would give him too much power?

Ms. Selin Deravedisyan-Adam: You're talking about Quebec, or the federal government?

Mrs. Josée Beaudin: The federal minister, under Bill C-35.

• (1705)

Ms. Selin Deravedisyan-Adam: I'm going to be more direct. I may be speaking for the CSIC today, but if it were another organization, I would be defending those interests just as zealously. The circumstances mean that we're talking about the CSIC here. My goal is to explain, to the minister or to someone else, there is no point in wiping it all out and starting over at zero, given the money and energy that have been invested in it.

Mr. Oliphant referred earlier to subsidies. We must not forget that the CSIC does not receive any subsidies, from the government or otherwise. We have done it all by the sweat of our brows. It's the work we have done that has enabled us to cover the infamous membership fees. Even if the minister has the power to make changes, starting over at zero would put us back in exactly the same situation.

I am also a business start-up specialist. I compared a business to a human being. Whether it be a non-profit or organization or a for-profit organization, the stages are exactly the same: early childhood, adolescence, adulthood and old age. Before you get to the wisdom and maturity of old age, it takes a lot of years and mutual support among people.

Mrs. Josée Beaudin: I agree with you when you talk about honest consultants, but you yourself say that some are dishonest. The only issue here is rebuilding a structure.

Ms. Selin Deravedisyan-Adam: But those people don't belong to that structure. This is what I really want to stress. They have to be either banned altogether or integrated officially, but dismantling the structure serves no purpose. It's like having a bad hand of cards, and trying to shuffle the cards and start a new game. That doesn't mean you'll get a hand with four aces. Do you understand?

Mrs. Josée Beaudin: Thank you.

I have no further questions, Mr. Chair.

The Chair: Thank you.

Thank you, Ms. Beaudin.

[English]

Mr. Rafferty.

Mr. John Rafferty: Thank you, Chair.

Welcome, Mr. Tencer and Ms. Adam.

You've both waxed very poetic about CSIC and its activities. I talked a little earlier today about the re-establishment of CSIC. Am I to gather that both of you feel that with the right amount of evolutionary time this will be a fine organization or even a fabulous organization?

Ms. Selin Deravedisyan-Adam: It will soon be a fabulous organization.

Mr. John Rafferty: It will soon be...?

Ms. Selin Deravedisyan-Adam: Yes.

Mr. Joel E. Tencer: I would agree with that, sir. It takes time for an organization to grow and mature. The Law Society of Upper Canada has been around for over 200 years, approximately. We have been around for six and a half and I think we can compare ourselves very honourably, sir, to the Law Society of Upper Canada.

As I indicated earlier, we have strict money requirements, strict bank accounts, and rules of professional conduct. There are discipline departments. It would be a shame to have all that wiped out. We have professional seminars. We have compensation funds, as I indicated, to recompense victims of crime committed by unscrupulous consultants.

We have strict requirements. You cannot become a member of the society without passing exams, which I had to do. All of us did. They weren't easy, I can tell you, sir. They were quite difficult. You have to pass a membership exam today and take a membership practitioner course. The people governing CSIC today have credentials in the governance field. One of them—I think it's John Ryan—has a governance accreditation from a recognized educational institution in Ontario. They have a board of directors. There are officers and staff who are available.

In my respectful submission, and as you've indicated, evolution should take us where the society will be as time goes on.

Mr. John Rafferty: Let me ask you both about one particular program. You haven't talked about it and I wonder if it exists. Are you spending some of your time, money, and energy on any sort of

public relations campaign to steer people away from non-CSIC members right now? Is CSIC doing this?

[Translation]

Ms. Selin Deravedisyan-Adam: Yes. Very, very big campaigns have been done by CIC, Citizenship and Immigration Canada. Those campaigns have been very promising.

In my own private practice, I have noticed that for several months now, I have been getting calls from people who find us—not me personally, but the organization—in the newspaper, and even outside Canada. They contact us because they want to get the right person, the right consultant.

So it is a source of pride for us to see that these campaigns are working.

[English]

Mr. John Rafferty: Thank you.

Mr. Tencer, would you like to make a comment?

Mr. Joel E. Tencer: I wonder if I might add a short comment, sir.

Mr. John Rafferty: Yes, please.

Mr. Joel E. Tencer: CSIC has gone out to the media through newspapers and radio ads, and even on its website it has a short video about how the public should not go near any unlicensed consultants—or unlicensed persons, because by definition they can't be called consultants. There has been an extensive public media campaign in which CSIC has gone out and told people to not go near unlicensed persons because they don't have the qualifications, the professionalism, and the skills that we as consultants have.

The answer to your question, sir, is that there's been a very extensive public relations campaign out to the world by way of CSIC's website, newspapers, and radio. Only licensed people should take people's money. Vulnerable people who want to come to Canada must be looked after by licensed and skilful members, as we are, as Ms. Adam is, and as other licensed members are. So that's the answer.

• (1710)

Mr. John Rafferty: Okay. Thank you very much.

I have one last question for both of you. This isn't the question, but this leads up to the question.

Mr. Tencer, are you a lawyer? You're not a lawyer?

A voice: No.

Mr. Joel E. Tencer: I'm sorry? I didn't—

Mr. John Rafferty: Ms. Adam, you're not a lawyer?

Ms. Selin Deravedisyan-Adam: No, I'm not.

Mr. Joel E. Tencer: As I said earlier, I'm a member of the law society—I'm sorry, I'm a member of CSIC, although I have a law degree.

Mr. John Rafferty: Okay. Let me ask you about lawyers. Under this legislation—and before this legislation—lawyers seem to get a free pass. You know, if you're a lawyer, you don't need to be particularly skilful or experienced in immigration law or refugee work or anything else.

In many other countries in the world, such as Australia, for example, you're required, if you're a lawyer, to pass certain immigration examinations before you can practise in that field.

I guess the question is for both of you. Is that a problem now and how would you resolve that issue?

Perhaps Ms. Adam could answer first.

[*Translation*]

Ms. Selin Deravedisyan-Adam: Right.

For the Immigration and Refugee Protection Act, it is unique in its very technical nature. For someone who studies law, and my daughter is a law student so I know exactly whereof I speak, there is no program specifically for immigration. There are only options, things like that. So a lawyer who comes onto the labour market and wants to work in the field of immigration has to work with a consultant or a lawyer who is already practising in that field, if they want to learn the trade and practice it.

A lawyer has to take the same route as a consultant. Obviously, there is certainly [*Inaudible—Editor*], but in any case, what a consultant can do is limited. When a consultant has gone to the Immigration and Refugee Board, the well-known IRB, they can no longer go to the federal courts, for proceedings at the federal level. That is our limit. Then you have to work with lawyers so they can take over the case and continue handling the cases.

That's how it works.

[*English*]

Mr. John Rafferty: Mr. Tencer, would you like to comment?

Mr. Joel E. Tencer: I graduated from Osgoode Hall Law School in 1972 in Toronto with my law degree, LL.B.. I can tell you quite emphatically that there was no such thing as an immigration law course, at least in those years, 1972, 1976....

I knew zero about immigration law after completing law school, until CSIC came along. I'm a proud member of it now. As a result of seminars, reading the act, and CSIC's education and conferences, I've honed my skills. I can truly and emphatically say as well that because we practise immigration and refugee law every day, day in, day out, which I do in my office...I have the immigration texts on my desk, which I refer to. The lawyers, because they're lawyers, have the right to practise immigration and refugee law because it's law by definition.

The Chair: Thank you, Mr. Tencer.

Mr. Joel E. Tencer: The problem is they've never taken an immigration—

The Chair: Thank you, sir. We're going to move on, sir.

Members of the committee, we're going in camera after Mr. Young has had his questions.

Oh, I'm sorry. I'm looking at the wrong name. It's Mr. Uppal.

I apologize, Mr. Young and Mr. Uppal.

Mr. Uppal, you have the floor for up to seven minutes.

Mr. Tim Uppal (Edmonton—Sherwood Park, CPC): Thank you, Mr. Chair.

Thanks to both of you for coming. We've heard a very passionate plea for CSIC. Thank you for bringing that to us.

The fact is that we're in the process of making changes, and some pretty significant changes, to your industry. They are changes that, looking at the bill, would protect consumers. They would protect legitimate consultants. They would protect the integrity of the immigration system as well.

These are changes that in general all parties here in Parliament support. We may disagree on some of the details of the bill.

I want to speak to you about the bill that's in front of us today and is basically the reason you're in front of this committee. I'm going to ask both of you the same question. I'll ask Madame Adam to answer first.

What is the difference between you, as a CSIC member, and an unregistered consultant?

[*Translation*]

Ms. Selin Deravedisyan-Adam: I want to say first that I have fought to get where I am today and I did it at great sacrifice. I not only had to become a member in good standing of the CSIC by taking extremely difficult exams, but I also had to make financial and other kinds of sacrifices to keep up my knowledge through continuing education. We have talked about this already, and a lot of people have told you this. You can't disregard it. We are obliged to do this under the regulations, and I am very proud of this.

We have talked about the CSIC today, but that organization could have had any name. I am happy with the present approach and regulations. What distinguishes us is that some people evade the regulations. They aren't members, they don't pay anything, they have absolutely no training, they don't take the courses or training we have had to take.

Mr. Rafferty made a connection earlier between lawyers and us. We have really learned how to practise this immigration-related profession. That is why I have got to where I am today.

● (1715)

[*English*]

Mr. Tim Uppal: Mr. Tencer.

Mr. Joel E. Tencer: Thank you.

Your question, if I understand it, is about the difference between an unlicensed person and a licensed consultant. I think I've answered part of that. The unlicensed person takes advantage of vulnerable people who need to run away or want to immigrate to Canada. These unlicensed persons are not knowledgeable because they didn't study like we did. We paid money to take courses and to pass exams. We are at a certain level of knowledge and skill that these unlicensed persons cannot possibly have.

As for moneys and where our client's money goes, the bank accounts are regulated. These other people could take the money and run away and they've done that. It has been in the newspapers, in the media. We are licensed and therefore are held to a strict standard. None of us would have been licensed, Mr. Uppal, had we not proven to CSIC that we know the refugee law and the immigration law.

There are always complaints.... A disciplinary department is hanging over our heads, which is important for any professional body.

Our knowledge allows us to render a proper professional service, which I'm very proud of, because I am where I am today thanks to CSIC.

As I said, lawyers do not take immigration law in law school; I never did when I was there. I learned everything through seminars and conferences, as Ms. Adam has stated.

Therefore, an unlicensed person is now covered in this new legislation, Bill C-35 in that it's an offence for them to get involved with persons in the area of immigration and refugee law.

The only comment I want to add now is that I'd like to have some serious teeth put into this bill. Unlicensed persons who are caught practising immigration and refugee law ought to be strictly fined, with maybe even a jail term to deter them, because they're taking advantage of vulnerable people around the world who want to come to Canada.

Mr. Tim Uppal: Those provisions are in the bill.

Can you tell me how these unregistered consultants affect your business?

Mr. Joel E. Tencer: Well, as for affecting my business, what they can do, if they're unscrupulous enough, is that they can offer to do a professional service for half the price or a quarter of the price that I do it for. I have an office and I have expenses, but they can work out of a pick-up truck if they want to. They'll take \$500, maybe even in cash, with not even a proper cheque.

They take away work from those of us who have worked hard to get where we are. We pay membership fees. We pay errors and omission fees and compensation fund fees. They pay zero, except if they have an office, which I doubt. They're taking away business from people who deserve to represent persons who need immigration advice or work or are before the Immigration and Refugee Board. This is what they're doing.

They're not rendering a proper service, which makes me very upset and frustrated. They're charging low fees, undercutting all of us who are licensed, and they're doing an improper service. Some of them are not doing any service. I've heard of cases where people in Pakistan and other countries are taken advantage of. The money goes into an unlicensed person's pocket and they never see the person again. They've paid \$10,000, an exorbitant amount of money, which I do not charge—we all have to charge reasonable fees—and the money is gone. These people are victims and they can never recoup their money.

It's a very sad situation to have unlicensed people in this profession.

Mr. Tim Uppal: Absolutely.

Can CSIC do anything about the unregistered consultants?

• (1720)

Mr. Joel E. Tencer: I think they've had meetings with government bodies, Mr. Uppal. Possibly—

Mr. Tim Uppal: What I'm getting at right now is that there is provision in the bill for unregistered consultants. First of all, this bill would require them to be registered. If they are not, there is jail time or serious fines. I want to get your viewpoint on the fact that they would have to be registered.

Mr. Joel E. Tencer: Right, I agree. It's trite to say this, but they have to be registered. They have to meet the standards that I and Ms. Adam have met and that the rest of our 1,850 or so members have met. I don't see the jail or fine, but I don't have Bill C-35 in front of me. As long as it's there, that's important.

I think that maybe a government body should be set up, some investigative body that should try to find these unlicensed persons and have them charged. I would like to see the government take a very serious step in this direction. As I said, there are many people out there who didn't take any courses and who don't pay money. I think there should be more proactive work done by the government, by Immigration Canada, possibly, together with CSIC, to work against these unlicensed, unscrupulous people.

The Chair: Thank you, Mr. Tencer.

We've come to the end. I want to thank you, Ms. Adam and Mr. Tencer, for your contribution to the committee this afternoon. Thank you very much.

We will now suspend so that we can go into in camera.

[*Proceedings continue in camera*]

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