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Chair

Mr. David Tilson

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● (0850)

[*English*]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): Good morning, everyone. This is the Standing Committee on Citizenship and Immigration, meeting number 38, Thursday, May 3, 2012. The orders of the day are pursuant to the order of reference of Monday, April 23, 2012, Bill C-31, An Act to amend the Immigration and Refugee Protection Act and other acts.

We have two witnesses today, Delphine Nakache, a professor with the Faculty of Social Sciences at the University of Ottawa, and James Bissett.

You have been here many times, sir. Good morning to you.

You each have up to 10 minutes to speak to us.

We will start with you, Ms. Nakache. Thank you for coming.

Prof. Delphine Nakache (Assistant Professor, Faculty of Social Sciences, School of International Development and Global Studies, University of Ottawa, As an Individual): Good morning, everyone. My name is Delphine Nakache. I am a law professor at the University of Ottawa, but you are right that I am teaching and researching in the Faculty of Social Sciences. But my background is a legal one.

[*Translation*]

As an outside consultant, I wrote a report for UNHCR in December 2011 on the human and financial costs of detaining asylum seekers in Canada. My presentation today will focus on the detention conditions of asylum seekers in provincial prisons. I will talk about that issue at length because very few studies have been conducted on it. I really wanted to highlight that aspect.

If Bill C-31 passes, the number of asylum seekers detained in provincial prisons will increase significantly. However, there are already a number of substantial issues related to the detention of asylum seekers in those institutions. Therefore, it is of the utmost importance that those issues be resolved before the situation worsens.

[*English*]

Given that the highest increase in immigration detention is expected in British Columbia, the most likely destination for boat arrivals, my presentation today focuses on conditions of detention for asylum seekers in B.C. But this situation is broadly similar across Canada.

[*Translation*]

What is the overall situation in Canada?

[*English*]

During the past three years, according to the CBSA, the use of provincial prisons for immigration purposes has increased for all categories of immigration detainees, reaching over 36% of all immigration detainees.

[*Translation*]

Asylum seekers are directly affected by that increase. From 2005 to 2009, 23% of refugees were detained in provincial prisons, on average. From 2009 to 2010, that figure was 29%. So there was an increase in the number of asylum seekers detained in provincial prisons. It is important to point out that the vast majority of those people were not detained because they posed a threat to security. They were detained only for immigration reasons. Generally speaking, this means that almost one asylum seeker out of three who is detained under the Immigration and Refugee Protection Act is locked up in a prison-like institution—in other words, a municipal or provincial prison. In most cases, we are talking about a provincial prison.

How can we explain those figures? It's fairly simple. They are due to the fact that Canada has only two CBSA immigration centres, also referred to as immigration holding centres. There are actually three such institutions, but two of them are used for detaining foreign nationals for periods of over 72 hours. There is one centre for Greater Montreal and another one for the Greater Toronto Area. Therefore, elsewhere in Canada, asylum seekers are detained in municipal or provincial prisons. Provincial prisons are also used across Canada to detain low-risk individuals with mental or behavioural disorders.

What is the situation in British Columbia, specifically?

[*English*]

In British Columbia, detained asylum seekers are brought to the B. C. immigration holding centre for the first 72 hours only, and then are automatically transferred to provincial prisons.

[*Translation*]

Although there are medium security prisons in British Columbia, all asylum seekers are detained in maximum security prisons. The reasons for that are unclear.

[*English*]

B.C. Corrections also says that it wants to treat all detainees the same way so as to avoid any discrimination between inmates. Thus, B.C. guards are not informed of the immigration status of detainees

[*Translation*]

and asylum seekers are submitted, just as all other common prisoners, to all the institutional rules. This may mean that they have to wear prison uniforms and that their freedom of movement is extremely restricted.

[*English*]

The lack of special consideration for asylum seekers is problematic.

[*Translation*]

For instance, unlike asylum seekers detained in CBSA centres, imprisoned individuals have no Internet access. Their telephone calls are extremely restricted. Those calls can be made only when asylum seekers are in the common room—so at very specific times of day. In addition, since the calls are monitored for reasons that are understandable in a criminal context, they can be interrupted at any time.

In addition, local calls are free for asylum seekers detained in CBSA immigration holding centres, or IHCs, but individuals detained in prisons have to pay for them. Inmates must use a calling card issued by the penitentiary to make international calls. However, according to my research experience and what I witnessed in British Columbia, the calling cards do not work for all the countries asylum seekers come from.

These are concrete issues, but under those conditions, you can understand that it is very difficult for asylum seekers to gather the documents they need to claim refugee status, especially since those claimants rarely receive outside help.

Regarding correctional centres, aside from the Red Cross that visits those centres at very irregular intervals, no NGOs are allowed to visit asylum seekers in prison. In addition, it is very difficult for those asylum seekers to seek legal advice while in detention. That is much more difficult than for those detained in CBSA immigration holding centres.

● (0855)

[*English*]

The situation contrasts starkly with the situation in other industrialized countries.

[*Translation*]

The problematic situation in provincial prisons is exacerbated by a legal uncertainty surrounding the sharing of jurisdiction between federal and provincial authorities. This is actually a context where, under the Immigration and Refugee Protection Act, the CBSA is the federal entity with the authority to detain asylum seekers. However, under the Constitution Act, 1867, provinces are responsible for the care, custody and control of asylum seekers detained in provincial prisons. This means that, although the CBSA has the decision-making authority regarding the detention of asylum seekers, that agency has no control over the way provincial correctional services manage their prisons.

[*English*]

As noted in my report, one CBSA respondent mentioned that "the situation today reflects a highly ineffective use of taxpayers' dollars, since CBSA is paying so much for the correctional facilities but has no 'control' over what provincial prisons are doing."

[*Translation*]

At the end of my presentation, I will talk about the financial cost of detention.

Strict punitive rules in prisons were established with a specific goal. That goal is simple: to establish a framework for common prisoners' detention conditions. So there is no apparent reason for those rules to apply to asylum seekers detained under immigration law and not criminal law. That is why international law clearly stipulates that asylum seekers should be detained in conditions appropriate to their status and not as individuals deemed or recognized as guilty of an offence.

[*English*]

In recognition of this issue, a 2009 report by a senior official from the U.S. Department of Homeland Security acknowledged, for example, that the detentions of immigration detainees in U.S. correctional facilities "impose more restrictions and carry more costs than are necessary to effectively manage the majority of the detained population".

The costs are clearly human rights costs. To name a few, asylum seekers in prisons are subject to unnecessary and disproportionate restrictions of their liberty, which impedes their ability to seek international protection. There are also concerns about the safety of detained asylum seekers in B.C. prisons, most of whom have likely never experienced a prison-like environment before and are left to co-mingle with the regular population in prison. In addition, dispersing asylum seekers in high-security prisons, instead of medium-security prisons, is a disproportionate management of the asylum seeker population given the very low security risk that asylum seekers present.

[*Translation*]

In addition, there are some financial costs involved. Of course, it is difficult to obtain statistics on the financial costs of detention. On that point, I would like to refer you to a 2010 report the auditor general produced on detention in immigration.

[*English*]

The Chair: You have one minute, Professor Nakache.

Prof. Delphine Nakache: Perfect.

This report shows that CBSA payments for provincial prisons exceed CBSA-run detention facility costs. So contracting with provincial facilities in several parts of Canada represents a huge cost to taxpayers.

[*Translation*]

Therefore, before measures are implemented for detaining more asylum seekers for a longer period of time, it is important to first address the real issues surrounding the detention conditions of asylum seekers in provincial correctional establishments.

[*English*]

Some steps toward greater involvement by the federal government have already been taken. However, it is essential to go further to solve these problems before those problems get exacerbated if Bill C-31 is implemented.

Thank you.

The Chair: That was right on the button, thank you.

Mr. Bissett.

Mr. James Bissett (As an Individual): I'm going to read my statement today in the interest of time.

I'm not going to talk this morning about how terribly expensive our current asylum system is, or how it encourages human smuggling, or how it presents a serious security threat to Canada, or how it undermines our immigration system, or how it damages our bilateral relations with many friendly countries and compromises our trade and tourist industry. I'm not going to talk about why it's the primary reason that our southern neighbour, the United States, has in effect militarized its border with us and, finally, about how it undermines and inhibits Canada's efforts to help resolve global refugee problems.

For over a quarter of a century, every attempt to reform Canada's defective asylum system has met with failure. The primary reason has been the willingness of our politicians, from all sides of the House, to accept the arguments of the powerful refugee lobby that exists in the country, a lobby that has fiercely resisted every attempt to introduce even the most modest reforms in a clearly dysfunctional system. The lobby consists of, among others, immigration lawyers, immigration consultants, the Canadian Council for Refugees, churches, Amnesty International, and a host of other advocacy groups and non-governmental organizations. Many of these organizations receive substantial taxpayer funding for their operations, and many of them do an excellent job in helping the asylum seekers and refugees who get into the country. There's no question about that.

One might question their sincerity in posing as defenders of poor refugees against a malevolent big government trying to close Canada's doors against the persecuted of the world, but they have the right to lobby for a policy change that serves their interest, and I don't challenge that. What is more disturbing, really, is that this lobby has played a dominant role in the formulation of asylum policy for the last quarter of a century. It is almost as if Parliament has delegated its responsibility for policy-making in this area to the lobbyists. The Department of Citizenship and Immigration, for example, actually calls these lobbyists stakeholders, not lobbyists.

You will notice that I make a clear distinction between asylum policy and refugee policy. The refugee lobby does not make this distinction and it likes to mislead the media and the public into believing that all of the thousands of people who annually show up at our borders spontaneously and uninvited and claim to be persecuted are counted as refugees. Now, that is wrong. They are not refugees. They are not refugees until the IRB adjudicates their claim and makes a final decision as to whether they meet the refugee definition.

Since Canada allows everybody and anybody who shows up at our border to receive a quasi-judicial tribunal hearing, with, in most cases, free legal advice and access to the courts, the refugee board, of course, has always had and faced a serious backlog. The backlog now is around some 40,000 people waiting to have their claims heard, which means that if you come in today and make a refugee claim, you probably won't be able to get your hearing for two years or so. The longer it takes for the hearing, of course, the more difficult it is for anyone to decide to send them home, even when these people are not considered refugees. It's almost impossible to do so.

Take the two Tamil ships that arrived, one three years ago and one two years ago. There were some 500 asylum seekers, and to my knowledge, fewer than 20 have been sent home. The rest are still here and will be here probably for another year or two. They're not going home. You can be sure of that.

In 1989 when new refugee legislation was being prepared to address this new phenomenon of people suddenly arriving in Canada claiming to be refugees, Lloyd Axworthy was the minister, and he assigned a professor from the University of Ottawa, Edward Ratushny, to do a study and make recommendations on how Canada should handle this problem.

Ratushny recommended that in order for any quasi-judicial tribunal to be able to function properly, it had to ensure that not everybody had access to it. If you give complete and non-regulated access to any quasi-judicial tribunal, Ratushny said, it's bound to fail. It can't handle the volume and will be overwhelmed by numbers. Of course, that's exactly what's happened with the refugee board.

● (0900)

The legislation in 1989 indeed did include Ratushny's recommendation, which was to clear out very swiftly at the front end of the process anyone coming from a safe third country. There was no point in giving them protection. They already had it in the country they were coming from and, therefore, in Ratushny's view, they should not be eligible to apply, as they would just clutter up the system. He of course was right, but as usual he was not heeded.

Three days before the legislation came in that would have included the provisions for the government to decide the countries that were safe, Barbara McDougall, the then minister, announced that the legislation would come into effect but without enacting the safe country provisions. This of course meant that the board was already running into serious problems.

Two years later, in 1991, the number of asylum seekers coming into Canada had gone up to 67,000. A couple of years later, it was 55,000, then 58,000. It's continued at a very high level ever since because there are no means of screening out quickly those who are evidently not needing our protection.

The UN convention on refugees imposes one fundamental obligation on its signatories, and that is not to send those back to a country where there is fear of persecution. The convention does not mention asylum seekers. Why? It's because, of course, they're not refugees. They are looking for refugee status and claiming to be refugees, but many of them, as we know—60% at least, via our own IRB—are considered to be not genuine.

With this obligation in mind, surely it's Canada's right as a sovereign country to designate countries as safe for refugees. There is no point at all in not designating all of the European Union countries as safe for refugees. They have full protection through the European human rights tribunals.

The United States is a safe country for refugees. Its acceptance rate is very high, and it has have professional judges deciding these cases. Our safe country agreements should be reinforced there. The United States was not keen to sign that agreement and made sure that if anyone had even a distant relative in Canada, if they appeared at the border, the safe third country provision would not apply. The U. S. authorities knew that 50%, 60%, maybe 80% of the people coming from the United States were coming through the States into Canada to join relatives here.

Such a designation would not be in violation of the UN convention in any way. All of the European countries have safe countries and safe third country provisions. They all do, otherwise they wouldn't be able to cope with the volumes of people pouring into their countries. Germany in 1993 had 493,000 asylum seekers. The following year they changed their constitution to deal with it. We still haven't been able to make any changes in our law, in any attempt to reform it.

I support the bill that is now before Parliament, because in my view it is a modest attempt to make some changes. I don't think it's going to work, quite frankly, because we still don't thoroughly screen out people coming from Europe or the United States. They'll be allowed to make a claim. They don't have the right to appeal to the new appeals section of the board, but they do have the right to seek leave to appeal to the Federal Court.

The timeframes that have been set for them, I think, will be challenged by the lawyers and perhaps by the charter. I don't think they're going to work.

● (0905)

The Chair: Mr. Bissett, you have one more minute.

Mr. James Bissett: Okay.

I think there are some good parts to this bill that have to be supported, but my concern is that it doesn't go far enough. This new bill will not work unless it has a system for screening out, at the front end, those people who obviously are not refugees and who do not have the right to claim because they have protection in the country they're coming from.

If you don't send refugees back literally within 48 hours, or asylum seekers within 48 hours, you've got them for good. That's why we've become the target of choice for human smuggling. The smugglers can guarantee that even if you're turned down at the board, you're in. We send very few back.

We're detaining more now, as Madame Nakache has said, and I agree with a great deal of what she said. We should have detention quarters rather than jails to detain these people. But if you don't send them back quickly, you're doomed.

As a final thing, in 1999 there was an excellent report by Lucienne Robillard, the then the minister, called *Not Just Numbers*. I think the immigration department would do your committee a great service if they could take the chapters from that report dealing with protection and distribute them to the members of the committee. Had we followed that report's recommendations, we would have been in the forefront of countries and a leader in helping refugees around the world, and in dealing fairly, as well, with asylum seekers.

Thank you.

● (0910)

The Chair: Thank you, Mr. Bissett.

Ms. James has up to seven minutes.

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

Thank you to our two guests.

I'm going to go directly to my questions, and I'm going to direct my first set of questions to Mr. Bissett.

Mr. Bissett, are you aware that 25% of all refugee claimants are coming from the European Union and that of that 25%, 95% of the claims are either abandoned, withdrawn, or actually rejected. It takes up to two years, as you indicated, for the claim to be processed. Did you also know that it's costing taxpayers $170 million per year for these particular claims?

Mr. James Bissett: Yes, I am. I don't agree with the cost. I did my own calculations, and it's fairly simple arithmetic.

In 2008, there was a backlog of 60,000 asylum seekers here. The department tells us that it costs $50,000 a year to look after one failed asylum seeker. If you have 60,000, times 60%, times 50,000, you have $1.1 billion. That's just the failed asylum seekers. The real costs come in when they are released and still have to be looked after. My calculation is that it's roughly $2 billion to $3 billion annually for our asylum system.

Ms. Roxanne James: Thank you.

Actually, we had someone from the Canadian Taxpayers Federation here in another session, and he also quoted the $50,000 per claim. That's interesting that you've also used that same figure.

Why do you think the people who are actually claiming to be refugees are going through the process and then withdrawing their own claims?

Mr. James Bissett: The European figures have been magnified somewhat by the movement of Roma people from the Czech Republic and Hungary. That started back in 1994, actually, and it has continued ever since. Thousands, I would guess close to 15,000 Roma people, have arrived in Canada. A very high percentage of them don't bother appearing before the refugee board, because their purpose in coming here is not to stay permanently; it's to stay and collect welfare and housing and enjoy the benefits of a welfare state that pays them much more than being on welfare in Hungary.

Ms. Roxanne James: Thank you.

You know what? That's one of the number complaints about our current system by people in my constituency. Interestingly enough, we had a counsellor from the Embassy of Hungary here in another session, and he stated that one of the reasons people from his country are this is that it's basically easy money here in Canada. I'm very upset about that and I know that my constituents are as well.

Do you think taxpayers should put up with this? Do you think taxpayers should be responsible for footing this bill?

Mr. James Bissett: Taxpayers should be very concerned about it, but taxpayers assume, as they do, and probably just as well, that the government is acting in their interest. Refugee policy is not something the average Canadians think about or are concerned about. They make the assumption that the government's acting in their best interest. The refugee board is not very transparent. It's not easy to get figures and facts, even if you are interested. You have to do a lot of digging and research.

So, yes, I think Canadian taxpayers should be very much concerned.

Ms. Roxanne James: Thank you.

Part of this bill has to do with designating safe countries, based on quantitative and qualitative measures. You mentioned safe third countries in your introductory remarks.

We actually have an agreement with a safe third country, the United States. Do you think the measures in this bill go far enough in designating safe countries or should we implement more safe third countries agreements? I know that you touched briefly on it. I just wanted to know your opinion on that, if you could expand, please.

Mr. James Bissett: Yes.

I think the safe third country agreement signed with the Americans was deeply flawed. The Americans know as much about our refugee policy as we do. They were aware that if they had a safe third country agreement, they would get stuck with thousands of people who had relatives in Canada who could get into the States easily, because they didn't need a visa. These people could up to the border at Lacolle, in Quebec, and walk in to join their relatives. So they insisted that there were a lot of exceptions in that agreement.

To answer your question, of course we should have safe third and safe country agreements with all of the western European countries and the United States and Australia, and some of the European countries that are not members of the European community, such as Sweden and Norway. We get asylum seekers from those countries. Last year, asylum seekers from 180 different countries came in. Not all of them, and in fact very few of them, come in by boat, which gets a bit of publicity. They're coming in every day.

● (0915)

Ms. Roxanne James: Thank you very much.

I heard you touch on the difference between asylum seeker and an actual legitimate, bona fide refugee. We heard that from other witnesses in the testimony from past days. They talk about refugees being detained. But one of the reasons we need to do that, especially with mass arrivals, is that they come without documentation; sometimes it's thrown overboard and sometimes it's false. You cannot believe that anyone in Canada would expect that someone who has come here without any proper identification will just be released. I'm glad you differentiated between asylum seeker and refugee.

The largest part of this bill actually deals with helping bona fide refugees get processed more quickly in Canada. I think that point has been overlooked a fair amount in this committee. A lot of the witnesses focus on the human smuggling aspect, which represents a very small percentage of the refugees coming into Canada, so I'm glad you did touch base on that.

Going back to the issue with Hungary and countries like that, Hungary obviously is part of the European Union. People there have 26 other countries they can choose before coming to Canada. If you were being persecuted in your country, would you not flee to the most convenient, quickest, safest place to go, or would you choose Canada simply because it's easy money?

Mr. James Bissett: In the case of the Roma people in eastern Europe, I've served in the Balkans in eastern Europe, which has a large Roma population. Clearly they are being discriminated against, but discrimination is not persecution. If you start considering everybody who is discriminated against in their own country as refugees, you're in very serious trouble. There are 20 million untouchables in India. They're discriminated against. The only reason they're not coming here and applying before the board is that they don't have the money.

The Roma people have Roma members of Parliament in Hungary, and they have Roma members of the European Parliament. The laws in Hungary and the Czech Republic are as strong as ours, and they're protected by the human rights conventions of the European community. They're not coming here because they're refugees. They're coming here because in Hungary they get the rough equivalent of $500 a month for welfare. They can barely live on that, but it gets them by because in Hungary it's not bad. But they get here and they live very well indeed.

The Chair: Thank you, Mr. Bissett.

Ms. Sims.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Thank you very much.

Yesterday we heard some numbers being thrown around about the processing of the Roma and the kind of impact they're having, and so we have asked our analysts to provide the whole committee with some data so we're actually talking about the facts rather than numbers that seem to change quite frequently.

One of the other things, as you are both aware, is that we have Bill C-11, which was agreed to by all parties. It hasn't been fully implemented. In Bill C-11 there is a provision to detain someone. Obviously our current system allows us to detain someone until identification takes place. Even under the current system, we have this huge shortage of detention spaces and, from the picture you and many others have painted over the last few days, some of the conditions in these detention places, prisons, are not those where we would want to have people housed, especially asylum seekers who are coming from very dangerous areas. There is a cost to the taxpayer.

Could you expand a little bit more, Ms. Nakache, on what was in the Auditor General's report and on the cost of buying space in prisons?

Prof. Delphine Nakache: I have many documents with me today, but not the one from the Auditor General's report. What I remember is that the overall costs of detention in a correctional facility derive from an agreement between CBSA and the provinces, with CBSA paying the provinces to keep those immigration detainees in detention. As for the overall costs, unfortunately, we really need more statistics on that. We need more readily available statistics available for anyone.

I remember asking them for that information for my report, but they said they couldn't provide me with that type of information. But in that report, for the years 2005 to 2007, the overall costs of detention in correctional facilities were higher. They were higher knowing that more than one third of immigration detainees are in correctional facilities. Actually, the cost is really much higher in correctional facilities than in detention facilities.

I would like to state one further point. I oppose Bill C-31 and came here because I really wanted to give you a specific illustration of a specific problem. I do believe that detention is not an effective deterrent against irregular immigration. I do believe that there are other ways to address your problems and issues around irregular immigration. As you said, it is also true that there are problems relating to detention in immigration facilities, but this increase in detention in correctional facilities is problematic and should really be looked at closely before we go further with the implementation of the bill.

● (0920)

Ms. Jinny Jogindera Sims: As you know, Bill C-31 has built into it mandatory detention for irregular arrivals, including detention for a year. Many have said that that is unreasonable and excessive. Can you expand on that and on what international legal obligations or charter rights this might violate?

Prof. Delphine Nakache: To be brief, I think you are all aware of the Charkaoui decision by the Supreme Court. Clearly that decision said that detention has to be reviewed on a regular basis. In Charkaoui's case, they said that keeping someone in detention after 120 days without a review of detention was a violation of both the Canadian charter and international human rights standards.

Basically, I think the provision in the bill that makes it possible to keep someone in detention without reviewing the grounds for detention for one year will be legally challenged. If we draw from the Charkaoui decision, a case with a very particular context dealing with security certificates, we know that this particular provision in the bill will be challenged because it is both unconstitutional in relation to our Canadian charter and a violation of several human rights standards.

Just to mention two of them, one is the principle of proportionality in international law. International law does not say that detention for immigration purposes is forbidden. It just says that it has to be proportional to the objectives sought. In this particular case, it is difficult to see how we can justify one year of detention of asylum seekers without review of the grounds of detention, if the objective of detention is just for irregular arrivals. Also, there is inhuman and degrading treatment, which is a norm in international law that certainly has been translated into our Canadian charter too, under, among others, sections 7 and 9 of the Canadian charter.

Ms. Jinny Jogindera Sims: Thank you very much.

Do I have some more time, Mr. Chair?

The Chair: You have about 20 seconds.

Ms. Jinny Jogindera Sims: I want to go back to Bill C-11 just briefly. Bill C-11 allows us, as the government, to hold people until identification happens. They are screened to see if anybody is a terrorist or has done other things in their previous lives. In light of that, it seems that this excessive aspect of this legislation is not necessary, that we could just go back to Bill C-11 and Canadians would get that same level of protection from it, whereas up to a year in prison does not seem to benefit anybody, although it costs the taxpayers even more money.

Thank you.

● (0925)

The Chair: I have a quick question before Mr. Lamoureux.

You're not the only one who has suggested that detention is inappropriate or may be unconstitutional. Given the possibility of our receiving applicants who may be terrorists—there may be some facts put forward that certain individuals are terrorists, but not conclusive, or there may be some facts put forward that certain individuals may have been involved in criminal activity, but not conclusive—do you have any alternative recommendations to detention?

If someone is a potential terrorist or criminal, we just can't let them loose in Canadian society. We just can't do that.

Prof. Delphine Nakache: I think detaining someone when there is a risk to the security of the Canadian population is a legitimate ground for detention. I just would like to remind the committee that, according to CBSA stats, only 6% of all refugees and asylum seekers in detention have been detained on security grounds. That means, basically, that 94% of other refugees or asylum seekers are detained for two main reasons: because there is a risk that they will not present themselves and follow the immigration procedures, or most of the time, for identity reasons. In that particular case, I do believe that there might be alternatives to detention, and I'm actually—

The Chair: What are they?

Prof. Delphine Nakache: Probably making sure that they comply with the immigration procedures, among others—

The Chair: How do we do that if we are letting them loose?

The reason I'm asking this question is that many counsel and lawyers have come before us and said that detention is unconstitutional.

All I know is that it would be totally irresponsible—and here I'm the Chair and shouldn't be taking positions—to let people loose into our society who are potential criminals or potential terrorists. Therefore, I respect your position that it may be unconstitutional, but surely when you say that, there must be some alternatives.

Prof. Delphine Nakache: I'm not saying that detention in itself is unconstitutional. I'm saying that detention has to be reviewed on a regular basis. If you want, there is a legal framework around detention that has to be respected. International law does not say that detention for immigration purposes should be forbidden, that this is illegal. It just says that it has to be allowed within a legal framework.

I certainly see your point and your concerns, and I certainly see that this is a difficult balancing act, but—

The Chair: But, excuse me, there's no balancing. The problem is that if we have a whole bunch of people arrive—and I'm going to stop soon, Mr. Lamoureux, and I thank you for not interrupting me—by boat or some other mode of transportation, we don't know who they are. They may not have identification. Canadian authorities have an obligation to determine whether any or all of these people are terrorists, or any or all of these people are criminals, because there's been evidence given to this committee that people who are potential terrorists or criminals have gotten through the hoops and are living among us.

Prof. Delphine Nakache: Once again, according to CBSA stats, it's only 6% of all refugees and asylum seekers that are being detained for security risks.

There are studies, among others, commissioned by governments that clearly show that detention does not work as a deterrent against irregular immigration. That's a fact. You want some facts. Here are the facts: This is not working and there—

The Chair: Okay. I am overstepping my boundaries as chairman.

Ms. Jinny Jogindera Sims: Mr. Chairman, I have a point of order.

The Chair: Excuse me, I am going to let Mr. Lamoureux—

Mr. James Bissett: Mr. Chairman, can I just make a comment, with Mr. Lamoureux's permission—

The Chair: Mr. Bissett, go ahead.

Mr. James Bissett: Another motive for the year's detention stems back to what happened to the first boat from China that arrived here in the mid-nineties. A boatload of asylum seekers arrived from China and they were all released. None of them showed up for their board hearing and we have no idea where they are.

When the second boat arrived, all were detained. They were put through accelerated procedures. Board members were sent down to Vancouver. All of the people were interviewed. They were all determined, with the exception of four, not to be genuine, and we asked the Chinese government for permission to return them. The Chinese government said, “Return all of them or none”. There were very delicate negotiations about that. Finally, the Chinese agreed to let us keep, I think, four of them and all the rest were sent back. We have not had another boat from China.

● (0930)

Ms. Jinny Jogindera Sims: A point of order, Mr. Chair.

The Chair: I know we are overstepping it.

Ms. Jinny Jogindera Sims: No. Chair, I think I get the right to state my point of order.

The Chair: You do indeed.

Ms. Jinny Jogindera Sims: I believe the chair has overstepped the time. I can see your making a quick comment and moving on, but I believe you have used up seven minutes of the time. I have not seen this kind of an intervention or this kind of freedom before.

I am really hoping, then, that the opposition side will get to balance out that time, because to me this was just not called for today, Chair.

Mr. Rick Dykstra (St. Catharines, CPC): On a point of order, Mr. Chair, if we are going to go down this road of talking about time, then I am going to hold the first three days of our hearings as an example when the government loses minutes every single hour when points of order are called.

If you want to get into a discussion about time, Ms. Sims, and what has been lost or what has been gained, then you're going to have to suggest and make a recommendation as to how every minute the government has lost from its time for questioning will be replaced.

Ms. Jinny Jogindera Sims: Mr. Dykstra, with all respect, I am really focusing on the role of the chair and the amount of time that was taken up by the chair. I presumed the chair was doing what I have done in the past, which is to get on the list. I was just surprised that he went ahead of Mr. Lamoureux.

Now, I've witnessed in the past that he has made a quick intervention and then moved on, and I've been okay with that. But today I just want to put my concern on the record about the length of time the chair took to question the witnesses and make his own comments.

The Chair: You are right, Ms. Sims. I will hold you to seven minutes, on the button, from now on.

Ms. Jinny Jogindera Sims: Thank you.

The Chair: Remember that, because you had seven and three-quarter minutes and eight minutes, which is beyond what you're allowed. From now on, I'll cut you off at seven minutes, sharp. We'll play by the rules.

Ms. Jinny Jogindera Sims: Absolutely.

The Chair: Mr. Lamoureux.

Ms. Jinny Jogindera Sims: On a point of order, Mr. Chair, I raised a point of order and I really resent the belligerent and aggressive tone the chair is taking in addressing my point of order. Mine is basically based on the facts of what I observed.

The Chair: I'm sorry if you find me belligerent. You're challenging me on the time and I'm saying that I will play by the time from now on, as long as you respect that when I cut you off at seven minutes sharp.

Ms. Jinny Jogindera Sims: I will.

The Chair: Mr. Lamoureux.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Chair, I have five minutes and I do want to try to get across a couple of points.

First and foremost, I think it's very important that we emphasize that mandatory detention is indeed, from my and the Liberal Party's perspective, unconstitutional and will be challenged.

Not only does Bill C-31 raise concerns regarding challenges to our Constitution, I would ultimately argue that it also tarnishes Canada's reputation to be a world leader in dealing with refugees and whole issue of refugees more broadly, where we have 10 million plus people around the world who are in need of some sort of asylum or are in refugee camps and so forth. Our potential to be able to influence that is being tarnished by Bill C-31.

I want to go to the *Sun Sea* and the *Ocean Lady*. The *Sun Sea* carried 492 people and the *Ocean Lady* 76 people. There are six people who are still in detention. The current system allows us to keep in custody those individuals who are a high risk to Canadian society. They remain in detention. That's an important point that needs to be made.

Ms. Nakache, you made reference to detention. I appreciate your words and that they are based on finances and the fact that it violates the Constitution. Those are excellent points that I concur with wholeheartedly.

The question I have for you is this. There are other aspects to Bill C-31, such that if you are deemed a refugee and your circumstances change abroad, you could lose your status as a refugee or your ability to sponsor a family member, even if you have been deemed to be a refugee for years.

I'm wondering if you can provide a quick comment on that.

● (0935)

Prof. Delphine Nakache: First of all, I fully agree with you, and I'm sorry if I was misinterpreted on that fact.

Once again, international law does not forbid immigration detention per se, but it states, among other things, that immigration detention has to be done on a case-by-case basis. Mandatory detention per se is unconstitutional and illegal to me, according to international law. I certainly see where you are coming from and I support this view too.

I would be more than happy to provide the committee with some reports that have been written specifically on alternatives to detention. I think these are very good reports that could certainly provide you with an insight on what the possibilities are here, and there are concrete possibilities.

In relation to other aspects of C-31, I think that many of them are problematic. The one that you mentioned, the fact that we can send someone back if the situation has changed in their country of origin, needs to be considered with caution. Why is that? Because if people in the country of destination here in Canada have—I will say that in French—

[*Translation*]

They have taken root and have really developed considerable ties to the country of destination. In that case, I see it as very problematic —if only from a human standpoint—to send those people back to their country of origin.

Bill C-31 contains many provisions I consider to be problematic. Those provisions violate the fundamental principles of refugee law.

I prefer to let other people testify and talk at more length about those very important issues, as you said.

[*English*]

Mr. Ted Opitz (Etobicoke Centre, CPC): Thank you, Mr. Chair. First, I'm going to share my time with Mr. Dykstra, and he is going to lead off.

Mr. Rick Dykstra: Thank you, Mr. Opitz.

I want to pursue the issue of detention. If looks as if you've based your argument pretty much on your view that detention is unconstitutional and therefore problematic with respect to the bill. Whether they are determined to be a refugee prior to coming to Canada or they come to Canada and are able to prove themselves to be refugees, somewhere between 98% and 99% of them are not held in detention because we're able to determine who they are, what their backgrounds are, and therefore we are able to quickly determine whether they pose a threat to Canadians.

The half a percent of all refugees who come to Canada that you're speaking about are those who are filing to become refugees and are held in detention for a period of time until their documents prove who they are and that they are not a risk to society.

I'm not quite sure how you argue that if the individuals are unknown to the Canadian government or authorities or to the Canadian public, why it's unconstitutional to hold those individuals until we determine who they are. I don't know of any constitutional or charter challenge that has worked against the identification of an individual, saying that it is unconstitutional.

● (0940)

[*Translation*]

Ms. Delphine Nakache: Thank you for that comment.

I would like to make two clarifications, and I think it's very important to do so.

Of course, this is the kind of talk surrounding the issue of asylum seekers and refugees. We often hear people say that refugees should be protected and that asylum seekers are provided with less protection. You know as well as I do that the Geneva Convention was adopted in 1951 in a context where, at the time, the terminology issue was irrelevant. Refugees would arrive and automatically be granted refugee status. At the time, the context was very different. Over the years, a distinction has been made between asylum seekers and refugees because destination countries increasingly had to deal with asylum situations and, finally, when people would arrive on their soil, they were refugee status claimants. The fact is that the Geneva Convention only mentions refugees, but that is because, at the time, no distinction had been made between the two terms. It was a post-WWII context, and people were automatically considered as refugees under the convention. The distinction between asylum seekers and refugees was made over time, and determining refugee status has now become a long process.

Unless I am mistaken, you asked why it is illegal or unconstitutional in terms of international law to detain people in cases where information on their identity is lacking, and in other similar situations. You know very well, as do I, that immigration law comes under administrative law and that it's basically a law that allows procedures. Finally, the principle of administrative law is based on considerable discretion being exercised by decision-makers. Why was the system developed like that? Because those in charge thought immigration officers should have the authority to determine the merits of a claim, a situation, on a case-by-case basis. In fact, immigration law has so far been designed to allow immigration officers to make an assessment on a case-by-case basis when an individual comes before them. As a result, everyone is put in the same basket in that context, and that's where things become problematic.

[*English*]

Mr. Rick Dykstra: Your position now has changed from your original statement, so I would just make it clear that you also have issues with understanding the direction that the government needs to take when you're unsure of the identity of an individual. You've spent a great deal of time now, not directly responding to the question but alluding to the fact that officials have a responsibility. Essentially, what you said is officials have a responsibility based on the fact that in 1951, when the determination was made, it didn't take into account asylum seekers but only refugees.

Prof. Delphine Nakache: That is not what I'm saying.

Mr. Rick Dykstra: You have referred to the 1951 convention six or seven times as the basis of your fundamental argument on detention. You have made it very clear now that what wasn't taken into account in 1951 was an individual seeking asylum. What the 1951 convention takes into account is a refugee who has already been determined to be a refugee. So I don't think we have any argument with you on that issue.

The issue that we continue to harp on, for the less than 0.5% of those who seek refugee status here in Canada, is that if we do not know who the individual is, how can it be unconstitutional to hold that individual in detention until we've determined they are not a threat to Canadian society?

I don't need another long explanation, because both of us have used up Mr. Opitz's time, but what I'd like—

Prof. Delphine Nakache: I would just like to emphasize that you did not understand correctly what I was saying, and again I will be pleased to provide clarification in writing if needed.

Mr. Rick Dykstra: Sure. Okay.

The Chair: You have one minute.

Mr. Rick Dykstra: You're right, I don't understand. It seems to be in conflict.

Mr. Ted Opitz: Mr. Bissett, in the one minute I have, you said that this bill doesn't go far enough. What would your recommendations be to make it go the distance?

Mr. James Bissett: The minister has the power, I gather, in the new bill to designate countries that are safe for refugees, but even these people under the bill have the right of a hearing, and also the right to seek leave to the Federal Court. My prediction is that's going to jam up the system, which makes me feel that the new system isn't going to be much of an improvement over the old one. We're still going to get literally thousands of asylum seekers every year, most of whom are not genuine and are coming from perfectly safe countries. The front end of the system will not be able to clear them quickly enough to make a difference, so that we can give proper attention to those people who come directly from their country of persecution to Canada and get a full hearing.

So my recommendation is to give the minister the power to designate countries that are safe for refugees—all of the western European countries, the United States, and several others—and prevent people from applying for refugee status. There's no reason for them to apply. If they're sent back, they are protected by the country they've come from.

● (0945)

The Chair: Mr. Bissett and Professor Nakache, unfortunately our time has expired. I thank you for your presentations to the committee.

We will suspend for a few moments.

● (0945)

(Pause)

● (0950)

The Chair: Okay, we will reconvene.

We have a little larger group of witnesses this morning because members may have to leave the committee to go and vote. We're not sure when, if indeed at all, but there's a good possibility we will. That's why it's a little unusual and have a larger group.

We have three witnesses on the panel. The first panel is from the Canadian Council of Refugees. We have Loly Rico, vice-president, and Chantal Tie, the working group chair of inland protection. From the Canadian Association of Refugee Lawyers, we have Donald Galloway, co-chair of the legal research committee, and Lesley Stalker, a member at large. Finally, from the *Centre de santé et de services sociaux de la Montagne*, we have with us today Marc Sougavinski, director general, and Marian Shermarke, clinical advisor.

Good morning to all of you. Unfortunately, each group normally has 10 minutes, but this time you will only have 8 minutes.

Ms. Tie, are you the spokesperson?

Mrs. Chantal Tie (Working Group Chair, Inland Protection, Canadian Council for Refugees): Ms. Rico and I will be sharing the presentation, so we'll be moving back and forth a little bit.

The Chair: Thank you very much.

Mrs. Chantal Tie: The Canadian Council for Refugees believes in a refugee system that's fair, independent, and affordable and one that honours our legal obligations under the charter and the UN convention. We have joined with Amnesty International, CARL, and the Canadian Civil Liberties Association in calling for the withdrawal of this bill. Our briefs detail the myriad ways in which Bill C-31 is unconstitutional, undermines our humanitarian traditions, and violates our international obligations. We care deeply about all of these issues, but today we'll be speaking only about detention and processing times, from a family values and fiscal responsibility perspective. We're asking that those of you with the power to withdraw this bill ask yourselves: is Bill C-31 compatible with these values?

What does family values have to do with C-31? If family values means anything at all, it has to mean protecting and preserving the family and caring for children. It means that we don't deliberately do things that we know will harm families and children physically, socially, or emotionally. Two of the ways this bill harms families and children is by detaining designated arrivals on a mandatory, unreviewable basis, and by delaying permanent residence for five years, thereby preventing family reunification. The CCR has asked, how is detaining designated arrivals in jails or detention facilities compatible with protecting children and families? How can you justify placing children in the care of Children's Aid or in jail because you insist on imprisoning their parents?

I say “jail”, because in Ottawa, where I practise immigration and refugee law, people are detained at the detention centre on Innes Road, along with common criminals. They are subjected to locked cells, mandatory searches, sometimes strip searches, severe restrictions on visitations, and mobility restrictions. Men and women are housed separately, with few opportunities to socialize and communicate. If they have mental health issues, they are placed in maximum-security segregated detention.

● (0955)

Ms. Loly Rico (Vice-President, Canadian Council for Refugees): Good morning. I came to Canada 22 years ago as a refugee with my husband and two children. At that time I was five months' pregnant. I am bringing to you my story to explain how important it is to withdraw Bill C-31.

When I arrived, I was protected by Canada, and my children were able to grow up with their father at their side. In my country, my husband was almost killed and he was jailed and tortured. In gratitude for our protection and the treatment we received, we founded a refugee house where we welcome women and children who are fleeing gender persecution.

If we had arrived in Canada after June 29 of this year and this bill was law by then and we were designated on arrival, we would have been be detained, my children and I would have been separated from my husband, my children would have been given to a foster home or stayed in jail with me, and I would have given birth in jail.

At the immigration holding centre in Toronto, there are no facilities to keep families together. Women are in one wing with their children, and men are in another wing. They are only allowed to meet for 45 minutes in the morning and 45 minutes in the afternoon. Imagine yourself in that situation, only being able to see your family for a short time every day, only being able to carry your newborn baby for a short time every day. This is an outright violation of Canadian values.

What I'm trying to say is that we need to focus on the Canadian values of keeping families protected and together. Bill C-31 is a violation of these values.

Another way we will be keeping families separated is through the five-year waiting period before applications for permanent residency will be allowed by designated arrivals.

Most of the women who come to our centre have left behind young children. In the current process it takes them roughly six years to reunify with their children because of the delays, especially if visas have to be processed through the Nairobi office. With the five-year waiting period, they will be separated from their children for 11 to 12 years. This could mean half of a child's life. This will have a strong emotional and social impact, because these children will need to have specific programs and support to be appropriately reunited with their mothers and fathers and vice versa. We are seeing the social impact on the families that are reunified after eight to ten years.

Refugees feel tremendous guilt at having been safe here while their children and spouses were left behind in precarious situations. Families need to go through a process of recognition where children need to be reacquainted with their mothers and the mothers recognize and accept that their children are no longer their babies, but adolescents. Families need help to make this adjustment, which sometimes is impossible. Often they need counselling to adapt.

The CCR asks: How is deliberately separating refugees from their families compatible with family values?

Mrs. Chantal Tie: What does fiscal responsibility have to do with Bill C-31? We believe fiscal responsibility is about spending taxpayers' dollars wisely. The CCR is committed to an affordable refugee protection system. When money is wasted, it is not available to fund the important task of providing protection. Right now, we understand from Mr. Dykstra that only one percent of refugee claimants actually need to be detained.

Our current system is doing an individualized risk assessment, which works well to protect our society and ensure the integrity of the immigration system. The figure we used was 6%, from CBSA data, which means that 94% of refugee claimants on average do not need to be detained. If this bill passes, we will be detaining 100% of designated arrivals for a year. The math is simple. Ninety-four percent of the people we will be detaining will not need to be detained, if past experience serves us well.

There is no reason to believe that a smuggled refugee claimant is not a genuine refugee. A refugee's mode of arrival tells us nothing about the genuineness of the claim. The UNHCR has repeatedly pointed out that many genuine refugees arrive irregularly and without papers. The reason is obvious: If you're being persecuted by your government, it is hardly likely to give you travel documents or an exit visa to facilitate a visa application to Canada.

The cost of detaining the 94% of claimants who do not need to be detained for that year is huge, if we use the CBSA's figures of $200 a day or $73,000 a year. But if refugee claimants were given work permits and were able to maintain employment and become taxpayers, the cost differential would be enormous.

There's now compelling evidence of the devastating impact of the cost of mandatory detention in Australia. The figures are all in our brief. Look at them. Let's learn from the Australian experiment instead of repeating its mistakes.

And remember, none of these cost estimates take account of the enormous human cost of detention, the impact on the physical and mental health of the detainees, which is severe. Neither do they take into account the future cost of managing these impacts once the refugees are accepted and join our communities as permanent residents. These include documented incidents of—

● (1000)

The Chair: Could you wind up, Ms. Tie, please? We're well over our time.

Mrs. Chantal Tie: —self-harm, depression, suicide, anxiety, and post-traumatic stress disorder.

The Chair: Thank you, Ms. Tie, and Ms. Rico. I appreciate your presentations.

Monsieur Sougavinski. You have up to eight minutes.

Mr. Marc Sougavinski (Director General, Centre de santé et de services sociaux de la Montagne): Mr. Chairman, members of the committee, we thank you for hearing us today on this important democratic exercise.

I am Marc Sougavinski. I am the CEO of an organization called the CSSS de la Montagne, a public health and social service organization in Montreal. Mrs. Marian Shermarke, our expert in immigration, is accompanying me.

[*Translation*]

The CSSS de la Montagne is a professional university organization of the Réseau de la santé et des services sociaux du Québec—Quebec's health and social services network—specializing in issues related to immigrants and refugees. The CSSS has a special program called PRAIDA. That is a service with over 60 years of experience and expertise in the reception and integration of asylum seekers. PRAIDA—formerly SARIM—brings together a team of workers and doctors that was created for the specific purpose of providing support and appropriate monitoring to asylum seekers, rather than leaving them to their own devices and without resources in Montreal.

In about 60 years, PRAIDA has dealt with over 350 claimants and has provided them with support. The experience is concrete. We are a public organization. We do not undermine government goals. We are state professionals, and we care about effectiveness and equality in the fast and fair provision of services, to paraphrase Minister Jason Kenney.

[*English*]

We agree with that.

[*Translation*]

Among other things, PRAIDA has agreements with all Canadian immigration services and works closely with border services. We want to take this opportunity to highlight the excellent co-operation between our services.

We also care about the protection of Canadians. We are against criminals and abuser of any kind, and we want to make sure that the money invested in the programs is invested in a way that is judicious and useful to Canadians. Finally, I want to specify that we are a health and social services organization. There are all kinds of needs in that area, and we are not looking for more work or an increase in human suffering. There is enough of that as it is.

● (1005)

[*English*]

So I hope no one will say that we somehow have some kind of conflict of interest in the matter.

[*Translation*]

What's disturbing about the bill is the image it conveys—it makes it seem as though most asylum seekers are swindlers and liars who absolutely need restrictive, even punitive, measures. There is the idea of good guys and bad guys, where most claimants are bad guys. We are thinking of those people whose claim is denied, for instance. That may be a popular belief that's easy to spread among uninformed crowds, but for people like us who have been receiving asylum seekers for 60 years, that is untrue.

There are certainly some people who abuse the system, but as in any area of human activity, such as politics, fraud and system abuse are not committed by the majority, even though popular belief may indicate so. Prisons are for criminals, and we agree with that. However, they are not a place for refugees, vulnerable individuals, mothers and their children—not even those who are 16 years old. The emphasis placed on imprisonment and the potential consequences for children make us very uncomfortable.

[*English*]

Also let's be honest: a jail is a jail. Don't believe those who will tell you that it's just a light form of detention. It's not what is happening. There's no such thing as light preventative jail time. A jail is a jail.

We are in agreement with having shorter delays for someone to receive an audience, but not to the point that it prevents the person someone from preparing their case.

[*Translation*]

Currently, the time frames are too short and even harm the so-called good refugees—if we are to follow that questionable logic.

We feel that it is unthinkable for Canada to consider imprisoning children or separating them from their parents. All of you are probably parents, and I am sure I don't need to explain that in detail. This measure makes no sense and must absolutely be corrected.

Ms. Shermarke will talk about more specific clinical issues.

[*English*]

Ms. Marian Shermarke (Clinical Advisor, Centre de santé et de services sociaux de la Montagne): Mr. Chairman, I join Mr. Sougavinski in thanking you for the opportunity to come before you and to share with you our concerns with regard to Bill C-31.

[*Translation*]

The idea behind Bill C-31 is to reduce the activities of smugglers and criminals by punishing asylum seekers who come to Canada through underground channels. We feel that this bill is an academic exercise because it will not put a stop to claims by individuals who turn to smugglers to bring them to Canada, so that they can seek asylum for their protection. That academic exercise will, on the contrary, put asylum seekers' lives at greater risk. Those who do arrive may be in bad shape.

I want to share the story of two young Chinese nationals who left China for Hong Kong with a smuggler. From there, they fell into the clutches of other smugglers who took them to Thailand. Then, they left for France and, from there, to South Africa. From South Africa, they went to Brazil, in order to finally join their father in Canada, a father who was an asylum seeker, an accepted refugee. Those young people were abused on their way here. They lived in terrible conditions and were assigned to hard labour. They were in the clutches of smugglers for much longer than expected.

[*English*]

So we have to be careful about what we wish for.

[*Translation*]

I am now getting to my comments on the time frames provided for hearings. We think that the time frames for meeting hearing requirements are too short. Those time frames do not take into consideration the reality of asylum seekers. By not taking into account the context within which asylum seekers arrive, Bill C-31 sets them up for failure at their hearing.

The reality of asylum seekers is that, within those very short time frames, they must also get their bearings in a society whose language they do not speak. They have to find housing. They also have to initiate the immigration claim procedure and find a lawyer.

Regarding the medical aspect, it is important to understand that those people have been damaged by many traumatic experiences in their country of origin and also by what they have suffered since their departure. During that period—which is part uprooting and part quest for safety—asylum seekers, although traumatized and vulnerable, focus all their efforts on maintaining their physical and mental integrity so that they can reach their final destination.

That concerted psychological effort is often a last-ditch attempt that the country of refuge must match by providing the best possible reception and integration. If the host society fails to fully provide the required protection, the asylum seekers' mental and physical integrity will once again be compromised. That is another possible source of trauma, which makes those individuals even more vulnerable.

● (1010)

[*English*]

The Chair: Perhaps you could wind up, Ms. Shermarke.

Ms. Marian Shermarke: Thank you very much. I shall.

[*Translation*]

For instance, given the many stages they had gone through and all the trauma they had suffered, the Chinese may have gotten a break once they reached Canada. Given their situation, they had insufficient time to prepare for their hearing in 30, 40 or 60 days.

[*English*]

Last, but not least, we urge you as leaders of a democratic society to give asylum seekers the benefit of the doubt. To jail them in order to catch the 6% of them who are criminals would be illogical. There has to be a better way.

Thank you very much.

The Chair: Thank you, Ms. Shermarke.

Ms. Stalker, Mr. Galloway, you have up to eight minutes.

Mr. Donald Galloway (Co-Chair, Legal Research Committee, Canadian Association of Refugee Lawyers): Thank you, Mr. Chairman.

We have decided that we will share our time, which suggests that I have only four minutes to make my pitch. Could you please let me know when my time is running out?

The Chair: I'll do my best.

Thank you.

Mr. Donald Galloway: Thank you.

I have decided to limit my remarks to five clauses that are in the bill. I'd like to draw your attention to clause 10, the clause that talks about designating foreign nationals.

I'd like to move on from there to talk about the mandatory detention clauses, and I'd like to try to clarify some of the arguments from the earlier session about the constitutional issues. I'll try to be as simple as possible, although time is not on my side in that regard.

Thirdly, given that I'm a law professor, I would like to deal with something a little bit more arcane, but which I think is quite important. That is clause 16 of the bill, which deals with the refusal to grant travel documents to refugee claimants until they have gained permanent residence or some sort of status within the country.

Let me address the clauses dealing with designated foreign nationals and mandatory detention—clause 10 as I said, and clauses 23 to 25. The issue I want to raise is the constitutionality of the provisions dealing with mandatory detention. Let me try to explain why the constitutionality issue is so important to the Canadian Association of Refugee Lawyers and why we find it so puzzling that the constitutional issues have not been addressed in these clauses.

The puzzlement, the mystery of this, relates to the fact that the issue of detention has been dealt with exceptionally clearly by the Supreme Court of Canada in the last five years. Normally when you mount a constitutional challenge, you identify that you've got an uphill battle. The issue may require analogies to be drawn to other areas of law. It may require complicated arguments. But here we have a record from the Supreme Court of Canada in the Charkaoui case that has made certain matters explicitly clear.

First, they say that detention is an extreme measure. That's their language.

Second, the issue is not the constitutionality of detention per se but the constitutionality of detention without prompt and independent review. That is our concern, that we institute and maintain a system with review of decision-making. We are not promoting having no detention; it's the unconstitutionality of detention.

I think that's the briefest way in which I can refer to the issue of constitutionality. I'll take up the issue should you have questions for me.

Let me go to the issue about the travel document.

The Chair: You're up to four minutes, sir.

Mr. Donald Galloway: Clause 16 tells us that only permanent residents should be given a travel document. I imagine this is because we are concerned about granting refugee status to individuals and then granting them a travel document and, lo and behold, they affront the system, if you like, by returning to their country of origin.

The single point I'll make at this stage is that this is not the way the system currently works. A travel document to be given to a refugee is not—I repeat, not—valid for that person to return to their country of origin. That is the law as it currently exists. I think that is being forgotten by the drafters of clause 16.

I will now pass on to my colleague.

● (1015)

Ms. Lesley Stalker (Member-at-large, Canadian Association of Refugee Lawyers): Good morning, members of the committee.

My remarks today stem from a basic premise, which is that everyone in this room is committed to the protection of people who are at risk of persecution in their countries of origin, and that no one in this room would applaud or welcome the refoulement, or return, of persons to a place where their lives or liberty would be at risk.

This has to be our touchstone. As we go through the bill, we have to ask ourselves whether the provisions of the bill impede or enhance our ability to identify those who are in need of protection.

I would like to share my concerns about two groups of claimants who are, in my experience, likely to fall through the cracks and face refoulement under the ultra-fast timelines of Bill C-31, regardless of our good intentions.

The first group includes those who are traumatized because of past persecution.

There's an inherent conundrum in our refugee system, and it's this: The people who have been severely persecuted in the past and are most in need of protection are often the least able to tell their stories. There has been extensive scientific research into this. Many people think that the first story a claimant tells is likely to be the truth, so it's important to get the account before the claimant has a chance to colour his or her story. But in fact, it typically takes a great deal of time to get a coherent and accurate account. There are a number of reasons for this, but for reasons of time, I won't go through them. I'd happy to answer questions later, if you would like elaboration on the scientific reasons trauma impedes the ability to share a story.

The problem, for practical purposes, is that the more severely traumatized an individual, the greater the likelihood that he or she will be found lacking in credibility. The person's account is likely to be found incoherent, inconsistent, vague, or contradictory. So the claimant is likely to be dismissed as lacking in credibility.

The only way to counter this is to educe medical, psychological, or psychiatric reports that corroborate the physical and mental scars of trauma. And this takes time. It takes time, because claimants who are traumatized often will shut down their experiences. They don't want to talk about them; it's their way of coping. The accelerated timelines under Bill C-31 will impede our ability to identify those who have suffered persecution.

The second group I am concerned about are those who are in detention. As you've heard this morning, detention in all centres outside Toronto and Montreal is in correctional facilities. Correctional facilities are designed to manage people who have been convicted of or charged with criminal offences. These are typically people who are quite difficult to manage. Moreover, correctional facilities impose quite severe restrictions on the ability of people inside the facility to communicate with the outside world. These restrictions apply to refugee claimants. There are severe restrictions on incoming calls. There are severe restrictions on outgoing calls. There is no access to Internet. There is no access to email. As a result, claimants have a great deal of difficulty obtaining identity documents or other evidence germane to their claims, such as complaints they may have filed with the police in their countries of origin, medical reports from hospitals, and so forth.

They also have—

The Chair: We have to stop soon.

Ms. Lesley Stalker: Okay. Thank you.

I've tried to allude very quickly to the restrictions imposed on inmates and refugee claimants to highlight the very real and concrete barriers to protection they face.

Thank you very much for your time.

The Chair: Thank you, Ms. Stalker. I'm sorry. I know that all of you have more to say, but time is a problem. Perhaps that information will come out during questions from the committee.

We'll go to Mr. Menegakis.

Mr. Costas Menegakis (Richmond Hill, CPC): Thank you, Mr. Chair.

Thank you to all of our witnesses for appearing before us today. This is indeed a good exercise in democracy. We welcome your comments and input as we are studying Bill C-31.

I'd like to make a few quick points if I may, and elaborate in the short time that I do have about the bill and about Canada and what Canadians expect of good government when it relates specifically to the issue of immigration and refugees. As Canadians, we take great pride in the generosity and compassion of our immigration and refugee programs. But Canadians have no tolerance for those who abuse our generosity and take unfair advantage of our country. I'll allude to some examples of that.

Canada remains one of the top countries in the world welcoming refugees. In fact, we welcome more refugees per capita than any other G-20 country. Canada welcomes one in ten of the world's resettled refugees. That is more per capita than almost any other country on the planet. In fact, our Conservative government has increased a number of refugees resettling each year by 2,500 people.

Bill C-31 proposes changes that build on reforms to the asylum system passed in June of 2010 as part of the Balanced Refugee Reform Act, as you may know. The proposed measures in this new bill will provide faster protection to those people to whom I believe you're all referring, those who genuinely need refuge, and faster removal of those who do not.

I want to speak a little bit about the processing times. With the measures in Bill C-31, the time to finalize a refugee claim would drop from the current average of 1,038 days to 45 days for claimants from designated countries and 216 days for all other claimants. Surely for someone who is fleeing persecution in their country or torture or possible death, to be in limbo in a system for 1,038 days is traumatic.

If we can get those folks processed faster into Canada and reduce that period to as short as 45 days, or an average of 216 days for those who are not coming from designated countries, that will speak to compassion, to faster family reunification, and to the humane aspect that we all want to see in dealing with people who really need our help and support.

As a government, we have a responsibility to ensure the safety and security of Canadians. I don't think anybody in this country would want to permit anyone into their neighbourhood without knowing who they are, without somebody knowing their identity. That's important. As we heard in earlier testimony, and some of you alluded to hearing the testimony this morning or perhaps on other days, it is incumbent on us to identify people before we allow them into our country.

I'm going to use two, what I believe to be, fine examples of what can happen if we do not exercise that responsibility. The *Sun Sea* and *Ocean Lady* arguably carried many people who were fleeing persecution in their country and who needed our support and help. On the *Sun Sea*, four people were found to be a security risk and one was found to have perpetrated war crimes. Five people were denied entry. From the people on the *Ocean Lady*, 19 were deemed to be a security risk and 17 were found to have perpetrated war crimes. This was a total of 41 people. Had they not been detained, had we not taken the time to identify them, to ensure the legitimacy of their claims plus who they were, we would have permitted 41 people into our neighbourhoods around our families, around our children, around parents.

The Chair: You have two minutes.

Mr. Costas Menegakis: I have two minutes left? I've used five already?

Okay.

● (1020)

It's a general question, not for you specifically, but a government has to ask, is it good government? Are we looking after the interests of our citizens if we simply say that we won't focus on the less than 1% of the total refugee claims of 10,000 to 12,000 people per year, and welcome everybody into the country without the proper time to identify who they were, which detention allows us to do? Certainly that would pose a security risk for us.

There is no Canadian, I can assure you, no one in my riding of Richmond Hill, who would be supportive of that.

Do I have a minute left?

I'm going to pass that minute to Ms. James because she asked me to, and I'm kind. Thank you.

● (1025)

Ms. Roxanne James: Thank you, Mr. Menegakis.

I actually had a question for Ms. Shermarke.

I was a little alarmed because I believe you said that you think we should give the benefit of the doubt to asylum seekers, and then you mentioned even if 6% of them are criminals. I heard you use those two pieces of information in the same sentence. I'm really quite alarmed by that. So my question to you is that given the fact that the number one priority of any government is the safety and security of its citizens, do you believe that we should be on the side of ignorance and just allow people to be released into Canadian society, or should we be on the side of caution to make sure that those who come into this country without proper documentation are identified and released?

As a side note, with this particular bill—

The Chair: Sorry, Ms. James. We're out of time.

Mr. Scott, welcome to the committee. I know you've been on the list for quite a while, but we finally give you a chance.

Mr. Craig Scott (Toronto—Danforth, NDP): Thank you, Mr. Chair.

I appreciate being a visitor today in the committee.

I actually have two questions, and I'd like to just ask them and then allow the panel to pick and choose up to our five minutes—or seven, I'm not sure. It's seven, thank you.

One is that in the earlier session there were some questions, from Mr. Dykstra in particular, on alternatives to detention and I don't think we got very precise answers.

I know in the international refugee law realm there are quite a few sets of guidances, if you like. There are guidelines on alternatives to detention. There is a clear presumption in international refugee law against detention. The test is that of necessity, and then the alternatives that are available are part of making out the test of necessity. If anybody can talk a little bit for the benefit of the committee about what generally is understood by alternatives, that would I think help us all.

As for my second question, I too am obviously troubled by the fact that there's a mandatory 12 months without review, because again, then the whole necessity of detention just cannot be reviewed. That's just a given. We're not contesting the idea of detention; it's the idea that it can't be reviewed against a proper test.

But I'm equally troubled by the fact that if a refugee claimant is determined to be a refugee, we have all these provisions that basically penalize them in relation to other refugees. Permanent resident status doesn't come for five years, and travel documents aren't available. Family reunification can't occur because of the permanent residence delay.

To me this feels like we are using these refugees as a deterrent instrument for other refugees to say that we don't want you coming in this way any longer. I wonder if anyone can comment on whether that alone is a violation not just of morality, but also of any legal provisions that you would know of.

Those are my questions.

Mrs. Chantal Tie: I'd be happy to address that.

The minister, when he was testifying on April 26, made it abundantly clear that the five-year wait for permanent residence and family reunification were punitive measures designed to deter refugee claimants. He actually said, “So we thought this was the single, most effective way to dissuade people from paying smugglers to come to the country.” He also said that that he hoped that prospective customers of criminal smuggling syndicates would take account of the delayed permanent residence and family reunification before they engaged smugglers.

In our submission, holding vulnerable refugees in detention and denying them family reunification in a deliberate attempt to deter others who are not here is completely unacceptable. It converts Canada from a nation of refuge to a calculated human rights abuser, quite frankly. It's both inhumane and illegal.

● (1030)

The Chair: We will go to Ms. Stalker.

Ms. Lesley Stalker: I'd like to respond to your question, Mr. Scott, about alternatives to detention.

In Canada, in fact, we already have alternatives to detention, which is one of the reasons that so few claimants are held in detention. The alternatives to detention include reporting requirements. And I think perhaps it was you, Mr. Dykstra, who was expressing concern earlier about the reporting requirements. It's hard to get statistics from CBSA about the effectiveness of the reporting requirements, but I know that in the context of the *Sun Sea* and the *Ocean Lady*, CBSA has repeatedly said there have been absolutely no problems with compliance and reporting requirements.

Other alternatives to detention include posting of bonds and restrictions on where an asylum seeker may live. There are sometimes curfews on the hours they can be out in the community or be expected to stay at the place where they live. I think alternatives to detention internationally have been found to be most effective when you have collaboration between NGOs and the government, a kind of partnership in which there's a constructive dialogue and agreement on expectations.

Thank you.

The Chair: Mr. Sougavinski.

Ms. Marian Shermarke: Actually, I will address that point as well with regard to the alternatives to detention. In Quebec we have a service called PRAIDA, the one that we are representing today here. That is quite a good alternative to detention. It's a public service. We have the mandate to be designated representatives. We go before the IRB. In detention revision cases we do propose alternatives. Where the person is released, PRAIDA takes over the person. We do shelter people, especially those from vulnerable groups and unaccompanied minors. We do make sure that they present themselves for any conditions where they have to sign. We do make sure that the IRB and the CIC, as well as the SFC have their addresses.

As soon as we see any strange movement by the asylum seeker, we do call the border agency and Immigration Canada and let them know what's going on. At the same time, Immigration Canada as well as the border agency and the IRB do call our services sometimes and say, “Would you please assist this person, and we're going to confine the person if you don't propose an alternative”.

Thank you.

The Chair: Please go ahead.

Ms. Loly Rico: Also, I would say that in Toronto there is the Toronto bail program, and that's an alternative to detention. The person has to go and report to the bail program. This has been successful because in our refugee centre we have been accommodating women with their children, especially if they are pregnant and are going to have the baby in the community.

The other point about identification, that is, how to identify the criminals. Anyone who claims refugee status right now in Canada has to be fingerprinted, and with the fingerprints they can be identified immediately because it will be seen through Interpol, etc. That applies to anyone who comes in at the border. I believe we have that already in the system to identify small numbers.

One of our recommendations as an alternative is the community. We are ready to accommodate them. And there are measures already in place to comply with, such as the bond system, the bail programs, and the reporting system they have at this moment.

The Chair: Good for you, Mr. Scott. You got everybody interested, but unfortunately your time is up.

Mr. Lamoureux.

Mr. Kevin Lamoureux: Thank you, Mr. Chair.

I thank all the presenters. I wish we had more time to ask a number of questions to each of you, but I want to focus on your comments, Mr. Galloway, regarding the whole issue of travel documents.

We've heard a lot about the mandatory detention from a financial point of view, and about it being unconstitutional and all of this kind of thing, but one of the areas that we haven't really talked very much about in committee is in fact the issue of the travel documents. In fact, we had Julie Taub, a former IRB member, express confusion about why a refugee would want to have a travel document in order to go back to their own country of origin or the country from which they are fleeing.

You started to explain what I think was a very important point for all committee members to hear, and that's in regard to clause 16 and the impact that clause 16 will have. You have two, three minutes, however long is left out of the five minutes I have, to emphasize that particular point.

● (1035)

Mr. Donald Galloway: Thank you, Mr. Lamoureux.

There are really two points that I would like to make. One is that genuine refugees who are fleeing often cannot stick together. They end up in different countries. There are families I know in Victoria who have very close family members in Sweden. They need to be able to go and see these family members to look after them. They need the travel document in order to do so. The travel document is something that we undertook to provide when we signed on to the refugee convention.

Clause 16 tells us that from now on we're going to give a narrow interpretation of the refugee convention and only supply this travel document to refugees. If they have come here in an irregular manner and are designated, we're only going to give this travel document to individuals after they become permanent residents, after the five-year process, or after they gain a temporary permit.

When it signed up to the convention, Canada attached a reservation. The reservation that it attached said that for two articles we would like to give a narrow interpretation of the phrase “lawfully staying”. These two articles relate to the provision of welfare services. Canada did not exercise its right to attach that reservation in relation to eight other articles, one of which is article 28. In other words, with full knowledge of what we were doing, we signed up to this international regime of granting families who had been split up the chance to go to other neutral countries in order to meet up with their family. That is what's at stake here in clause 16.

It looks like a very odd interpretative clause. I think it's essentially important, that it is really vital to understanding what we're doing. I fear that it may have been attached there because of a mistake. I fear that it is actually there because the government, or the drafters, were actually concerned about people returning, using this document in a way that they are currently not entitled to do. If you go to the passport office, if you go to their website, you will see that these documents are not valid for return to the country of origin.

The Chair: Thank you. Mr. Lamoureux.

Mr. Kevin Lamoureux: Ms. Rico, I was touched by the fact that you have a personal story. I'm wondering if you could comment on your situation when you applied as a refugee. Can you give us a chronological timeframe for the length of the process, and so on? Hopefully, you have enough time. If not, maybe you can get back to the committee.

Ms. Loly Rico: The way that we came here 22 years ago was by what's called early admission, because my husband had moved from El Salvador, where there was a civil war, to Guatemala. We were lucky that the consul from the Canadian embassy was in El Salvador and took him to Guatemala. Then they moved the whole family to Canada, and we finished all our process here in Canada. It took us two years to get our permanent residence in Canada. We have a minister's permit, and that's why we were saying that as a way of paying back, we have the refugee centre to which we welcome women and children.

The Chair: Thank you.

Mr. Dykstra.

Mr. Rick Dykstra: I'm going to turn five minutes of my time over to Mr. Weston.

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Thank you.

I'd like to start where you took us, Ms. Stalker.

Everybody in this room is on the side of people who are persecuted around the world. I just want to say that this is a government that has taken the case of people like Aung San Suu Kyi, a personal hero of mine, to new heights; this is a department that is led by perhaps one of the most ardent advocates for human rights that our government has ever seen in this portfolio; and I personally am the founder of the Canadian Constitution Foundation. I think we'd be on the same page in many areas. I walk shoulder to shoulder with MPs throughout the House in that area.

So when I hear something such you said, Chantal, calling us a nation of human rights abusers, I take great exception. As my colleague Ms. James said, we have to balance. We have to care for people who come to our country like you, Ms. Rico, and we do; but we also have to care for the safety and security of our nation.

Going back to the Constitution, that's why there's a reasonable limits clause in section 1. It says, as you know:

> The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Sure, Ms. Shermarke, we can take the case of an individual and say, this person will be discriminated against in an unfair way. But we have to look at the overall system. We need to preserve our refugee system and make sure that we can identify the 41 persons mentioned by Mr. Menegakis and keep our Canadian society safe. If we fail in that important mission, Canadians will rebuke the whole refugee program, and we as parliamentarians will not be able to stand in front of them and say, yes, we want to continue to welcome refugees to our shores.

So we have to do the balancing act. Please don't demonize those who want to make sure there's security for Canadians and say that they are anti-refugee.

An hon. member: Hear, hear!

Mr. John Weston: I'll turn it back to you, Mr. Dykstra.

● (1040)

Mr. Rick Dykstra: Thank you.

I want to clarify one point. I was sent a note concerning Ms. Tie's comments with respect to what the minister said when he was here. She said that the penalties were meant to be punitive. He actually said that it was a deterrence measure. There's a big difference, from the perspective of what people may think of the word “punitive” versus the word “deterrence”. I think it's important to note that.

One of the things we have in front of us that Ms. Sims asked for yesterday is a document from Citizenship and Immigration that notes the top 10 source countries of refugee claims in Canada. You may not have this in front of you, so I will describe it. Hungary is now the number one country on the list. In 2006 it had 26 individuals seeking asylum; in 2007 it was 23; and in 2008, the year we lifted the visa restrictions on that country, it was 302. It's interesting to note that in 2009 it went to 2,532, and in 2010 to 2,333.

I do a lot of reading. I keep up on what's happening in the EU, and I didn't see anywhere that there was a terrible civil war or any type of oppression happening in Hungary during 2008 and 2009. But somehow, with the lifting of those visas, we had over 2,300 more people seeking to claim asylum in Canada.

Perhaps I could direct this question to Mr. Galloway. Do you agree that our system here in Canada is broken and that we need to fix the refugee system?

Mr. Donald Galloway: I would not use the language “broken”. I was a member of the IRB, serving for three years and was very proud to be a member. I could see some very positive aspects to the process. I think it's a process that was designed with a wonderful intent. It is staffed by remarkable people.

Mr. Rick Dykstra: I agree.

Mr. Donald Galloway: To identify the process as broken is to diminish the way in which these decision-makers exercise their duties. So that is not language that I would use.

● (1045)

Mr. Rick Dykstra: I didn't ask specifically about the individuals, because I—

The Chair: Colleagues, I need your help. The bells are ringing for a vote. They're 30-minute bells. Mr. Dykstra has about a minute and a half, and Madame Groguhé will have five minutes.

I'm going to suggest, but I need unanimous consent to do it, that we continue for another 10 minutes. Do I have unanimous consent?

Mr. Rick Dykstra: Can we make it to the vote on time, if we extend it?

The Chair: I'm going to have a bus waiting outside with the motor running. It's up to you.

Mr. Rick Dykstra: It's okay, as long as we can make the vote.

The Chair: Oh, no. This is a decision of the committee.

Do we have unanimous consent?

All right.

Continue, Mr. Dykstra. You have a minute and a half.

Mr. Rick Dykstra: I'm truly trying to get at the problem here. I didn't ever suggest, and I'm sorry to say that you think that I thought the individuals who—

Mr. Donald Galloway: I wasn't insinuating anything, Mr. Dykstra. I just wanted to be clear that it is why I would not use that language.

Mr. Rick Dykstra: So you don't think the system is broken. Okay, fine.

I think the system is under massive need of repair.

Mr. Donald Galloway: I think I agree, and I think Parliament agreed with you when the Balanced Refugee Reform Act was passed. That was the act that—

Mr. Rick Dykstra: I agree. I was there. As you know, I'm parliamentary secretary; I sat through every single minute of those negotiations and discussions, and am very proud of the work I did on Bill C-11. That's why 75% to 80% of Bill C-11 is still included in this bill and will always remain a part of Bill C-31.

Mr. Donald Galloway: In that regard, we're on the same page, Mr. Dykstra.

Mr. Rick Dykstra: Thank you.

But I understand that the problem with Hungary, the issue we have, will not be resolved under Bill C-11. That is the very purpose for which we're here.

The government and I—which may come as some surprise to Ms. Tie—are actually interested in helping true refugees. I'm interested in getting more refugees here to Canada. That's why we increased the number by 2,500, which remains part of our strategy to control the numbers.

The Chair: I'm sorry. That's your time.

Madame Groguhé.

[*Translation*]

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

As I have only five minutes, I will proceed as follows. I will ask each group a question, and I don't care who takes the floor, as long as I obtain an answer.

I will begin.

Regarding the time frames set out in Bill C-31, in your note, you identify the issues associated with reducing those time frames. Could you describe those issues in more detail by relying on your experience with asylum seekers?

[*English*]

Mrs. Chantal Tie: I think we can both answer that.

I've been practising immigration and refugee law for 33 years. I cannot imagine being able to prepare a case in 45 days. The first thing we do is obtain documentation to verify what the person is saying. It is not possible to obtain that in 45 days, even if I met the person the day they arrived, which is impossible. All of the legal aid societies have joined together in saying that the timelines proposed are impossible to meet. So people will not get counsel.

If some people think that preparing refugee claims is simple, they are dreaming. It is not simple: It takes a long time to establish trust with somebody and to actually find out what really happened.

Ms. Loly Rico: One of the things we believe is that the timelines will affect the most vulnerable communities. That's why I'm inviting the committee to see Bill C-31 with a gender analysis. If we see it with that, we will see that the timelines are affecting women, as it doesn't have that gender analysis.

I can bring you the example of a woman who has been in a domestic violence situation. She comes with her husband, the abuser. All the interviews are with the abuser. Later on, she'll learn what her rights are here in Canada. With the timelines we have, she won't be able to go and explain her story and be protected, because she could even be deported back with the abuser.

The other thing is with the eligible community. Sometimes they come so traumatized that for them it is more difficult to express and say all that has happened to them. That's when we have the problem with the timelines.

[*Translation*]

Mrs. Sadia Groguhé: I will now address the CSSS and PRAIDA representatives.

According to you, once the reasons for seeking asylum no longer apply, the loss of permanent residence status negates the importance of refugees taking root, as suggested in the Geneva Convention regarding naturalization. One of the witnesses pointed that out.

Could you quickly elaborate further on that? You have a minute and a half.

● (1050)

Ms. Marian Shermarke: The loss of permanent residency because of a change in circumstances in the country of origin is a major concern for us. We don't understand why someone who has lived their life and had children here should lose that residency. The measures added to this bill make no sense. We have a hard time understanding why someone who has been traumatized, who has settled here, someone who feels safe and contributes to the host society should lose their permanent residence status.

Thank you.

Mrs. Sadia Groguhé: I am addressing the third group.

How are the Bill C-31 provisions on the detention of designated foreign nationals different from the detention provisions included in the current legislation? Why are those differences significant from the legal standpoint?

[*English*]

Mr. Donald Galloway: Sorry, I may have missed something, but as I understand the question, you're asking me about the differences between the law now and the law that is being proposed.

I emphasize two things. One is the language of the Supreme Court: “prompt and independent review”. “Prompt”—2 days, 7 days, 30 days. “Independent”—a branch of the immigration division of the IRB. Proposed? A minimum of a year—in some cases—final determination of refugee claims, a process that is lengthy is problematic in that it doesn't lead to quick ends—

The Chair: Thank you. Unfortunately, we all have to go to vote, so we're cutting short this meeting. I apologize for that, but those are the rules of this place.

On behalf of the committee, I want to thank all of you for coming today and making your presentations and participating with the committee. Thank you for your assistance.

Members of the committee, there is a bus waiting for us. Do not dawdle.

The meeting is adjourned.

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