



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# Standing Committee on Citizenship and Immigration

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CIMM • NUMBER 036 • 1st SESSION • 41st PARLIAMENT

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EVIDENCE

**Wednesday, May 2, 2012**

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**Chair**

**Mr. David Tilson**



## Standing Committee on Citizenship and Immigration

Wednesday, May 2, 2012

• (1205)

[English]

**The Vice-Chair (Ms. Jinny Jogindera Sims (Newton—North Delta, NDP)):** We are going to get started. We have quorum.

My apologies to our witnesses that you were kept waiting. Just to explain, we did have caucus meetings this morning. I know my other colleagues are running as fast as they can to get here. They will join us as soon as they can.

Let's start with Mr. Grubel first.

**Mr. Herbert Grubel (Senior Fellow, Fraser Institute, As an Individual):** Thank you, Madam Chair, honourable members of the committee. Thank you for inviting me again to share with you my views on pending legislation aimed at improving Canada's immigration system.

Minister Jason Kenney, the government, and the members of this committee deserve much praise for taking on this difficult task.

By now, you will have heard much criticism from well-organized lawyers and human rights advocates about the shortcomings of Bill C-31. All of these criticisms deserve your attention, and some may help to improve some detailed provisions of the bill. I will stay away from discussing the issues raised by these critics, except to urge the committee to remember that the views of lawyers and rights advocates are not entirely driven by their unselfish desire to protect the rights of asylum seekers. These witnesses also have much at stake, professionally and personally.

I have no personal stake in the effects and operation of Canada's refugee legislation. My remarks are motivated by the desire to discuss how Bill C-31 will affect the well-being of Canadians, which is a topic often neglected in discussions that focus on the effects of the bill on the well-being of asylum seekers. However, before I do so, let me be clear that my analysis should never be interpreted as suggesting that Canada should withdraw from its commitment to help people escape from persecution abroad. The issue, as I see it, is that while our moral commitment is and should remain firm, it should not be without limits. Just as most of you and I gave less to charity when we were young and poor, struggling to take care of our families, we give more now when we can better afford it, and so should Canada during the present fiscal crisis.

Bill C-31 will reduce the cost of our commitment to help foreigners. It is therefore appropriate for our present fiscal conditions. In this spirit, let me remind you of the undisputed existence of Canada's serious fiscal problems due to stubborn

deficits and the effects of an aging population on the unfunded liabilities of pensions and health care programs.

There's also no doubt about the fact that the administration of the existing refugee system is costly. As Martin Collacott told you earlier this week, and James Bissett will tell you in more detail tomorrow, the direct cost for every claimant has been estimated to be about \$60,000, and the annual costs of dealing with all of the claimants in Canada are in the billions.

In addition, present refugee policies cause successful claimants to settle in Canada without having to pass the points or other tests. Studies have shown that most of them will have below average incomes and tax payments while they absorb benefits provided by our universal social programs. My estimates suggest that the annual fiscal burden of such immigrants is about \$6,000, on average, and probably greater for admitted asylum seekers.

I believe that Bill C-31 will not only make the system fairer, but it will also reduce the number of asylum seekers and successful claimants. These reductions will give rise to savings, which will reduce the deficit, allow governments to provide more public services, or lower taxes.

These benefits of Bill C-31 going to Canadians are accompanied by costs to asylum seekers. You have heard much from lawyers and other witnesses about violations of due legal process and the way in which seekers suffer from a reduction in the standards of fairness in their treatment. We are faced here with an iron law of economics: government benefits to some impose costs on others. The trouble with Bill C-31 is that no estimates of the value of these benefits and costs exist. Yet in the end, your decision to vote should rationally be influenced by such calculations.

• (1210)

The value of feeling good about being generous to foreigners, and even of meeting to the fullest extent the commitments made through international agreements—the value of those benefits to you is not infinity. If the benefits were \$1 billion for each less fairly treated applicant or wrongfully rejected claimant, the bill would be more desirable than if the benefits were \$1 million or \$100,000. In the absence of these numbers, you have the unenviable task of voting for a bill without full knowledge of the benefits and costs. My sympathies are with you.

In case you're interested in my personal views, let me tell you that I would vote in favour of Bill C-31 because, based on my knowledge gained in my study of economics, I believe that the likely benefits to Canadians are high enough to warrant the imposition of some costs on asylum seekers. But let me add, frankly, that I have a moral bias entering these views. I believe that charity should start at home, and that the well-being of foreigners should come second, and only after we have gotten our fiscal house in order.

Thank you, Madam Chair.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much.

You actually did very well. You had three more minutes left.

**Mr. Herbert Grubel:** Can I just tell you, then, that this cost-benefit analysis is something we should think in terms of, rather than necessarily having the numbers. When I was in the House I approached Allan Rock, who had just introduced the bill on the long-gun registry, and I said to him, "I'm in a serious dilemma. I would like to vote for the bill, but I need to know rationally how many lives would be saved per million dollars, or how many millions of dollars it will cost to save one life as a result of this calculation." He told me, "You will have this calculation". It never came forward. I believe if we had honestly considered the cost that it turned out to be, we would have saved that very divisive legislation that we have gone through, the history of which you are all familiar with.

Thank you.

• (1215)

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you.

Now we'll move over to Janet and Cécile. Between you, you have ten minutes.

**Dr. Janet Cleveland (Psychologist and Researcher, Transcultural Research and Intervention Team, Division of Social and Cultural Psychiatry, McGill University):** Thank you very much.

My name is Janet Cleveland. I'm a psychologist, former lawyer, and now a researcher on refugee mental health. For the last three years I've worked essentially full-time on the impact of detention on refugee mental health, and I've many times visited the immigration holding centres in both Toronto and Montreal, so I can give you lots of details about what it's really like there, if you wish, later on.

My colleague Cécile Rousseau is a professor of psychiatry at McGill University and is a world-renowned scholar in the field of refugee mental health, with over 160 scholarly publications.

I'll say a few words about the study we recently finished. As I mentioned, it was conducted at the immigration holding centres in Toronto and Laval, close to Montreal. We interviewed 122 asylum seekers who were detained in those two institutions, and we also had a comparison group of non-detained asylum seekers with the purpose, of course, of seeing the impact of detention. You have two essentially identical groups except one is detained and the other is not. They did mental health questionnaires and interviews.

The immigration holding centre, as I mentioned earlier, is a prison, of course. That is to say, people are handcuffed when they travel between the prison and the downtown area for their hearings. There

are uniformed guards everywhere, surveillance cameras, extreme limitation of movement, no liberty essentially, extremely rigid rules, and so on. People can be punished by being put in solitary confinement if they don't respect basic minimum rules like getting up in the morning on time. It's a prison environment, and therefore there is a serious impact in terms of mental health.

The first thing one has to look at is that it's a population that is already, generally speaking, very severely traumatized. It has had high exposure to trauma. To give you an idea, within the two groups, people had experienced, on average, nine major traumatic events during their lifetime. This is off the charts. This is extremely high. One or two major events is considered quite high, quite serious.

We're also talking about a very serious type of trauma. I also want to point out that it's essentially identical in the two groups. You have two groups with the same trauma exposure before arriving: typically physical assault, family members who have been assaulted or killed, etc. There are those types of major trauma. They get to Canada and one group is detained and the other is not.

If you look at the difference in terms of their mental health—these are symptoms that are above the clinical level, so we're talking about sufficiently serious to be considered clinically suffering from post-traumatic stress disorder, depression, or anxiety—after only 31 days on average in detention, the difference is absolutely huge. There was almost twice the level of post-traumatic stress disorder in the group that was detained, 32% in total. Depression was also over 50% higher in the detained than the non-detained group. As I say, this is after an average of 31 days in detention, a relatively short time, certainly considerably shorter than what is envisaged under Bill C-31.

Quickly, just to give you a sense of the people we're meeting with, on the screen is a quote from a young Somali man whose father was killed in front of him by warlords. He was defending his son from being recruited forcefully by the warlords. Luckily, his uncle was able to get him a false passport and a false visa to get to Canada. He was in prison for a couple of months at the immigration holding centre. He was very severely traumatized, as you can see from this quote, and was also in deep mourning, and yet he was held for two months, which of course considerably increased the level of post-traumatic stress disorder he was already suffering from.

There was a woman in a somewhat separate part of the study, for which I met 21 asylum seekers who had arrived on the *Sun Sea*. Of course this is exactly the type of group targeted by Bill C-31. This is a very typical example of what people have been through. Many members of her family had been killed in front of her by a shell falling on them, and she herself of course was also impacted and had very serious PTSD.

•(1220)

Finally, I'll just point out that if we look at the *Sun Sea* asylum seekers, for example, they were detained for long periods, and yet—at least under existing legislation—had access to detention review. People were freed within the first couple of months who would not be freed under Bill C-31—for example, a couple with a child who was very severely handicapped with cerebral palsy. There are other examples I have given here.

I'll turn this over to my colleague.

**Dr. Cécile Rousseau (Professor of Psychiatry and Researcher, Transcultural Research and Intervention Team, Division of Social and Cultural Psychiatry, McGill University):** I am Cécile Rousseau, professor of psychiatry at McGill.

There is strong evidence in the scientific literature in our research on children—which is a separate research area—and also in our clinical practice in the last 20 years that detention has strong and pervasive effects on children's mental health. It has effects. We have hundreds of terrible stories. I won't have time to explain them to you, but it has effects on attachments and on what we call internalized problems, such as depression, anxiety, school phobia, and learning problems. It provokes traumatic symptoms, such as nightmares and withdrawal, and it is also a source of behaviour problems for children who were well adjusted before that.

There was a move and a change from Bill C-4 to Bill C-31, which indicates—and I really want to congratulate the government on this—that the government was sensitive to the Canadian association of pediatricians, the Canadian association of child psychiatrists, and the association of public health directors. These three associations asked you and the minister not to detain children. We welcome the fact that children under 16 are now excluded from detention. We think this a recognition that the government knows this is harmful for children.

This will not, however, protect children, because children still will be in detention with their parents. For an eight-year-old child, being “detained” or “in detention with mom” is a semantic difference, and they don't know about semantics. Otherwise, they will be separated from their parents and placed in foster care. This has even worse mental health consequences, so we certainly do not wish to go there.

Finally, there will be no protection for pregnant women or for 16- and 17-year-olds, whose brains are still not totally developed.

Why is detention of children a public health hazard? Well, this is what we call toxic stress, because helplessness strongly decreases resiliency. It would take a very long time to explain to you that this is the kind of stress where there's no escape, but we know that this directly affects the developing brain of the child.

The separation from parents damages attachment and shatters basic trust. It provokes a whole range of consequences. In the short term, we see acute traumatic stress disorder, post-traumatic stress disorder, adjustment disorders with different symptoms, and also adolescent risk-taking and suicidality, which are very common too. In the medium term, it is costly because those kids, who very often will stay in Canada, develop learning problems and relational difficulties.

As for the long term, we need to study it. We're calculating the cost with the social work department at McGill. This is likely to be very costly. A pregnant woman who has a damaged baby because of prenatal stress or insufficient prenatal care...this is hundreds of thousands of dollars. A kid who drops out because he has developed learning problems is a huge cost for Canadian society. We have to consider these public health costs beyond the humanitarian consequences.

Finally, there's this quote from a mom: “Canada is supposed to be a civilized country—to detain a mother and a baby is not civilized.”

I plead with you.... I think Canada.... I have been and I am still very proud to be Canadian. This would preserve our values and our capacity to protect the children—

•(1225)

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Can you round off now, please?

**Dr. Cécile Rousseau:** —to preserve the best interests of children, and to protect them.

Thank you.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much.

Now I'll go over to Mr. Menegakis.

**Mr. Costas Menegakis (Richmond Hill, CPC):** Thank you very much, Madam Chair.

I want to welcome you back, Mr. Grubel. It's always nice to have a former parliamentarian come back to see us.

I want to also welcome our renowned researchers and members of academia who are presenting before us today. Thank you for joining us.

I have a number of questions. Hopefully I'll be able to get them out in the seven minutes, or the six and a half that I have left.

Specifically addressing Bill C-31, particularly in light of the testimony that we heard this morning, the new measures in Bill C-31 would see us finalize a refugee claim in about 45 days, from the current 1,038 days, for claimants from designated countries of origin, or 216 days for all other claimants.

Taking into consideration the compassionate and humanitarian aspect, for somebody who is a legitimate bona fide refugee seeking refuge from persecution, torture, or possible death in the country they're coming from, surely it is advantageous to them to be processed into the country in 20% of the time that it currently takes.

We cannot entertain the possibility of allowing everybody who shows up through what would otherwise be deemed illegal means automatically into the country without doing the proper checks and balances to ensure the security and safety of Canadians. We heard the *Sun Sea* reference this morning. From the *Sun Sea* and the *Ocean Lady*, 23 people were deemed security risks, and 18 were found to have perpetrated war crimes in their country, for a total of about 41 people that were questionable.

**Dr. Janet Cleveland:** That's actually incorrect.

**Mr. Costas Menegakis:** I'm not finished my questions yet, so we'll get to that.

The question comes up as to what we would say to a family who is victimized if we let a terrorist or a violent criminal onto our streets if we could have prevented it. Surely the government has a responsibility to ensure the safety and security of Canadians before allowing people in.

So my first question to you, Mr. Grubel, is what impact do you think bogus refugees have on genuine refugees, who have to wait longer? What would you say about that?

**Mr. Herbert Grubel:** If you take the trouble to come here and have some problems that you believe are legitimate, then of course by having less of an opportunity to be heard in all the details imposed is a cost to you. But the perspective I can bring to your deliberations is to say yes, in an ideal world we would give everyone who comes here years and years to explain to us why their claims are legitimate and should be settled, but we decide arbitrarily that there is a certain limit that should be set. The consequences of this are a cost on those who believe that they are treated unfairly, but the benefit is lower cost to the Canadian taxpayers. That is a trade-off, which I tried to point out is never discussed but should enter into the deliberations.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much.

I'm going to give Ms. Cleveland a chance to respond to the questions you raised earlier.

**Mr. Costas Menegakis:** I still have questions for Mr. Grubel.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Okay, carry on then.

• (1230)

**Mr. Costas Menegakis:** My questions are directed to Mr. Grubel right now, because I want to get to the bottom of a few things.

Mr. Grubel, currently we get about 25% more refugee claims from democratically elected European Union countries than refugee claims from Africa or Asia. Does that make sense to you?

I might add that the European Union, as you may very well know, is comprised of 27 countries. The first choice, one would think, is that the folks would have 26 other countries they could readily go to. What would you have to add to that comment?

**Mr. Herbert Grubel:** Sir, I have nothing to add. I think the move is in the right direction and I support it fully.

**Mr. Costas Menegakis:** I also want to broach the subject of biometrics, which is a key element of Bill C-31. I'd like to hear your comments based on your experience. Do you think that biometrics

will help us identify potential risks, even before people consider coming to Canada?

**Mr. Herbert Grubel:** I do not know the technical details on how this would be done, but I expect that it will help in the direction you have indicated. Therefore, I support it.

I sympathize with people who believe this is a potential infringement on freedom and privacy, but we do all kinds of infringements on freedom and privacy for the better good. I think this would be for the better good.

**Mr. Costas Menegakis:** I should point out that the RCMP, CSIS, and CBSA officials who have testified before us have identified biometrics as a 21st-century identification tool that is used in many other countries. Certainly the sharing of information with friendly countries would help identify potential risks from those coming here.

What we want to do with the bill, and this is the minister's intention, the ministry's intention, and the government's intention, quite frankly, is try to weed out those people who are clogging up the system, so that the very people who need that assistance that was referred to by Madame Cleveland and Madame Rousseau in their presentations can have easier and faster access into Canada. That's the intent of this bill, to declog it from those who are using illicit means.

Mr. Grubel, we get many refugee claims that are abandoned or stopped by the person who wants to come here. They are, in large number, from the European Union, at an annual cost to the taxpayer of about \$170 million to process by the time they decide—

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Mr. Menegakis, you are out of time.

**Mr. Costas Menegakis:** I'm sorry. Thank you so much, Madam Chair.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** There you go. We will leave that question sitting there for now. Thank you very much.

I'm going to take some questions, and I do have agreement from the chair, because as vice-chair I stepped in as chair for today.

My first question is to Ms. Cleveland. Please feel free to add as well, Cécile.

We know that under Bill C-31 children 16 or older will be incarcerated as if they were adults, while children under 16 will either be separated from their parents and put into provincial care, or unofficially held with their parents.

What are the probable mental health consequences if children are separated from their parents and handed over to child protection agencies while their parents are detained, and what are the probable mental health consequences of children being denied, officially or unofficially?

**Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC):** Madam Chair, I have a point of order.

We're feeling our way here because as a new person and our esteemed vice-chair you are in the chair. Would it be more comfortable for you if somebody else took the chair while you're asking questions?

**The Vice-Chair (Ms. Jinny Jogindera Sims):** I had this conversation with Mr. Dykstra and had arranged that I could ask them from here. The timing is being done by the clerk, and I'll make sure that I will not take a second over.

Thank you.

**Mr. John Weston:** Thank you, Chair.

**Dr. Cécile Rousseau:** Maybe I'll answer the issue of the separation from parents.

We have very ancient knowledge about separation from parents to protect children from war. It began with the London bombing in the Second World War, with children being evacuated from London and separated from their parents doing far worse than those who stayed with their parents during the bombing of London.

Recently a study in Finland has shown that people who were evacuated 60 years ago to protect them and separated from their parents still have more problems than their peers who stayed with their parents during the war.

It does not mean that war is good for children. It means that parental separation can have worse effects, and they are very long-lasting effects, which may lead to depression, but with functional problems. We're speaking of chronic depression and anxiety, which has a high cost in terms of the daily productivity of these people.

• (1235)

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you.

Please describe the conditions in immigration holding centres—this is for Ms. Cleveland—and why you say they are prisons.

**Dr. Janet Cleveland:** As I alluded to earlier, when an asylum seeker is detained, the first thing done to them is they are handcuffed.

Although they are not handcuffed during the time in the detention centre, if they ever have to go outside, for example to a hospital for medical care, they're not only handcuffed but also shackled at the waist and at the feet. They are also accompanied by a security guard. Indeed, many people told us they preferred to forgo medical treatment rather than undergo the public humiliation of being shackled and handcuffed in a waiting room.

On a day-by-day basis, there are uniformed security guards, cameras everywhere, and so on. But it's really in the small details. For example, a man arrives late at night and is detained. The next morning, at six o'clock, the wake-up time, he says, "Look, could I please sleep in? I'm really tired." The security guard says, "No, it's six o'clock, you've got to get up." The guy says, "I don't care. I want to stay in bed." So he's put in 24-hour, solitary detention. That's a prison.

I'm not at all saying that people are brutalized. Guards do their work in a professional manner, CBSA does its work in a professional manner. That's not the issue. But it is a prison, there's no doubt about it. Of course in Toronto and Montreal you have the immigration

holding centre specifically for migrants, but elsewhere in Canada, the other asylum seekers detained are held in provincial prisons with criminals.

I'm particularly concerned about what may happen to the 16-, 17-, 18-year-olds who would be detained under this bill. Youths held in prisons are at serious risk for sexual harassment and sexual abuse in particular. That's a very great concern.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you.

Earlier we heard testimony from government officials that even under the current system, because of the shortage of detention spaces, there are people in provincial prisons on a daily basis.

**Dr. Janet Cleveland:** About 30% of asylum seekers are held in provincial prisons.

In British Columbia, Halifax, or anywhere except Toronto and Montreal, they're automatically held in provincial prisons.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Ms. Cleveland, do you see some alternatives to the mandatory detention system being proposed under Bill C-31, and if so, could you expand on that?

**Dr. Janet Cleveland:** The first system is the current system. I have many criticisms of our current detention system, but it does have a regular detention review, which is an absolutely basic judicial oversight. People are detained for reasons that are at least relevant, either for identity, security risk, criminality, or flight risk. Under Bill C-31, people would be detained for completely irrelevant reasons, essentially—for arriving in a group with false documents, or for administrative convenience because of a shortage of time. It's not going to get at security risks. It's certainly not going to get at the supposed bogus refugee issue, because that's not in the law, and in any case, it's not a reason for detention.

To stay with our current system would be our first alternative, and a very simple one, because people who are vulnerable can actually be released. That's extraordinarily important.

• (1240)

**Dr. Cécile Rousseau:** In the current system, we have a mean of 600 children currently detained each year in Canada. I would say that if you look at the changes in different countries of the European Union, people have moved away from child detention. There are family-friendly alternatives, where you can have a certain control and a sense of knowing where people are by having them report, which is a very good alternative for handling families in those situations.

**Dr. Janet Cleveland:** Sweden is an interesting model in that regard. It's a supervised accommodation, but it's run by social workers and it's very family-friendly.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much. I'm at my seven minutes.

Mr. Cotler, for five minutes.

**Hon. Irwin Cotler (Mount Royal, Lib.):** Thank you, Madam Chair.

Given your testimony this morning, particularly with regard to the mental health concerns and the consequences of detention, in what ways can Bill C-31 be modified to address the concerns you have both shared with us?

**Dr. Cécile Rousseau:** We think that both on the adult side and on the child side, if there were an amendment it would be about people who are vulnerable and are going to suffer long-term consequences.

Some people should not have to suffer detention, because they will become more vulnerable. We certainly include children up to the age of 18, pregnant women, and asylum seekers who are vulnerable because they have a severe physical or mental illness. We believe those people are going to be particularly affected by detention.

**Dr. Janet Cleveland:** Exactly.

**Hon. Irwin Cotler:** Did you want add to that?

**Dr. Janet Cleveland:** I just want to say that if you look at the experiences in Australia, for example, where you have extremely high rates of suicide and self-harm among asylum seekers who are detained under a regime that is very comparable to Bill C-31, I think that gives you a sense of how serious it can be for people who are already traumatized.

**Hon. Irwin Cotler:** The government has said that Bill C-31 will end up reducing costs. But in appreciation of your testimony and others, there are extensive costs associated with mental or physical health issues, and these can be exacerbated by reason of the detention of youth and pregnant women and the like. I know you began to go into it, but do you have some appreciation of what these costs might entail, having regard to the whole spectrum of fallout from this type of detention?

**Dr. Cécile Rousseau:** We are in the process... I don't want to mislead you, but, for example, with a child who develops concentration problems, learning problems, and drops out of his studies, we have calculated that the cost is around \$200,000 for Canadian society. That's extremely important.

We will calculate the cost of insufficient prenatal care and stress during pregnancy, because we know this affects kids. It will, for example, create hyperactivity problems, long-term behaviour problems, and obesity. There is a lot of research on that. Because these kids are Canadian, we need to have numbers for the cost to Canadian society.

I think it's very short-sighted to say we'll save money by not providing adequate care or environment to these people, but I hope we will come with numbers on that a couple of months from now.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** You have one and a half minutes.

**Hon. Irwin Cotler:** I'll try to make it a short question, because I think it's a short answer.

Did the government reach out to consult with professionals such as yourself, both to appreciate the consequences of detention in mental health terms and the costs associated with that?

**Dr. Cécile Rousseau:** That would be our main recommendation. We think the government should consult the association of pediatricians, the association of child psychiatrists, and Public Health in all Canadian cities. They are involved. They told us today that they are on board. They would be very willing to provide any advice to the government.

• (1245)

**Hon. Irwin Cotler:** Thank you.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much.

We'll go over to Ms. James.

**Ms. Roxanne James (Scarborough Centre, CPC):** Thank you, Madam Chair.

Welcome to all of our guests.

I've listened very carefully to the testimony. I apologize for missing part of yours, Mr. Grubel.

I have to tell you that there's something you said just recently that I'm a little bit concerned about. We know that you have a problem with detention. We understand that. I'm not disputing your personal opinion on that particular issue. You said that you have a problem with people being detained because they arrive with false documents. Before you say anything, I have to tell you that I can't think of a better reason to detain someone than that they arrive with false documents, because we don't know who they are. I'm a little concerned about a statement, made across the board, that you have a problem with detention, and part of it is because people arrive with false documents.

Having said that, I'd like to ask you a very simple question. You were actually going to dispute the number of 41 people from those two vessels being inadmissible to Canada. Regardless of the number you have or the number my colleague said there were, a number of people were actually found to be inadmissible for security reasons or for other reasons, such as war crimes, etc.

If they arrived without documents and with false documents, would you welcome any of those 41 people into your house and take full responsibility for their actions and whereabouts? Or do you think that detention is necessary so that we can identify people who arrive on our border, unannounced, illegally, through human smuggling, in mass arrivals? Do you not think that the Government of Canada owes the citizens of Canada the safety and security we need to give them?

It's a simple yes or no answer, really.

**Dr. Janet Cleveland:** It's not quite, because we get detention and incarceration mixed up. I have absolutely no problem saying, and I fully agree, that we need to check people's identities when they arrive in Canada with false documents or otherwise. The people we interviewed said themselves that they had no problem with that and that there's not a country in the world that lets in terrorists, criminals, and so on. But they asked why you were putting them in prisons and treating them like criminals.

**Ms. Roxanne James:** Okay. Thank you.

**Dr. Janet Cleveland:** There are other ways to simply have people in supervised accommodation while you're checking them, and it's done in many countries.

**Ms. Roxanne James:** I understand. I'm glad you clarified that you actually agree that detention is necessary to be able—

**Dr. Janet Cleveland:** I said detention as supervised accommodation—

**Ms. Roxanne James:** Right.

**Dr. Janet Cleveland:** —but not incarceration.

**Ms. Roxanne James:** My second question—

**Dr. Janet Cleveland:** Yes.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Could we just have the witness answer? Then I'll come back to you.

**Ms. Roxanne James:** Actually, I did have my answer.

Thank you very much, Madam Chair.

I have a second question in addition to that. You have a problem with detention and you have a problem with maybe some of the conditions of detention. But you are aware that Canada meets all of its international obligations, in accordance with our own charter. Actually, we go far beyond many other western countries we're compared against with regard to this particular aspect.

I just remind the committee that this is a very small proportion of the number of people we're talking about. This is not the vast majority of refugees who come into this country. There have been a few hundred over a decade.

You are aware that we meet all of our international obligations and that we are in accordance with our charter. I just want a yes or no answer.

**Dr. Cécile Rousseau:** Canada is the only country to have a reservation for the Convention of the Rights of the Child, and this is usually unknown. Do you know that? Do you know what the reservation is?

**Ms. Roxanne James:** Are we in—

**Dr. Cécile Rousseau:** Do you know what the reservation is?

**The Vice-Chair (Ms. Jinny Jogindera Sims):** As the chair, I do have to interrupt.

The members of Parliament ask questions—

**Ms. Roxanne James:** I just need an answer to—

**The Vice-Chair (Ms. Jinny Jogindera Sims):** —and I'm going to ask our witnesses to answer those questions.

**Ms. Roxanne James:** Thank you so much.

My question is whether you agree that we meet international obligations in accordance with our own charter. It's either a yes or you don't agree with that. In fact, we would have a problem with our current system if that were the case.

**Dr. Cécile Rousseau:** I would say that we do not totally respect the convention we have signed.

**Ms. Roxanne James:** Okay. And that's your personal opinion. Thank you.

I want to direct my questions now to Mr. Grubel. Again, I apologize....

We're going back to the European Union and the problem we have. Are you aware that 95% of people who come as refugees from the European Union actually withdraw or abandon their applications, even before the first hearing? Are you aware of that? Why do you think that is?

**Mr. Herbert Grubel:** I'm not a psychologist. Maybe you should ask Madam Cleveland about this. I don't know.

**Ms. Roxanne James:** Do you think it has anything to do with the pull factor here in Canada?

We had witnesses come in and talk about our welfare system yesterday. Just as a side note, you were asking about the costing behind this particular bill. It costs Canadian taxpayers \$170 million for abandoned claims from the European Union. That's per year. When I talk about 95% of them being abandoned, that is the actual monetary amount it costs people like you and me and all the constituents in my riding of Scarborough Centre. It costs them, hard-working Canadians, to foot that bill of \$170 million.

Do you think that's fair to taxpayers?

• (1250)

**Mr. Herbert Grubel:** It isn't, and that has been the essence of my testimony. I think we should consider all of these issues in the light of what we can afford.

**Ms. Roxanne James:** Let me ask you one more question, very quickly.

A large portion of this bill has to do with making sure that legitimate, bona fide refugees can get into Canada, be processed more quickly, and be able to start their new lives here in a very protected country. Do you not think it's important that we get these people processed more quickly and at the same time crack down on those who are abusing our system, who bog down the system, and cause legitimate bona fide refugees to wait up to two years for their applications to be heard in the first hearing? Do you think that's fair?

**Mr. Herbert Grubel:** Yes.

**Ms. Roxanne James:** So you believe that we need to crack down on the bogus applicants and make sure that the legitimate refugees get a fair chance in Canada and more quickly?

**Mr. Herbert Grubel:** Yes.

**Ms. Roxanne James:** Thank you very much.

Do I have any time left?

**The Vice-Chair (Ms. Jinny Jogindera Sims):** You still have a minute and a bit.

**Ms. Roxanne James:** That's terrific. Thank you very much.

My colleague talked about the European Union. There are actually 26 other countries someone can go to. Do you think that if someone is really fleeing persecution, fearing for his life, wanting to get out really quickly, that person would go to the nearest place of safety, or would he travel across the seas and everywhere else to get to Canada?

**Mr. Herbert Grubel:** Again, I am not privy to the thought processes of those individuals, but I am surprised that they take the trouble and the expense of coming here rather than going to Germany.

**Ms. Roxanne James:** And if they came here as refugee claimants, why would you think they would abandon their claims and go back if they were fearing for their lives and fearing persecution and all the other things we've talked about?

**Mr. Herbert Grubel:** I don't know.

**Ms. Roxanne James:** Does that make any sense to you?

**Mr. Herbert Grubel:** It makes no sense to me except that, as you had hinted, maybe there is something about the way in which they get treated here that is superior to staying at home.

**Ms. Roxanne James:** I think our health benefits are pretty good and I think our welfare system is pretty good too.

Thank you very much.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you. That was perfect timing.

We're now going to go over to Ms. Sitsabaiesan.

**Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP):** Thank you, Madam Chair.

Ms. Cleveland, I know that you've done extensive research around the world, and you started to talk about Australia. You said that there are high suicide rates following detention. Can you tell us a little bit more about Australia and what has been the impact of mandatory detention and temporary visas on asylum seekers' mental health?

**Dr. Janet Cleveland:** What I would urge you to do, actually, is to look at the report of the senatorial inquiry in Australia that just came out in March 2012, after a very in-depth study of their system, the umpteenth study, because they've had problems again and again and again over the years, and they have reports stacked quite high.

Basically, they found, among other things, that in 2010-11 the self-harm rate for about 6,000 detainees was 1,100 incidents of self-harm. Self-harm means self-cutting, attempted hanging, drinking shampoo or detergent to try to kill themselves, voluntary starvation, these kinds of acts, and six actual suicides. That's an extremely high rate. It's ten times the normal suicide rate in Canada, just to give you an idea. And this is a population held for less than a year in general, so not that far from what we would see under Bill C-31, quite possibly.

Basically, the committee concluded, and we quote this in our brief, that it was crystal clear that detention had disastrous effects on mental health. This has been proven over and over and over again. And now what Australia is doing, after 20 years of mandatory detention for so-called irregular arrivals, is they're moving to a

system that is much closer to our current system in Canada; that is to say, people will be held essentially during identity checks at the beginning and then they will be released on what they call a bridging visa, which is actually equivalent to normal asylum-seeker status in Canada.

So after 20 years of mandatory detention, Australia said it was a failure, it wasn't working, it has been a disaster in mental health terms, it's very costly. Ninety percent of the asylum seekers who came as irregular arrivals and were detained were later accepted as refugees in Australia and have gone on to become Australian citizens. So you can imagine the cost to society is huge.

• (1255)

**Ms. Rathika Sitsabaiesan:** I'm no psychologist or psychiatrist, but those incidents that you cited, those are actually pretty evolved psychological trauma or mental health conditions. Self-harm and suicidal thoughts and actually committing suicide, from my understanding, are later in the—I don't know what you call it—depression cycle or....

**Dr. Janet Cleveland:** It is very serious, but it's not surprising when you have a population that is, on average, highly traumatized, has been exposed to war zones, to all kinds of situations like that, and then is placed in a situation of helplessness and feels branded as criminals when they are not. So that's very, very harsh.

**Ms. Rathika Sitsabaiesan:** Cécile, I see you nudging there. Do you want to...?

**Dr. Cécile Rousseau:** Just to kind of transmit the feeling of how severe it can be, if someone were to come to you and say that our Canadian soldiers who have come back from Afghanistan and are traumatized are lying, are manipulating, that in fact it's not a big deal to go to Afghanistan, you would feel hurt. You would feel angry, and rightly so.

**Ms. Rathika Sitsabaiesan:** Absolutely.

**Dr. Cécile Rousseau:** I think it's exactly the same thing.

What we want to convey, beyond partisanship or politics, is how can we make people understand and feel what these people have been going through, the people who have been traumatized. It is the same as our boys in Afghanistan. These people are traumatized.

How can we care for them? I'm sure everybody here is sensitive to traumatized people. How can we feel for them? How can we understand that? Maybe that's our job, to make people understand better what they've been through.

**Ms. Rathika Sitsabaiesan:** Thank you.

Madam Chair, do I have any time left?

**The Vice-Chair (Ms. Jinny Jogindera Sims):** You have 15 seconds.

**Ms. Rathika Sitsabaiesan:** Fifteen seconds, okay.

What I'll say is that I am personally a survivor of war. I understand trauma. I thank you for the work that you do every day of your life. Thank you very much.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much.

Now we will go over to Mr. Weston, for five minutes.

**Mr. John Weston:** Thanks, Madam Chair.

Let me echo what Ms. Sitsabaiesan said. Everyone in this room cares about the kind of people you're talking about. I think we may be misled if we ask the wrong question. Does anyone in the room want to see someone detained without reason? No one wants to see that.

I think we have to ask the right question. We're answerable as a government to 34 million Canadians. They expect us to maintain, as it's said classically in the Constitution, the peace, order, and good government of the country.

There are provisions in this bill to minimize the unfairness. For instance, anyone can apply to the public safety minister for release if circumstances warrant.

By the way, the number one concern in the bill is stated as in the best interests of the child. Those things prevail in Bill C-31, although I think they've been—

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Mr. Weston, I do apologize, but we are at one o'clock and ready to move on to our next set of witnesses.

**Mr. John Weston:** Don't we move beyond because of the late start?

**The Vice-Chair (Ms. Jinny Jogindera Sims):** No, because we have the next set of witnesses scheduled to come. That's why we got going when we did.

**Mr. John Weston:** Okay. Do I have time then to finish? I was just going to say in answer to that, my last question to—

**The Vice-Chair (Ms. Jinny Jogindera Sims):** If you could just finish your sentence that would be great.

**Mr. John Weston:** With regard to the economics of trying to preserve a refugee system, Professor Grubel, what would you say to those of us who compassionately want the refugee system to prevail, so we can be known as the most compassionate country in the world? What do we have to do to keep it alive?

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much.

Thank you to the witnesses. That's where we're going to stop for about a four-minute break and then we'll be back.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

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• (1300)

**The Vice-Chair (Ms. Jinny Jogindera Sims):** We're ready to start. We have two witnesses before us, and I'm going to call on Rivka first.

[*Translation*]

**Ms. Rivka Augenfeld (Spokesperson, Table de concertation des organismes au service des personnes réfugiées et immigrantes):** Good afternoon.

I'll do my presentation in French, and my colleague will speak in English.

First, on behalf of the Table de concertation des organismes au service des personnes réfugiées et immigrantes, we thank you for inviting us to speak to you.

The Table de concertation des organismes au service des personnes réfugiées et immigrantes is an umbrella group of 142 community organizations assisting refugees and immigrants across Quebec. Founded in 1979, our organization's mission is that of defending the rights of newly arrived persons and families, regardless of their immigration status.

It is also important to tell you that our organizations help refugees across Quebec, under the agreement sponsored by the state, which the rest of Canada calls the Government-Assisted Refugee Program. These people are set up all over Quebec, with contracts from the Quebec ministère de l'Immigration et des Communautés culturelles.

Through our experience, we have developed considerable expertise on the question of recourses for refused refugees. We witness first-hand, day after day, the consequences of human errors in the refugee determination process and the extreme challenges of trying to have such errors corrected. We presented a brief on this matter to this committee in 2007.

Today, we are going to focus on this aspect of the provisions of Bill C-31.

My colleague, Richard Goldman, will continue the presentation.

• (1310)

**Mr. Richard Goldman (Spokesperson, Table de concertation des organismes au service des personnes réfugiées et immigrantes):** Thank you, Rivka.

[*English*]

Although the *Table de concertation* adds its voice to stakeholders such as the Canadian Council for Refugees, which feels that Bill C-31 is so flawed as to require replacement with more balanced legislation, in order to be constructive we will be focusing on the Refugee Appeal Division and post-claim recourses, and providing our observations and recommendations on that.

First of all, the importance of a Refugee Appeal Division has long been recognized. When Parliament adopted the IRPA in 2001, it contained a Refugee Appeal Division, which was supposed to be accessible to all. In Bill C-11, this was adopted. Of course the IRPA RAD was never implemented. It's also important to bear in mind that a number of international human rights agencies have pointed out the pertinence of a Refugee Appeal Division. Quoting from page 2 of our brief:

UNHCR considers an appeal procedure to be a fundamental, necessary part of any refugee status determination process. It allows errors to be corrected, and can also help to ensure consistency in decision-making. Canada, Italy, and Portugal are the only industrialized countries which do not allow rejected asylum seekers the possibility to have first-instance decisions reviewed on points of fact as well as points of law. In the past, a measure of safeguard was provided by the fact that determinations could be made by a two-member panel, with the benefit of the doubt going to the applicant in case of a split decision. With the implementation of IRPA on June 28th, 2002, this important safeguard will be lost.

Likewise, the Inter-American Commission on Human Rights has stated:

Given that even the best decision-makers may err in passing judgment, and given the potential risk to life which may result from such an error, an appeal on the merits of a negative determination constitutes a necessary element of international protection.

I'm going to look now at the restrictions on the RAD under Bill C-31. There are four major restrictions, which I'll look at in turn.

First of all, let's consider asylum seekers from designated countries of origin. These claimants will have super-fast-tracked hearings to be held as soon as 30 days after their arrival. This will make it difficult or impossible for them to prepare their case adequately, get documentary proof of persecution, obtain identity documents, or even to secure legal counsel, not to mention overcoming the trauma of rape, sexual assault, or whatever else they may have been through. So the risks of human error in this situation are extremely high.

Second, there is the matter of arriving in Canada as part of an irregular arrival. This has no relation whatever to the merits of a refugee claim. In fact, from certain countries the only way to get out is with false documents. Passport offices may not be functioning or a genuine refugee may not get a passport. If two or more such persons arrive together, if any group arrives together with the assistance of a smuggler, they can be designated an "irregular arrival". "Group" is not defined in the act, so it could be as few as two people, as far as we can tell. There's no logical basis for a presumption that a group of such claimants coming from, say, Iran, the Democratic Republic of the Congo, or Somalia are making abusive claims that do not merit a right of appeal.

Third, there are persons who have claimed asylum at the Canada-U.S. border already, under the U.S.-Canada Safe Third Country Agreement. Very few refugees can enter at the border and make an asylum claim. There are a few exceptions. The main exception that remains today is to have a family member in Canada. If somebody manages to enter at the border and claims asylum, he will also be subject to a restriction on his right of appeal. We really don't understand why this should be the case. As a matter of fact, in a briefing call that was held right after the introduction of Bill C-31, it was explained to us that the worst that could happen to these people is that they'd be returned to the States. Actually, that's an error. As of the expiry of the reciprocal agreement in October 2009, it's not possible to return them to the States. They would be sent directly to their country of alleged persecution, with no right of appeal. So this seems to be based entirely on an error.

With the fourth exception, "manifestly unfounded or no credible basis" claims, the above three exceptions kick in even before the claimant has been heard by the IRB.

This fourth exception only kicks in at the IRB itself. What can happen is a person who in principle has a right to appeal can have their hearing, and if the decision-maker says that the claim is manifestly unfounded or has no credible basis, they will lose their right to appeal. This strikes us as extremely perverse, because the decision-maker in effect can insulate himself or herself from review. In other words, if they make a small mistake and refuse a well-founded claim, it can go on appeal. If they make a big mistake and say that a well-founded claim is manifestly unfounded, it can't be reviewed.

It seems to us that all of these exceptions therefore violate basic principles of fairness and in some cases even logic.

It's also important to keep in mind that these same four categories will not have effective access to the Federal Court, because although it's possible for them to apply to the Federal Court, they will no longer benefit from a stay of removal. Therefore, they can be removed on day 31 or 61 and have no appeal, no access to the Federal Court in practical terms.

Other post-claim recourses are also being eliminated. The so-called pre-removal risk assessment, or PRA, wasn't a very good procedure, but this will be practically eliminated, because people will not have access for 12 months after refusal. The government has said it wants to remove people far faster than that, so practically speaking the PRA will be out the window.

Final recourse that is also effectively being eliminated is the humanitarian and compassionate recourse. This does not overlap with the refugee claim. It takes into account other things, such as gender-based discrimination, or other types of discrimination that do not rise to the level of persecution. It can also take into account best interests of the child, and so on. An exception is created in the law for humanitarian applications based on best interests of the child and medical considerations. However, no stay of removal is being provided for those cases. They can still be removed on day 31 or day 61. Consequently, as a result of these different exceptions to the RAD, there is the very unrealistic 15-day timeline for filing at the RAD. We can talk about that more.

This, along with the gutting of the other post-claims recourses, means that we may finally have a Refugee Appeal Division in Canada, and yet the majority of refused claimants will have absolutely no avenue to have their refusal reviewed.

Our recommendations are as follows. First of all, Bill C-31 should be withdrawn and replaced with fair and balanced legislation. On the specific topic of the Refugee Appeal Division, all claimants should have access to the RAD. The corresponding regulations should allow 45 days for filing and perfection of appeals to the RAD. The bar on filing of humanitarian and compassionate applications while a refugee claim is pending and for 12 months following a refusal should be removed. Humanitarian and compassionate applicants should benefit from an automatic stay of removal until such time as their humanitarian and compassionate applications are ruled upon.

Thank you.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much.

We do have another set of witnesses, and they're on the beautiful screens in front of you.

Welcome, Mr. Bohbot and Ms. Tutunjian. I apologize for the pronouncement. You have ten minutes between you.

[*Translation*]

**Mr. Dan Bohbot (President, Quebec Immigration Lawyers Association (AQAADI)):** Thank you.

The Minister of Citizenship and Immigration speaks at great length on the independence of the administrative tribunal, the Immigration and Refugee Board, or IRB, and how the decision-makers will make independent and impartial decisions. However, Bill C-31 raises doubts about that.

For instance, the Minister of Citizenship and Immigration justifies his discretionary power to decide which countries are designated countries of origin by saying that he must be able to respond quickly to avoid a wave of fraudulent refugee claimants. He justifies this measure by saying that he wants to let Hungarians, for example, come to Canada without a visa and avoid having people make claims for refugee protection in Canada.

So it's the minister himself who decides in advance what represents a wave of fraudulent claimants. So it isn't true that Bill C-31 gives the administrative tribunal full independence in the decision-making process. The minister himself said the opposite in his testimony before this committee.

As for people who will be considered part of an irregular arrival, the Minister of Citizenship and Immigration justifies his discretionary power and detention for one year by the fact that Canada cannot let in people who have not obtained a visa before they arrive in the country. He continues to scare us with the idea that these people will not have identity documents, that their identity will have to be established before they can be released and that, lastly, people will not have recourse to automatic release as an alternative to detention. In fact, the current legislation justly sets out a detention review mechanism prior to release.

The minister went on in his testimony to explain that these people will pay smugglers to get to Canada and that the smugglers are dangerous criminals who endanger the lives of the passengers. Once again, the minister is trying to influence the fate of the refugee claimant through these punitive and discriminatory measures.

The minister is inconsistent when he explains that individuals who arrive irregularly need to be detained for security reasons for one year—

• (1315)

[*English*]

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Excuse me, Monsieur Bohbot. Could we just ask you to go a little slower? Our interpreters need to keep up with you.

Thank you.

[*Translation*]

**Mr. Dan Bohbot:** Very well, thank you. Okay, I'll continue.

On the other hand, these same people can be released immediately after their refugee claim is approved, in other words through an IRB hearing in 60 days. How can the administrative tribunal decision maker be more sure of the identity of these inmates than Immigration Canada is? It isn't realistic to think that the administrative tribunal will feel independent in light of these punitive measures.

The frequently asked questions page on the RCMP's website explains the difference between human trafficking and human smuggling:

Human trafficking involves the recruitment, transportation or harbouring of persons for the purpose of exploitation (typically in the sex industry or for forced labour)...

Human smuggling is a form of illegal migration involving the organized transport of a person across an international border, usually in exchange for a sum of money and sometimes in dangerous conditions.

The minister never makes this distinction and his speech confuses the two concepts. It is very rare for refugees to be able to obtain a visa to come to Canada. Smugglers are too often the only way for refugees to leave their country and arrive here to make a refugee claim. These are real refugees from countries that do not respect human rights. These are people who have no choice because they are facing persecution.

Canada already has a tradition of human smuggling. The Loyalists fled New England to take refuge in Canada. The Underground Railroad mainly helped American slaves find freedom in Canada. Common law is the legal basis of our law in Canada. It is the result of centuries of tradition that led to the Canadian Charter of Rights and Freedoms:

[*English*]

Article 39. No freemen shall be taken, or imprisoned, or disseized, or outlawed, or exiled, or in any way harmed—nor will we go upon or send upon him—save by the lawful judgment of his peers or by the law of the land.

Article 40. To none will we sell, to none deny or delay, right or justice.

[*Translation*]

These are passages from the Magna Carta, which dates from 1215 almost 1,000 years ago. The Habeas Corpus Act of 1679 provided protection against arbitrary arrest and detention. A person detained had the right to know the reasons for his arrest, to challenge the detention and to obtain release.

Now I come to section 7 of the Canadian Charter of Rights and Freedoms.

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Section 10 makes this clear:

10: Everyone has the right, on arrest or detention:

(a) to be informed promptly of the reasons therefor;

(b) to retain and instruct counsel without delay and to be informed of that right;

(c) to have the validity of the detention determined by way of *ot habeas corpus* and to be released if the detention is not lawful.

These quotations come from the Canadian Charter of Rights and Freedoms, and we must be proud of them.

Bill C-31 goes contrary to these principles of fundamental justice. This bill is turning back the clock 1,000 years on our principles of justice.

For example, persons designated as part of an irregular arrival and 16 years of age or older must be detained. The detention is not reviewed for 12 months and they have no access to the RAD. If the person is accepted, they cannot ask for permanent residence for five years following the IRB decision, they get no refugee travel document and they have to report to an immigration officer.

Then, for designated countries of origin, the Refugee Protection Division, the RPD, fast-tracks applications. The people involved have no access to the RAD and they cannot get an automatic stay of removal when seeking a judicial review from the Federal Court. These provisions can also be applied retroactively. Asylum seekers are therefore not all treated equally by the legislation or the justice system.

In addition, budget cuts to the IRB announced in the federal budget will have the effect of no longer providing the failed claimant with a transcript of the evidence he gave before the negative decision. The—

• (1320)

[English]

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Mr. Bohbot, could you finish off your sentence, please?

**Mr. Dan Bohbot:** Yes. Thank you.

[Translation]

In other words, the AQAADI considers that the bill is, in its entirety—

[English]

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Mr. Bohbot, my apologies. I am a new chair. You actually have three more minutes.

**Mr. Dan Bohbot:** Thank you. I thought so.

[Translation]

So I was saying that, as a result of the budget cuts to the IRB, a failed claimant no longer has a right to a transcript of the evidence he gave before the negative decision. The IRB has announced that it will provide a CD recording of the hearing.

Even under the best conditions, how will a refugee be able to get access to a computer to listen to the recording and prepare an appeal and a written case in 15 days? How can the Refugee Appeal Division

really hear a case in depth without having made themselves aware of the evidence?

The automatic loss of resident status after a cessation of refugee status violates Canada's international obligations.

In conclusion, the AQAADI feels that the bill is, in its entirety, contrary to the charter and contrary to this country's humanitarian traditions. This bill will not prevent thousands of people from coming here and staying here each year. This bill will encourage those facing detention to go into hiding, given the punitive, arbitrary and unjust provisions it contains. With this bill, Canada will more and more resemble the United States, with its huge illegal immigrant problem.

[English]

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much.

Mr. Weston, you really do get to ask questions, and you have seven minutes.

[Translation]

**Mr. John Weston:** Thank you, Madam Chair.

Welcome to our guests: Ms. Augenfeld, Mr. Goldman, Mr. Bohbot and Mr. Tutunjian.

Mr. Bohbot, I think you appeared before this committee about six months ago.

Viktor Frankl, a survivor of Auschwitz, said that rights not balanced by responsibilities are dangerous. Even in our Charter of Rights and Freedoms, reasonable conditions may be applied to some rights.

Mr. Bohbot, we have a refugee system of which most Canadians are proud. Across the world, Canada is known as a compassionate country. We here at this committee are proud of it. But there is a burden that we cannot continue to bear. At the moment, processing one refugee file alone takes an average of 1,000 days. Yesterday, we were told that, in New Zealand, the figure is 45 days. If we continue to do things as we are, we will not be able to process the files of genuine refugees quickly. But that is what everyone would like.

Do you agree that we should change the system so that real refugees have an advantage?

• (1325)

**Mr. Dan Bohbot:** Mr. Weston, Bill C-11 has already been passed and it already changes the system that is designed to speed up hearings. Bill C-31 categorizes people even before they have made a claim for asylum. That is where the problem lies. The minister gives himself discretionary powers and sends the message to the panel that he himself can determine who is *persona non grata*.

In my opinion, this political influence on the panel's decision-making process is the crux of the problem. This is political interference in immigration matters and we should avoid it. We should trust the decision-makers and let them do their jobs.

**Mr. John Weston:** The last time you testified, you were very critical of our government. Personally, for this study, I would like everyone to show some openness. This is about refugees, not about the Conservative Party or some other party.

You and I both know that the minister's discretion will be exercised depending on certain criteria. This is not about absolute discretion. He may decide, for example, that some countries are now designated countries, but he must do it according to certain criteria, specifically the fact that—

[*English*]

the claimants have been abandoning their claims in the order of some 90% or they have been rejected. So this discretion about which we're talking is not absolute.

You're aware of that, Mr. Bohbot, right?

[*Translation*]

**Mr. Dan Bohbot:** In my view, Bill C-31 actually will give enormous discretionary power to the minister who, in my opinion, will go beyond transparency and justification in order to obtain the desired result.

Let us not forget that a large percentage of claims from European countries, such as the Roma from Hungary, were accepted before people started making speeches characterizing them in advance as bogus refugees. After the political speeches from the Minister of Citizenship and Immigration, the acceptance rate at the board went down. There is a direct cause-and-effect link between the minister's speeches and the panel's acceptance rate. Now, if you want to give him even greater discretionary power, how can it be presumed in any way other than that the rate will go down even more as a result of the political rhetoric?

[*English*]

**Mr. John Weston:** Let's get to the basic question.

The problem is that the processing of claims is taking over a thousand days. Furthermore, we're learning that the cost of processing claims that are withdrawn or abandoned is some \$170 million a year to Canadians. We have to govern for 34 million people to whom we have a democratic accountability and responsibility. If we don't make changes to reduce the abuse of the system, then the system cannot continue and Canadians would be calling for its removal.

Do you agree that it has to be changed to accelerate the processing? What is the problem you see that can be fixed to achieve that goal?

[*Translation*]

**Mr. Dan Bohbot:** The Conservatives have been in power since 2006. In 2006, out of political principle, the Conservatives did not want to make political appointments; that lasted four years, Mr. Weston. In those four years, the number of judges on the panel was reduced by half. That therefore reduced by half the panel's ability to make decisions. So, during that time, a backlog that reached 60,000 claims in 2010, was automatically created. In 2010, the Governor in Council started appointing new decision-makers to the board again. That reduced delays and increased the number of decisions that the panel could make in a year.

It is as if the minister has a car and the “check engine” and “check oil” lights come on. But he pretends that they haven't and keeps driving until the car slows down or stops. Then he gets out, looks at it and says that it is no good any more and he has to get a new one.

• (1330)

[*English*]

**Mr. John Weston:** Mr. Bohbot—

[*Translation*]

**Mr. Dan Bohbot:** That is what he is doing with the immigration process.

[*English*]

**Mr. John Weston:** But Mr. Bohbot—

**The Vice-Chair (Ms. Jinny Jogindera Sims):** You have 15 seconds.

**Mr. John Weston:** —to use your analogy, the problem isn't just that little parts of the car are broken. The problem is that we have the doors falling off when we have the largest percentage of people coming from Europe, not from Africa or Asia. We know that people from those countries are having their claims rejected or abandoned in large proportions.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Mr. Weston, your time is done. Thank you.

I'm now going to go over to Madame Groguhé.

[*Translation*]

**Mrs. Sadia Groguhé (Saint-Lambert, NDP):** Thank you, Madam Chair.

My thanks to the witnesses for joining us today.

Yesterday, one of our witnesses mentioned humanitarian principles in connection with Bill C-31. He reminded us that, when refugees seek protection, they want to come to a country founded on freedom and the rule of law, a country in which they want to ask for protection. They do not come to take advantage of the system, there is no doubt about it. This is about human dignity above all. He stressed this in his conclusion when he said that they come here in order to subsequently serve Canada. I just wanted us to remind ourselves of that.

In addition, some witnesses have told us that Bill C-31 is not the best way to discourage smugglers or to stop human trafficking. In your opinion, what are the greatest threats associated with this bill?

**Mr. Richard Goldman:** In our opinion, the greatest threat is that Canada will fail to comply with its non-refoulement obligations. Under the Geneva convention on the status of refugees, we have the basic obligation of non-refoulement. That requires us to never send someone back to a country where he may be persecuted. It is also part of the convention on torture and other cruel, inhuman or degrading punishment or treatment.

This is about hearings that will take place after 30 days, by which point people will not have had the opportunity to prepare their cases. This is also about doing away with almost all recourse, as I mentioned, including the Refugee Appeal Division, possibly for most unsuccessful claimants, as well as humanitarian claims and pre-removal risk assessments.

We believe that there is a very high risk of human error when there is no subsequent review. As a result, the risk of failing to comply with the non-refoulement obligations is very high as well.

**Mrs. Sadia Groguhé:** Mr. Bohbot, do you want to...

I'm sorry. Ms. Augenfeld, go ahead.

[English]

**Ms. Rivka Augenfeld:** I'd like to add that this bill is an attempt to control smugglers, and to control smugglers it is punishing refugees. It's punishing people because of the way they arrived. It has nothing to do with the content of their claim. The content of the claim becomes secondary to the method of arrival.

In the meantime, I would submit that the previous legislation, which is now in place, gives you all the tools you need to go after smugglers and big smugglers, and that most of the big smugglers, the ones I don't like and you don't like, are sitting somewhere in a bar in Singapore and having a drink, having collected their money. The victims may come, but the victims need help. And we don't know—based on how a person came—what the content of their claim is.

When the minister appeared, to my understanding, he spoke about Iranians with fresh scars on their bodies who come and need our protection, and he agrees these people need protection. But how does an Iranian get here? An Iranian probably comes with a false document. And if the Iranian, as most probably would be the case, paid a smuggler and came with five other people and is declared an irregular arrival, that Iranian could also end up in detention and could also end up with no appeal. So we're confusing methods that desperate people use to come and the content of the claim and the story they have to tell us.

Just to finish, I think every system needs safeguards. We agree. Every system can be used in an abusive way. And of course you have a welfare system, and you have to have safeguards against abuse. You have an employment insurance system, and safeguards. Any system has safeguards. But you don't make the system according to the abusers and then too bad if the people who really need the help get hurt. We're busy concentrating on punishing the abusers. It's completely upside down, and the people who most need the help and the people who are the genuine refugees—about whom you are, I believe, truly concerned—will be punished. They will be punished in this idea we have that we know ahead of time what the content of a case is, based on a means of arrival.

• (1335)

[Translation]

**Mrs. Sadia Groguhé:** Okay.

Like other countries, Canada is a signatory to the Geneva convention and being a signatory means having a legal and moral responsibility. Now, the government tells us that Bill C-31 will give refugees more protection. Do you share that opinion?

[English]

**Mr. Richard Goldman:** Not at all, for the reasons we have touched on already: unrealistic timelines, lack of the right of appeal, mandatory detention for many claimants for one year.

We agreed, touching on something that's been brought up a number of times, that there are problems with the current system.

Why are there problems? As our colleague Maître Bohbot said, in large part because the government did not staff the Immigration and Refugee Board and essentially broke the system, and now says that because the system's broken we have to do something radical.

We agree that somebody should not have to wait two years for a decision on their refugee claim. However, we don't think you should throw out the baby with the bathwater. Thirty days is too short. No appeal makes it impossible to correct errors. Bill C-11, for all the possible criticisms, was a relatively balanced piece of legislation. We think we should be working on that and improving that, rather than going to something much more radical that denies people's rights.

[Translation]

**Mrs. Sadia Groguhé:** Okay. Very good.

Mr. Bohbot, do you feel that mandatory detention will serve the public interest and the administration of justice?

**Mr. Dan Bohbot:** Absolutely not. We are going to find ourselves with a system that will be so unfair, a system that will treat human rights and equality before the law with so much contempt. Detaining people for prolonged periods will put the administration of justice into disrepute and fan the flames of legal challenge. It will cost taxpayers money because the government will have to defend its decisions. Anyway, there is no guarantee that the detention is necessary, no assurance that the identity of those people will be checked.

Take the example of the *Sun Sea* and the *Ocean Lady*, where the government did detain the passengers in order to determine their identity. The present system has reviews of the detention at regular intervals. It works well. There is no reason to impose automatic 12-month detentions.

[English]

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you, Mr. Bohbot.

We're now going to move over to Mr. Cotler for five minutes.

**Hon. Irwin Cotler:** Thank you, Madam Chair.

[Translation]

I would like to ask each of our witnesses the same question.

[English]

As you know, the Minister of Justice has an obligation, under the Department of Justice Act, to determine whether any prospective legislation comports or complies with the Canadian Charter of Rights and Freedoms, and to table a report if there are inconsistencies between the legislation and the Charter of Rights.

My question to each of you is, if you had been advising the minister on this legislation, what would your advice have been, and would you have stated to him or advised him that there are certain provisions that needed to be tabled for their inconsistency or non-compliance with the charter?

**Mr. Richard Goldman:** I must say, I feel a little nervous about answering, because you were my former constitutional law professor, so I feel I'm going to be marked on this response.

It seems to me that there could be nothing clearer than what the Supreme Court said in the Charkaoui security certificate case when it stated that indefinite detention without judicial review in Canada is contrary to the charter. If I'm wrong on that, please let me know, and I'll go for my continuing education course at McGill.

**Hon. Irwin Cotler:** No, I concur with that response. I didn't want to state it in my question.

[*Translation*]

That same question goes now to Mr. Bohbot, if he has an answer.

**Mr. Dan Bohbot:** Yes, in my presentation, I quoted the Supreme Court decision in the Charkaoui case, which restated the decision in the Sahin v. Canada case in 1995.

So it is impossible for foreign nationals to have the validity of their detention determined under sections 9 and 10(c) of the Canadian Charter. So prolonged detention without review or regular and effective determination of the detention runs counter to either section 7 of the charter or section 10.

So I would have said the same thing as my colleague and I would not have recommended a one-year automatic detention.

• (1340)

**Hon. Irwin Cotler:** My next question has to do with international charters.

[*English*]

In the last round, and when we were discussing Bill C-11, questions were raised about the legislation and now this particular piece of legislation and its compliance with our international law obligations. In your view, how compliant is Bill C-31 with our international law responsibilities, and what might be the result of non-compliance with those international legal responsibilities?

**Mr. Richard Goldman:** If I may begin, we feel that it violates the refugee convention in terms of penalizing refugees because of their mode of arrival. We feel it violates the International Covenant on Civil and Political Rights through mandatory detention, which is arbitrary, and through family separation of up to five years. Equally, it violates the Convention on the Rights of the Child. It ignores the best interests of the child, among other contexts within the detention context. Also, by denying the right to family reunification, it creates a separation between children and adults. Those are the main points of non-compliance.

How would it impact Canada? Well, it will give us a bad name, and also could lead to a certain amount of international litigation before treaty bodies.

**Ms. Rivka Augenfeld:** If I may just add.... Sorry.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Mr. Cotler, was your question put to both of them?

**Hon. Irwin Cotler:** Yes, it was put to all of the witnesses.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Okay, thank you.

**Ms. Rivka Augenfeld:** I just want to add that the whole issue of family separation and not giving people permanent residence for five

years was already something that was done years ago, mostly for a group of Somalis without proper ID papers. It was litigated. I think you'll hear more about it tomorrow, because one of the lawyers who won that case, the Aden case, will be here tomorrow. Families of people accepted as refugees in Canada were not allowed to come for five years. It created great harm. It created great pain and anguish. The Federal Court finally said this was wrong, and the Canadian government conceded, and there was an agreement reached on how to let people come.

So why are we doing this again? Our Canadian courts have already spoken. We've already seen the terrible costs of not allowing families to reunite. I would put to you, if a person is found to be a refugee in Canada upon arrival, their family needs help.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you.

Mr. Cotler, your five minutes are up.

I now go to Mr. Opitz for five minutes.

**Mr. Ted Opitz (Etobicoke Centre, CPC):** Thank you, Madam Chair.

Mr. Bohbot, I want to correct a couple of things. First of all, the minister does not decide arbitrarily or in advance what countries he's seemingly going to pick on. That's not factual. The thing is, we deal with evidence, like the 95% of people who do abandon their asylum claims here in Canada. That's pretty compelling stuff when you see these folks come over here. In fact, some of the CBSA officials actually are told, right to their faces, "I'm here because you're going to pay me."

Nobody's making that up. This is fact-based evidence coming from countries. It's based on statistics we get, and that's what's going on.

I'd like to put something else into context. Of our entire acceptance of refugee arrivals in Canada, what percentage is made up of irregular arrivals? The answer is less than 1%. We really do want to focus on the 99% of people who really want to be here and try to acclimatize and integrate into Canada and become great Canadian citizens. That's what our focus is on. It's not all on that small number alone. Though it's an important issue, it's not the only issue.

There are broader issues at stake in Canada, because all Canadian citizens have expectations of their government. This country is founded on four particular pillars: freedom, democracy, human rights, and the rule of law. All Canadians have a right to look to their government to protect them.

To you, sir, if somebody arrives in an irregular manner, say in Vancouver harbour, would you take any of those people into your home? I will redirect Ms. James's question to you. Would you unknowingly take these people into your home, to your family, to your kids? How would you deal with them?

• (1345)

[Translation]

**Mr. Dan Bohbot:** Mr. Opitz, your question does not take into consideration the reality on the ground. This is not about taking random people into your home and giving them your food. That's not the real issue. It has to do with knowing whether to give people the right to have a fair and equitable trial or hearing, in accordance with the four pillars that you yourself have mentioned.

The equality of all people before the law, the principles of natural justice, the rights and freedoms are the principles that we uphold, and we are not going to change a piece of legislation because of 1% or 2% of those people who say they are coming to Canada only for material or financial reasons. I think we have to remain firmly grounded rather than to scare Canadians, as we have heard in the political rhetoric over the past couple of years.

[English]

**Mr. Ted Opitz:** Sir, we are not trying to scare Canadians. We are trying to protect Canadians.

On the *Sun Sea* security threats, there were approximately five, with one of them being a war criminal. On the *Ocean Lady* security threats were 19, with war crimes 17, and that's a total of 41. That's significant, because those people pose a threat.

I've served in a war zone, sir, in Bosnia. I've seen what these things look like close up, in a place like that, which has been destroyed by war. When somebody says we're being oppressive to anybody coming to this country.... I wore a Canadian maple leaf on my shoulder proudly for most of my life. I know the system we have in this country. We are proud of the system of governance. We have an obligation to protect the rights of our citizens, and this is one way we're doing it as well.

Immigration is very important, sir. My parents came from a war zone, after World War II. They were in gulags and in forced labour camps in Nazi Germany. I get all the things that refugees bring to this country. It's very important, and I've grown up with that in my household, my home, and our family stories. So I understand and am sympathetic to people coming here as refugees wanting and seeking a better life. This is a compassionate country. We do abide by all the international regulations and obligations we have, and we do make it very accommodating for people to get here.

However, when people do come here, they have to abide by our laws, and we have a right, sir, to ensure who they are before we let them out into the general populace, where they could potentially harm Canadian citizens. Until we know that, we'll detain them.

By the way, as soon as somebody's identity is known, they are released from detention. The problematic people are the ones who are possibly not cooperating and revealing their identity. Until we are absolutely sure who those individuals are, we will detain them. This is under review consistently.

Do you have any comment to that, sir?

[Translation]

**Mr. Dan Bohbot:** Mr. Opitz, right now, neither Immigration Canada nor the Canada Border Services Agency has the power to release someone. Any release must strictly go through a member

from the immigration division of the Immigration and Refugee Board. So it is not accurate to say or claim that someone can be released because their identity has been established. What you are saying is not accurate.

At any rate, it is important to understand that any present detention reviews take place under the current system on a regular basis. The system that the minister proposes provides for a 12-month detention during which no detention reviews would be conducted.

Do you understand what I am saying?

[English]

**Mr. Ted Opitz:** I'm almost out of time.

Sorry, can you say that again? Just the last part, sir, because my mike kind of went out.

**Mr. Dan Bohbot:** All I'm saying is that Immigration Canada or CBSA does not have the power to free any individual. It's only an adjudicator or a board member who has that power.

**Mr. Ted Opitz:** Yes, it goes through the IRB.

**Mr. Dan Bohbot:** When their identity is established you release them—that's not possible.

**Mr. Ted Opitz:** Thanks for making my point.

**Mr. Dan Bohbot:** In any event, there's no reason to detain individuals for a period of 12 months without detention reviews when the current system allows a regular detention review. As we've seen with the *Sun Sea* or the *Ocean Lady*, this is what the government has done in order to establish identity and to try to push out whoever was a potential person to be excluded in the definition of refugee.

I see no reason to change the system, because it is working as it is now.

**Mr. Ted Opitz:** Sir, we disagree.

We think we have a right to protect this country. Until we're satisfied with the identities of these people we're not going to let them out. Once we are satisfied with who they are, they get released. There are many examples of that.

How is my time?

**The Vice-Chair (Ms. Jinny Jogindera Sims):** You've got ten seconds.

**Mr. Ted Opitz:** That's it.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you.

I'm now going to go over to Monsieur Giguère.

• (1350)

[Translation]

**Mr. Alain Giguère (Marc-Aurèle-Fortin, NDP):** Thank you, Madam Chair.

Thank you to our witnesses.

Mr. Opitz talked about legal opinions based on which the bill seems to respect the Charter and our international obligations. I would appreciate it if he provided the clerk with the documents that include those legal opinions. That would enable us to better understand the government's position.

In terms of the question that I—

[*English*]

**The Vice-Chair (Ms. Jinny Jogindera Sims):** As chair, I will say this is not the time for parliamentarians to debate each other. I want to remind my colleagues that this is the time for us to have a very valuable time with our guests that we've asked to come and present to us. Please confine yourself to questions to our witnesses, please.

[*Translation*]

**Mr. Alain Giguère:** In your brief, you pointed out that the bill would eliminate the possibility to submit claims on humanitarian grounds during the first year following a refusal before the IRB.

Could you give us some specific examples of individuals affected by this type of situation?

[*English*]

**Mr. Richard Goldman:** It hasn't come into effect yet, of course, but it would come into effect under Bill C-31.

To give you one example of a person, a real case we worked with, a woman from Ethiopia was forced to be married at age 12. She was a victim of sexual assault due to her Eritrean background. She came to Canada with no documents, was detained, and therefore had a hearing that was actually accelerated. Because she was detained she didn't realize she had contracted a serious medical condition during her sexual assault. She had her hearing without that evidence. As I said, it was quite sped up, similar to what would be the case under Bill C-31, because she was in detention and had arrived with no documents. She only found out later on about this medical condition she had contracted in her sexual assault, which corroborated her whole story, and she was eventually accepted on humanitarian grounds.

Under the new system, if it does come into effect, she could have been removed immediately after her refugee hearing, with possibly no appeal if she had been designated an irregular claimant, with no humanitarian application, no pre-removal risk assessment, and no Federal Court.

[*Translation*]

**Mr. Alain Giguère:** You opened the door to my second question, which has to do with the 15-day timeframe for submitting a report.

What sort of information does the person have to include in the report? Why is it difficult to obtain all those documents in 15 days?

**Mr. Richard Goldman:** That is the timeframe for an appeal. Perhaps my colleague Mr. Bohbot would like to answer that question.

**Mr. Dan Bohbot:** Yes.

Mr. Giguère, any individual who wants to be accepted as an asylum seeker must submit as many documents as possible to support their claim. The documentation may include letters from lawyers, doctors or family members, pieces of identification,

documents verifying their studies and employment, in order to show that what they are saying is true. It is simply impossible to do all that within 15 days, if only because of the time it takes to mail the documents from the country of origin to Canada. On its own, this factor is a major obstacle to mounting a case effectively in terms of documentation.

**Mr. Alain Giguère:** Within the 15 days, could those people easily have access to Canadian doctors to confirm the state of their health or the abuse suffered in the past?

**Mr. Dan Bohbot:** It is almost impossible. On top of that, the person has to make an appointment. Try making an appointment with a family doctor in the next 15 days; let me know how that turns out. So you can imagine that obtaining a psychological report or a report from a doctor is simply impossible. It is unrealistic.

That is going to harm asylum seekers.

**Mr. Alain Giguère:** Ms. Augenfeld, what do you think about that?

**Ms. Rivka Augenfeld:** I would like to add that, within the first five days, asylum seekers have to undergo a medical exam, but it is only to make sure that they are not a danger to the public.

[*English*]

So people do have a medical, but it's simply to make sure they don't have TB, and if they do, there is a control. But it's not for any of these further questions.

It takes a long time to get a medical and psychological assessment, and not every doctor can do it. So it's just not possible.

In addition, as Maître Goldman pointed out, the Immigration and Refugee Board had agreed to give the transcripts of the hearing to the claimant in order for him or her to be able to make an appeal. Now, with the cutbacks, the new budgetary restrictions, the claimant is only going to get a CD recording—like a cassette, for the older people among us—of the hearing. Trying to prepare an appeal based on a CD, without seeing the paper evidence, is so horrendously impossible to think about. I think everyone should just put themselves in that situation.

Even now, when one tries to go to Federal Court, you have 15 days to submit your leave and then you have another 30 days to perfect your application. With an appeal, which could be the result of a terrible error, the need for an appeal, we have 15 days. It just boggles the mind to try to think of how you're going to do it properly. It's like saying you have it, but you don't.

• (1355)

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you very much.

Over to Mr. Dykstra, and it may only be for three minutes.

**Mr. Rick Dykstra (St. Catharines, CPC):** Thank you, Chair.

I've heard a lot of testimony from our witnesses. I appreciate that both of them have done a fairly good job with respect to their presentations.

I do think Mr. Bohbot's presentation could have been a little bit more credible had he not ventured into the political aspect of whether he personally believes the minister will have too much authority under this legislation, especially when it comes to the issues around designated countries of origin.

It's clear—and he may not be aware of the criteria we're working from—that from a UNHCR perspective, the chair, Abraham Abraham, actually told the Standing Committee on Citizenship and Immigration, less than two years ago, that they do not oppose the introduction of a designated or safe country of origin list, “as long as this is used as a procedural tool to prioritize or accelerate examination of applications in carefully circumscribed situations, and not as an absolute bar”.

Then we move forward. Many countries have used similar authorities in order to move forward on this. The United Kingdom, Ireland, France, Germany, the Netherlands, Norway, Switzerland, and Finland are all countries that have implemented designated safe country proposals. I can't imagine that either of the witnesses would suggest that every single one of those countries is wrong.

I just want to remind the witnesses that in fact there are criteria built into this process. First, a country has to meet one of two quantitative thresholds or limits, which will be set out in the

ministerial order. The first is the rejection rate, which will include abandonment or withdrawal claims, of a minimum of 75% must exist. Similarly, an abandonment and withdrawal rate of 60% or higher would trigger a review. I state specifically, “a review”. It doesn't mean automatically that the minister has the authority to give that country the designation. It starts a review, which is going to be done by a number of different ministries, led by CIC. And for countries we're looking at, the review would have to take place with the leadership of CIC, with a number of other ministries having input into the process, to make a determination that these criteria have been met.

If we even take it further, for claimants from countries with a low number of claims there is a qualitative checklist that would be established in legislation.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you, Mr. Dykstra.

**Mr. Rick Dykstra:** I'd love to go on, but I don't have the two minutes necessary to do it.

Thank you, Chair.

**The Vice-Chair (Ms. Jinny Jogindera Sims):** Thank you.

The meeting is adjourned.

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