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## Chair

**Mr. Robert Oliphant**

# Standing Committee on Citizenship and Immigration

**Tuesday, November 21, 2017**

● (0850)

[*English*]

**The Chair (Mr. Robert Oliphant (Don Valley West, Lib.)):** Good morning. Welcome to our guest witnesses today, and also to committee members, for this 85th meeting of the Standing Committee on Citizenship and Immigration. We're continuing our study on the policies and guidelines regarding medical inadmissibility of immigrants to Canada.

We thank our witnesses for coming today. We have two panels. We are really hopeful that you will shed light on this important topic in a variety of ways, so that we will know more, and know it from different angles, by the time we finish.

We're going to begin with Professor Hanes, who is at Carleton, and then we will go to Ms. Bennett and Mr. Sweetman.

**Mr. Roy Hanes (Associate Professor, School of Social Work, Carleton University, Council of Canadians with Disabilities):** Good morning.

First of all, I'd like to thank members of the committee for inviting me to speak about the excessive demand clause of the Immigration and Refugee Protection Act. I am particularly grateful that members of Parliament are examining this clause, and I congratulate all political parties for their concern about the plight of people with disabilities and their families who wish to immigrate to Canada.

One of the things I'll be focusing on primarily is disability as a minority group status, as opposed to illness or anything along those lines. I begin with this concept of disability as a human variation, as depicted by Higgins in 1992, when he talked about disability intersecting all racial, gender, religious, class, cultural, and ethnic divides. According to recent United Nations reports, there are over one billion people with disabilities worldwide, making the disability community one of the largest minority populations in the world.

The United Nations Convention on the Rights of Persons with Disabilities incorporates what we refer to as a social model of disability, and defines disability as follows:

> ...disability is an evolving concept...that...results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others....

The United Nations Convention on the Rights of Persons with Disabilities asserts quite unequivocally that yes, people with impairments are very much part of humankind, always have been, and always will be. It is the social interaction process and the creation and maintenance of structural and attitudinal barriers that stigmatize, exclude, oppress, and minimize opportunities for education, employment, relationships, and indeed immigration and mobility. Members of the Council of Canadians with Disabilities assert that in short, it is societies that disable people with impairments.

While it is true that the Immigration and Refugee Protection Act does not categorically state that people with disabilities need not apply, contemporary immigration policies and practices depicted in the excessive demand clause and the inadmissible category make it very difficult for foreign nationals with disabilities and their families to be citizens of Canada. It is my opinion, and it is shared again by the Council of Canadians with Disabilities, that the excessive demand clause stigmatizes, excludes, and creates barriers. In the end, it prevents and disables people from attempting to become citizens.

Terms such as “disabled persons” and “persons with disabilities” are not merely adjectives and nouns. Indeed, they were actually created as socio-legal terms to separate the deserving from the non-deserving, and are rooted in legislation dating as far back as the English Poor Laws of 1601. I find it interesting that we are meeting here today, some 416 years later, to discuss legislation created as a legal category of disability and intended, by the way, to prevent movement of populations in the United Kingdom at that time.

I would like to add that it's also 170 years since legislation pertaining to the early roots of the excessive demand clause and concerns about disabled people becoming an expense on the public purse was introduced by the colonial governments of Upper and Lower Canada in 1848. Terms such as lunatic, idiotic, deaf and dumb, blind or infirm persons were the targets at that time.

Not to get into a long history, but Canada's first immigration act in 1869 itself talks about disability dependence, and legislation on who should and who shouldn't become citizens. I'm not going to get into all of the legislation, but suffice it to say that the immigration acts of 1869, 1906, 1910, and onward until the present time, all have concern about disabled people becoming burdens on the state.

It is interesting, too, that there's another element that is part of the excessive demand clause and also the inadmissible act. It has to do with violent psychosis and contagious diseases. In fact, these are rooted in legislation going back over a hundred years as well. I find it quite interesting that we still talk about contagious diseases such as syphilis, and other contagions such as tuberculosis and cholera, and in some capacities about psychosis and mental health, yet, considering the advances in medical science and pharmaceuticals, these issues can be addressed quite safely in the modern era.

As I indicated earlier, I find that disabled people are one of the largest minority populations in the world. Can you imagine the outcry here if legislation had changed as slowly for other minority populations, such as people of Chinese origin, LGBTQ persons, Jews, or Muslims, and they were still being denied permission to immigrate to Canada? For people with disabilities, there doesn't seem to be the same potential for outrage.

I did an exercise in my class not long ago and asked students to raise their hands if they represented any one of the minority populations. At the end of the class, almost 70% of the class wouldn't have been there, because their families or they themselves wouldn't have been allowed to come to Canada.

One of the things that is linked to the excessive demand clause and which I hope the committee will address is that people are being turned away for infractions, and they're deemed to be part of the inadmissible category. Who else is part of the inadmissible category? How is it that people with disabilities are associated with this group?

Besides people with disabilities, other constituents of the inadmissible class include persons involved in subversion, terrorism, violence, and espionage, and persons who have been involved in crimes and crimes against humanity, persons who have been convicted of a crime, and persons involved in organized crime. Last but not least are people who are likely to cause an excessive demand on public health and public services and likely endanger the public good. By association and extension, family members of people with disabilities become part of the inadmissible population. I am not sure if this applies to any other group.

In short, over the years, reforms have put an end to immigration policies and practices rooted in racism, sexism, xenophobia, and homophobia, but no similar reforms have put an end to practices rooted in ableism.

Some recent presenters have indicated that the IRP Act provides opportunities for people with disabilities and their families to immigrate to Canada if the family is willing to—or can provide evidence that they're willing to—cover the costs of long-term possible medical, social, and educational services.

● (0855)

**The Chair:** I'm going to need you to draw to a close, Mr. Hanes.

**Mr. Roy Hanes:** Okay.

This may seem to be the policy, but it's not the practice. I'm presently working with a young man from the Middle East who was willing to pay for everything for his family to come here, but they're being denied. Not only that, but some families here also risk deportation, and some have been deported. I'm referring to cases such as those of Chris Mason, the Montoya family, Jon and Karissa Warkentin and their daughter Karalynn, and others.

One question I would like to leave you with before I wrap up is in terms of thinking about disability as a problematic category. Can you imagine what our country would be like if people like Terry Fox and Rick Hansen were applying for citizenship here? There's a last question I would like to ask: would Stephen Hawking be granted citizenship?

I'll leave it there for now and respond to questions.

**The Chair:** Thank you, Mr. Hanes.

Ms. Bennett.

**Ms. Sheila Bennett (Faculty of Education, Brock University, As an Individual):** Thank you for this opportunity to speak today. It is a real honour. As an aside, having grown up in 1960s Newfoundland with Joey Smallwood, when I tell you it's a real honour, I mean it's a real honour. The fact that we as a country can speak to each other and make decisions that are this important is the essential cornerstone of who we are as Canadians, so I very much appreciate the time you are taking to listen.

I come here as a lifelong educator, administrator, faculty member, and researcher. My choice to share the information with you today has been shaped by my experience and my learning. My career has as its focus the inclusion of students with special needs in the regular classroom.

The purpose of my testimony is to highlight the importance of diversity and inclusive practice as essential components of our national and international identity. I have been fortunate to work and develop relationships with researchers, educators, and organizations across Canada. Through these experiences, I have had the privilege of engaging in ongoing research and discussion about diversity and inclusion. My pan-Canadian experience has provided me with multiple opportunities to engage in this field at the international level. It is clear from my work that across Canada and across the globe discussions of equity and diversity framed within an inclusive perspective are at the forefront of critical thought and active change.

I am proud to be a Canadian. Born in Newfoundland and Labrador to pre-Confederation parents, I learned the lessons of what it meant to be Canadian. I began my education in a two-room school, where segregation was not an option. Everyone belonged. This allowed inclusion to be woven into the pattern of my experience. When I graduated as a teacher in 1982, the Charter of Rights and Freedoms freshly minted, I looked forward to seeing the leadership standard set by our federal government enacted through the lives and the futures of all the students I would meet.

I feel as though I am preaching to people who know this, but just in case, section 15 of the Charter of Rights and Freedoms states:

> Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

In reviewing this committee's October 24 meeting, I was reassured to see that the charter mandate as it relates to the deliberations of this committee was discussed. As noted during the October meeting, thus far the charter challenges with regard to immigration policies have been unsuccessful. Despite these unsuccessful attempts, it is clear that a relationship exists between our rights as delineated by the charter and the recommendations that will be made by this committee.

Canada is a diverse country. Prime Minister Trudeau, in his 2016 presentation to the World Economic Forum in Switzerland, said, “We need societies that recognize diversity as a source of strength, not a source of weakness.”

From my perspective, diversity, as it relates to individuals with disability, needs to be brought to the forefront. One of many research projects focusing on students with intellectual disabilities, and I've been engaged in a number of them, highlights for me the gap between what inclusion means when we speak about larger populations and what inclusion means when we speak about people with disabilities. The tag line for this project has become: if inclusion means everyone, then what about me? Pictured below it is a school-aged child with Down syndrome sitting alone in a classroom.

The chronic undervaluing of persons with disabilities in our society speaks to a much larger and more insidious pattern of discrimination. Low expectations and unexamined predisposition, veiled under the auspices of charity and benevolence, have kept many individuals in positions of power in stasis, unwilling or unable to make decisions and take action. If we are to live up to the expectations that Canada is a country in which diversity is valued, we must not set limits on what it means to be diverse. School systems pride themselves on inclusivity, but the inclusion of students with special needs continues to be debated.

● (0900)

A 2009 publication that I wrote and which was used by Immigration Canada discusses this debate:

> Some researchers still argue vehemently that the segregation of students into specialized learning environments is essential in order to provide them with the type of individualized instruction that their learning profile suggests would be beneficial. Other researchers argue that to separate students on the basis of ability or other characteristics represents a form of “colonization” that blocks access to a larger learning environment. Many see the segregation of students with exceptionalities as a human rights issue....

Hand in hand with this debate, of course, is the question of cost. Having spent 18 months as co-chair on a government working table of special education funding, I know only too well that there exists a desire to quantify disability. For the purposes of this committee's deliberations, it's important to differentiate service delivery in the context of cost.

For a shrinking number of school boards across the country, the delivery of services to students with special education needs is a separate service. The budgeting for these services and service delivery models is differentiated from what you might refer to as the “regular” class. Interestingly, school boards are transitioning to a system of service delivery for learners that includes universal design for learning and differentiation of planning and curriculum delivery. For those school systems, all students belong. The emphasis is on creating supported communities of learners where all students can access learning, as well as social opportunities is their age-appropriate peer group.

Inclusive settings have been shown to decrease bullying, enhance learning and social engagement for students with special needs, and improve the attitudes and interactions of the larger class group. In essence, all students benefit. They learn to be more tolerant of difference and are able to access learning in multiple ways. For systems that use inclusive models, the question of cost is still a real one. To provide those types of professional learning, educator support, paraprofessional engagement, and auxiliary services, it requires funding. The difference in that funding is that funding dollars are spent on the entire school community to raise the expectation for all.

School systems are a reflection of societal values and norms. School systems are also a projection of societal possibility. Inclusive schools have been shown to have a positive effect not just on academic and social learning of the students with special needs. They also, more importantly, have a positive effect in terms of tolerance and acceptance of difference among all members of a school community. Schools are a microcosm of society. They tell us that cognitive and physical diversity add value.

● (0905)

**The Chair:** I'll need you to wrap it fairly quickly.

**Ms. Sheila Bennett:** Any society that seeks to differentiate those whom they deem as prohibitively expensive in terms of service provisions fail to equate the value added of what it means to be truly diverse.

As noted at the beginning, the purpose of my testimony today is to highlight the importance of diversity and inclusive practice as essential components to our national and international identity. As an educator, as a member of the public, and as a Canadian, I would ask this committee to imagine what is possible when we open ourselves to difference. When we look at ourselves as a country and when others look at us from the global stage, we see not only who we are but who we want to be.

Thank you.

**The Chair:** Thank you very much.

Professor Sweetman.

**Professor Arthur Sweetman (Professor, Department of Economics, McMaster University, As an Individual):** Good morning. I would also like to thank you for the invitation to appear today.

Decisions regarding the federal government's policies and guidelines on the medical inadmissibility of immigrants are based on many factors: moral, legal, economic, etc. I'd like to focus my remarks on economic issues.

While the government's current goal is to mitigate excessive demand on health and social services, as far as I'm aware, we—and I use “we” to refer to all of us who make up the Canadian community—have no good measures of actual demand or costs for such services by the subset of potential immigrants who are at risk of being adjudicated as excessive cost or risk. Although there would be some challenges, it would not be extremely difficult to produce such estimates using mostly provincial health and social service administrative data, although it would need to be done province by province. If a complete picture for all provinces were required, the task would take a little bit of time. Overall, while some bits and pieces of evidence do exist, as far as I'm aware, we do not know how well we, at the time of screening new immigrants, are able to predict who will be high cost.

I encourage you, as part of your deliberations, to go beyond simply listening to those who appear before you and what they happen to say and, rather, to produce any evidence you need for good decision-making yourselves. Moreover, I encourage you to take full responsibility for any costs of decisions you recommend. One of the oddities of our Constitution is that the decisions and costs of decisions are not always borne by the same level of government. This can sometimes lead to poor decisions. I encourage you, therefore, to not only figure out what the costs of your decisions are, but if there are increases in costs by provincial governments, that those increases are funded by the decision-maker. Having pointed out our lack of knowledge on the topic, I can point to a few things that we do know.

First, health care costs are extremely unevenly distributed among the population. For example, a group inside the Ontario Ministry of Health and Long-Term Care recently calculated that about 1.5% of Ontario's population represents about 5% of those with the highest costs, and they incur about 61% of total hospital and home care costs. Put another way, of Ontario's population, about 3.9 million people incurred hospital and home care costs in 2009-10 and the total cost was just over $14.2 billion. Of this group, the top 1% in terms of costs, which is just under 200,000 residents, incurred costs that made up $8.6 billion out of that $14.2 billion. A small number of users can make a great deal of difference to total costs. As an aside, these dollar values are limited and do not include, for example, physician billings, which are not normally part of hospital and home care budgets.

An important follow-on to this question has to do with the persistence of costs. It turns out that high-cost use is quite persistent, though clearly there is some turnover. Looking at physician billings, which are less persistent than, say, residential care, one of my students calculated that over 40% of those in the top 5% of costs in 2004-05 were still in the top 10% of costs in 2008-09. A group in the Ontario Ministry of Health also found high levels of year-over-year persistence looking at a broader cost base.

Another important issue for this committee is whether the immigration system as it works at the moment introduces immigrants to Canada who are more or less likely to be high-cost users of health care than people who are Canadian born. As far as I can tell, based mostly on work by researchers at the University of Toronto and Ontario's Institute for Clinical Evaluative Sciences, there is absolutely no difference. In Ontario, immigrants and Canadians by birth are exactly equally likely to be high-cost users of health care. Overall, the cost implications for health and social services resulting from a small and somewhat persistent set of so-called high-cost users, in Ontario at least and probably more broadly in the Canadian health payment system, are substantial. However, none of this evidence speaks to the anticipated costs of those affected by the current operation of our immigration system's effort to mitigate excessive demand on health and social services. Figuring out costs for that group would take more work and, of course, deciding if our society wishes to bear those costs is another issue altogether.

Thank you.

● (0910)

**The Chair:** Thank you very much.

We begin our questioning with Mr. Whalen, who has a seven-minute round.

**Mr. Nick Whalen (St. John's East, Lib.):** Thank you very much, Mr. Chair.

Thank you all for coming today. We've heard some great testimony and yours is following along similar lines we've heard from almost everyone who has appeared before us, which is that with respect to excessive demand, you're suggesting that we should repeal paragraph 38(1)(c). Is that what I understand? I see some nods, but maybe people could verbalize that.

**Prof. Arthur Sweetman:** I'm taking a slightly different tack in saying that we don't know the cost of doing that yet and that you should figure it out.

**Mr. Nick Whalen:** Then maybe I'll move to that. There is a bit of agreement here anyway on paragraph 38(1)(c) .

The federal government transfers $36 billion a year. Even at the high estimates of what we've heard from people from the various government departments, it's about $135 million a year. That's the ballpark on what it would cost to provide medical services to the people who have been rejected under this provision, on an annual basis over the last five years.

It seems like a drop in the bucket. Why should we care about the cost of this at all? Human rights can cost money. It's part of living in a free and democratic society. Why are we quantifying this at all, Mr. Sweetman? Why is that even part of our discussion?

**Prof. Arthur Sweetman:** I don't think that the costs should cause the decision of whether you do it or not. However, if we admit people who have medical needs and other social service needs, we need to fund those needs adequately.

I'm making no statement about whether we should or should not do it. I'm saying that if we admit people who have needs, we need to pay for those needs. In particular, I argue that the decision-maker for the admission should pay for those needs. I suspect that the number you provided a second ago is a bit of an underestimate of all health and social service costs.

**Mr. Nick Whalen:** As compared to a $36-billion transfer, it's de minimis. It wouldn't even register. It would be insignificant.

**Prof. Arthur Sweetman:** I agree.

**Mr. Nick Whalen:** Then why bother to take the time and effort to measure something that is statistically insignificant when it really goes to a basic human rights need? Why are we even engaging in that analysis at all? Why are we forcing the medical officers to make this initial determination? You're proposing that we maintain the system through which we measure and quantify and further—I wouldn't say insult, but maybe—denigrate people with disabilities by quantifying their future medical costs within Canada. Then we're placing a burden on the government to both evaluate that and then to hand over money.

Doesn't that in itself discriminate and marginalize the very people we are trying to help through this debate?

**Prof. Arthur Sweetman:** No, I take exactly the opposite opinion to you.

I think the way we help people is to fund adequate services for those people. If it's a trivial amount, then you should have no trouble paying it.

**Mr. Nick Whalen:** If it's a trivial amount, why should we even measure it? It may cost more to measure it. It may cause more unseemliness in the whole process than simply saying, “Here, provincial governments, is a transfer of $36 billion.” Notionally, $135 million of that is going to be associated with paying for the health care costs of about 5,000 immigrants over a five-year period, among almost 1.5 million immigrants, who are also going to be users of the health care system but paying taxes, but it all comes out in the wash.

Part of my problem with this whole exercise is that by forcing the government to quantify someone's medical costs to society, it is inherently dehumanizing. You're suggesting that we do it, but it is already fully funded.

**Prof. Arthur Sweetman:** Every single person in society is already dehumanized in that case. In fact, the budgeting process—

**Mr. Nick Whalen:** I would disagree. I do not see any documents purporting to say exactly how much my medical costs as a human being, as an individual Canadian, are or requiring any particular individual transfer of money on my behalf.

**Prof. Arthur Sweetman:** We're talking about averages across groups, not individuals, so, yes, I think there are estimates. I don't know what province you reside in, but there are estimates on average for males in certain age groups and the health care costs. So, yes, you are in a group and your health care costs have been estimated.

● (0915)

**Mr. Nick Whalen:** Are you saying that we should estimate this over the broad frame of immigration as a whole?

**Prof. Arthur Sweetman:** Yes, or on the margin for changes.

**Mr. Nick Whalen:** Are you also saying for your statistics that the amount of immigration costs is exactly the same as the resident population?

**Prof. Arthur Sweetman:** At the moment, on average, in Ontario —

**Mr. Nick Whalen:** I can tell you that the health transfer is on a per capita basis which updates every year. If immigrants are added to the mix, and the per capita costs are calculated every year, then it just comes out in the wash. You've already proven that immigrants have the same costs in health care as everyone else, and the health transfers are the same. If you add more immigrants, it all comes out in the wash.

Why are we forcing the government to quantify immigration if we already know it's the same as the base human population in the country?

**Prof. Arthur Sweetman:** I think you paid attention to my third point but ignored the first point, and that is—

**Mr. Nick Whalen:** Please reiterate it and try to justify this.

**Prof. Arthur Sweetman:** The first point is that there are high-cost users of the system and that right now 1.5% of the population is responsible for just under two-thirds of all health care costs. If you're increasing that 1.5%, if you're adding people to that very high-cost user, that is a very substantial, or potentially very substantial, amount of money. It's not an average—

**Mr. Nick Whalen:** I'm just going to step back. So 1.2% of the Canadian population—

**Prof. Arthur Sweetman:** It's 1.5%.

**Mr. Nick Whalen:** It's 1.5%, about half a million people. We're talking about adding a thousand people to that every year. Again, it sounds de minimis. It sounds like something that comes out in the wash. It sounds like the number of high-cost users in the immigrant population remain statistically the same as the Canadian population. Forcing this dehumanizing act of quantifying their additional.... As a class of a thousand, each one of them feels it. Forcing the government to do that just seems to me unnecessary and overly bureaucratic, and it would not change the transfer because it's de minimis.

**Prof. Arthur Sweetman:** I don't disagree with you on some dimensions. However, my view is that, right now, services for people who are high-cost users are insufficient. If you think it's a small amount of money, why don't you just increase the budget to the provinces by that amount right now? Why don't you make that one of your recommendations?

**Mr. Nick Whalen:** I think it's rising by 3.5% a year, and the overall population—

**Prof. Arthur Sweetman:** Make it more than that. It's a small...de minimis I think is the term you used. Why not just increase it by a de minimis amount?

**Mr. Nick Whalen:** That's a wonderful sentiment, Mr. Sweetman, but we're not in the health committee today. We're here in the immigration committee, and we're focusing on a number that.... You would like some other number, and you're lobbying on behalf of increasing medical transfers to the province. I do not see a direct link between that and immigration, because as your own numbers prove, the per capita cost for immigrants taken as a whole is the same as that for the Canadian population taken as a whole. If the Canadian health transfer is already based on per capita costs, provinces that receive more immigration get more of the transfer.

**Prof. Arthur Sweetman:** You missed an important clause. This is the immigration system as it operates at present. You're talking about changing that. I think you want to be calculating new numbers for your changed immigration—not the current system, but your new system. I'm not opposed to bringing people in—

**Mr. Nick Whalen:** So, you're saying that—

**The Chair:** I'm going to need to draw this one to an end.

I do have a question for Professor Sweetman on the other side of the ledger.

I'm not an economist, but I am a former accountant. You've looked at the costs of health care. Have you also looked at the benefit of newcomers and the added amount of money they bring to the economy in terms of revenue and tax dollars? Have you looked at the costs of maintaining the system to net that out? I know you're an economist, so you'll be looking at a complete picture. We've only heard one part, so I will just put it on record that I'd like that answered before the end of the day.

Mr. Maguire.

**Mr. Larry Maguire (Brandon—Souris, CPC):** Thank you, Mr. Chair.

I want to thank all three witnesses for their excellent presentations this morning.

I want to get a little more in-depth information with regard to the types of disabilities that we may be talking about. We heard a lot last evening from some witnesses about the average health costs that my colleague was referring to on a per capita basis and what we should do with section 38 for sure.

I'll get to you, Mr. Sweetman in a moment, but Dr. Hanes and Dr. Bennett, can you both articulate for us the kinds of disabilities that are predominant, not necessarily in how they impact the budget, but which ones are more pertinent with regard to the inadmissibility of persons?

**Mr. Roy Hanes:** One issue that I find here around the debate is that first of all, I don't see disability as a health issue. Disability is a social issue, a political issue, an economic issue. This is one of the concerns I have around the excessive demand clause. For me, the person that I'm working with right now is trying to support his family coming here. His brother has cerebral palsy. I've been working in this field for 40 years. I've been working with a number of people with disabilities, and I still do: people who are blind, people who have cerebral palsy, spinal injuries, etc. If you're thinking about who it is, I would say not to do that, I would say, as a minority representation and the significance of people with disabilities. Sometimes I don't use that term. I think I come from a position of disability pride. I keep wanting you to think about the changes in definitions around disability, the social construct of disability, that we as a society disable people with impairments.

We talk about costs. Similar debates, I'm sure, had to do with new immigrants when they were coming here after World War II or years ago: what about the cost to train these people to speak English, to learn English, and so on and so forth; what will happen to our society? Well, what's happened is that we have a wonderful society. I want to shift that to the concept of investment. As we were saying, it's not a heck of a lot more money, so it'll shift.

Some of the cases right now are small issues. Some of them have to do, for example, with Down's syndrome—like with one person I know, Nico Montoya. There's a family in western Canada that is facing deportation whose daughter has what I would refer to as minor impairments. The Chapman family, who wanted to immigrate, sold everything they had to come to Nova Scotia from England.

● (0920)

**Mr. Larry Maguire:** Yes, and I must interrupt you because of time, sorry. I have three in my own constituency right now who are exactly like that.

**Mr. Roy Hanes:** I'm sure a lot of you do, yes.

**Mr. Larry Maguire:** Ms. Bennett, could you comment on that as well as the cost side you're developing?

**Ms. Sheila Bennett:** Yes. As a person who's spent all my career in education, I'm quantifying it in terms of school systems. When school systems talk about additional cost, talk about children by what we would think of as type of disability, we often hear autism, Down's syndrome, cerebral palsy, but really it's any physical, cognitive, social, or emotional diversity. Children who have excessive behaviour problems, for example, can cost a system money.

What we think about in the education system when we look at cost is how that cost gets distributed. As I mentioned, some systems self-contain that cost and some systems extrapolate it over the entire school population. How school boards do that is up to them. Some provinces extrapolate it across the entire province. The notion is that all children then have access to differentiated learning, differentiated opportunities, and support systems.

For example, one of the projects I worked on with McMaster has to do with occupational therapy services as delivered in schools. When we used a model that brought occupational therapists into the schools, the waiting lists in every school we went into went to zero, and children who had not previously been identified as having occupational therapy needs were identified early, and the costs were saved.

So in terms of school system costs in disability, I would argue pretty vehemently, based on my 30-plus years of experience, that there's an added benefit to having a student with a diverse way of interacting with the world, whether that be physical, cognitive, or emotional. It adds incredible value to us as citizens, because it allows us to create friendships and to build a society and then create gainful employment for people who, when we look back at when immigration [*Technical difficulty—Editor*] were done, were discriminated against.

**Mr. Larry Maguire:** Thank you, and say hi to your new president, Dr. Fearon, for me.

**Ms. Sheila Bennett:** I will.

**Mr. Larry Maguire:** He came from Brandon.

Mr. Sweetman, perhaps you could elaborate on the costs. You made a comment that the Canadian population base has the same medical concerns as those of other immigrants. I'm wondering if there's more of a role for the provinces to play, because they're on the field, and municipal governments as well. Sometimes, as Mr. Hanes said, even these people couldn't pay for their own family, even if they could afford to pay for the whole process. If provinces or municipalities pick up some of that cost, or are willing to, should they be able to?

One answer we had last night was that would perhaps lead to some provinces being more unfair than others that are able to pay more.

Could I get a comment from you on that?

● (0925)

**Prof. Arthur Sweetman:** I'm not sure I have too much to say. Under the Canada Health Act, which I mostly support, as do many people, we like the idea of equality and portability of service across the country. I think having national standards is a good thing and I would encourage us on this front, as on many other fronts, to aim for national standards.

**Mr. Larry Maguire:** Mr. Hanes, I'd like to go back to the question I asked about predominant concerns and their costs. Can anyone answer that as well?

**Mr. Roy Hanes:** One of the things you mentioned is that families couldn't afford that—not that this isn't an issue—but what I'm getting at is that families I know and I'm working with are willing to cover the costs of the care, but they're still being denied entry.

The other thing is if we keep looking at the medical focus on disability, we're not going to get too far as a country. That's a problem. The family I'm working with gave me their report. The diagnosis of this person was made in 1985. They still use that.

One thing that I want you to think about is that if you keep looking at medical costs and medical diagnoses, that's not very good for prognosis. In other words, how do we know what people are going to be like as citizens? Nothing in a medical diagnosis tells us that per se.

**The Chair:** Thank you.

Ms. Kwan.

**Ms. Jenny Kwan (Vancouver East, NDP):** Thank you very much, Mr. Chair.

Thank you to our witnesses for their thoughtful presentations.

I'd like to begin my questions with this premise. I think the committee is grappling with the issue on excessive demand as it is applied to a group of people, in this instance, people with different abilities. It's been advanced on the issue and the application of this policy on the principle of fairness.

To that end, what we do know, and I want to put it on the record, is that the assessment process that the government uses is a flawed process. The figures they've come up with in identifying the cost of what is deemed to be excessive demand are not accurately backed up. Its application in the process of evaluating different people is also flawed in that process.

First, I'd like to establish this. Canada, of course, has made commitments in our Canadian charter to equality and human rights and the rights of people with disabilities. We have enshrined those rights provincially and federally in our human rights legislation. We're also a signatory to the UN Convention on the Rights of Persons with Disabilities. However, we have an immigration policy that clearly discriminates against people with different abilities.

On that premise, what we heard yesterday—it was virtually unanimous—is that all of the witnesses said the government should repeal the section “excessive demand”, because it simply violates our basic human rights.

On that principle, not on the issue of cost, but on the principle of that violation, could I get quick answers from each of the panellists on whether you agree that it is a violation of our basic human rights with respect to this provision of the immigration policy?

**Mr. Roy Hanes:** Absolutely.

To start with, I've been involved in organizing and working with people with disabilities at the local, national, and international levels, and it does discriminate against persons with disabilities. In fact, the UN convention has discussions about mobility rights as well.

I would say yes, I think that, without a doubt.

**Ms. Jenny Kwan:** Thank you.

Ms. Bennett.

**Ms. Sheila Bennett:** Of course.

Who would we be as Canadians if we didn't move ahead with that vision of the future we have that includes everybody?

**Ms. Jenny Kwan:** Mr. Sweetman.

**Prof. Arthur Sweetman:** Clearly, it does.

**Ms. Jenny Kwan:** Thank you.

Let's get into this second issue, the issue of cost, but on the flip side. This is along the lines that our chair was heading towards.

What we also know, and what was admitted by the officials who presented to us, is that they do zero calculation with respect to the contributions of different people and the family members they bring to Canada.

Ms. Bennett, you mentioned about the classroom, and you reminded me of something that I learned from my son. In his class, he has different children with different abilities. Something he has learned—and I'm so proud of the school and of him—that he talks to me regularly about is that different people with different abilities engage the students in a different way. They all participate. The value he brings from that experience is something that is not quantifiable.

In addition to that, of course, when people come as a family unit, you may have a family member with a different ability, but those families make different contributions as well, and that's not quantified.

To that end, how can we possibly come up with a formula that will be fair and accurate in this assessment, or is that at all possible?

Again, I'm just going to go down the line with respect to this.

Mr. Hanes.

● (0930)

**Mr. Roy Hanes:** One of the questions I would ask is do we really want it? I agree 100% that I find it very difficult to quantify that.

As I mentioned, with the people I know and am working with, we have the potential to lose great citizens. One young man I'm trying to help has a master's degree in engineering, a bachelor's degree in engineering. He's willing to cover the cost of his brother, but he may.... This is the part that some people don't understand. People who are trying to sponsor some of their family members, based on religious and cultural beliefs, may have to leave. That's a possibility.

I like your question and the concept of investment, in looking at persons with disabilities, and their families as well, as contributing, not taking away from....

**Ms. Jenny Kwan:** Ms. Bennett.

**Ms. Sheila Bennett:** Thank you for bringing up your child's experience.

When I teach around fairness in terms of disability, we have this statement, “Fairness does not mean everyone gets the same. Fairness means everyone gets what they need.”

If we use the first definition of fairness, which is giving everyone the same thing, then anybody on this committee who wears glasses would have to take them off, because not everybody can wear glasses.

When we talk about quantifying, in education we can quantify. In multiple studies over many decades, what we can quantify is that when you have an inclusive practice, bullying goes down for children, tolerance levels get high for all children, and learning improves for all children. That is quantifiable evidence in terms of the notion that when we add diversity, and with that diversity, add the support needed to protect it, we absolutely have an added benefit for that.

**Ms. Jenny Kwan:** Mr. Sweetman.

**Prof. Arthur Sweetman:** I think fairness and costs are different things. I agree with what the other people were saying.

My key point is that if we bring in people, if we change this regulation, and I'm certainly not opposed to doing that, we need to recognize there may be costs. As you said very clearly, I don't think we're very good at predicting. In fact, a large part of my opening statement was saying we're not good at predicting who will have costs.

Once we find out who does, because some proportion of the population and some proportion of immigrants do, we need to provide those people with sufficient services, so that they can have full and wholesome lives. We need the money to provide people with services to have full lives. That's a recognition that we need to take part and parcel with the decision.

**Ms. Jenny Kwan:** On that issue, even the assessment on Canadians, in terms of our costs to the system, is not an accurate reflection, because the government does not take into consideration the calculation of social services in coming up with that number. When you talk about it in that context, and because you don't take into consideration the contribution of the value of the individuals coming in, I would submit that you can actually come up with a proper assessment based on cost.

Therefore, you have to go back to what we know as humans, and that is on rights. If we're truly a signatory to the UN convention and all the other stuff that we've signed on to, then you have to reflect that in policy, in every aspect, in every single policy within government.

I'm out of time, but I see people nodding. I want that on the record to show that our witnesses agree with the premise under which we have to evaluate our policies.

**The Chair:** Mrs. Zahid and Mr. Sarai.

**Mrs. Salma Zahid (Scarborough Centre, Lib.):** Thank you, Chair, and thanks to our witnesses. I'll be sharing my time with my colleague.

Do you think that paragraph 38(1)(c) is creating a two-tiered system of entry, where those people who have the financial resources...? We understand, and we have heard that in some cases, when people got the fairness letter, they took legal advice, went for representation, submitted a mitigation plan, and were allowed to enter.

I would like all of you to answer this question: is it creating a two-tiered system of entry?

● (0935)

**Mr. Roy Hanes:** Yes. It's even more than a two-tiered system.

First of all, it distinguishes disabled from non-disabled. As I said before, this whole argument is over 400 years old, to control people. It is a two-tiered system.

The other part of that is a result of the Supreme Court decisions in Hilewitz v. Canada and De Jong v. Canada. Even if people can afford to pay, does that really help? It does help individual families of those who get those minister's permits, but at the end of the day, that's not what we're about. What about people who want to come here to join families, part of family reunification, and they can't afford those costs? That's an issue.

I know of families who come here, may have a child, and they're waiting for their citizenship. If that child is born with an impairment, they risk being deported. People who come here.... If you're working and you get injured here, and you're just shy of your citizenship, you can be deported.

Absolutely, to me, it's more than a two-tiered system.

**Mrs. Salma Zahid:** Ms. Bennett.

**Ms. Sheila Bennett:** It is absolutely two-tiered, but we also forget that it's not just two-tiered in terms of how much money you have or how much money you do not have. If you're a family with a child who has a disability, or an adult who has a disability, for the most part, if we look at statistics around the disability population, you're already economically under stress, and already, on average, earning less than most people. The notion is that people who can afford to have expert help have a better chance. People with disabilities, in their social environment, have less of a chance because they have less economic resources. They also have less time resources. It takes time to do all the work that it takes to appeal.

Families who are under stress when they have a child with a disability, or they have a family member with a disability, are under both economic and time stresses. We're triple. We have three factors that work against them having the chance to become Canadians.

**Mrs. Salma Zahid:** It's an emotional stress also. We as a family have gone through it. In 2002 my husband applied to sponsor his parents. His mother was rejected because of the high medical costs. They said the father can come. So we have gone through that.

I'll pass my time to Mr. Sarai.

**Mr. Randeep Sarai (Surrey Centre, Lib.):** Thank you.

As you can tell, almost all of us have an inclination that this policy is discriminatory. We already can see that even within immigration there's a two-tiered policy. If it's family reunification, to other than parents and grandparents it doesn't apply. If it's refugees, it doesn't apply.

My question is for you, Mr. Hanes.

This is to determine the probably insignificant costs. Do you think there would be an increase in “persons with disability” applications to Canada if this were removed such that it would not be 900 we'd be looking at, or would there be a nominal shift? The reason I'm asking is that you may have observed other countries that have eliminated this discriminatory policy.

**Mr. Roy Hanes:** I'm not sure that people with disabilities would jump on the bandwagon to come here just for the sake of disability costs. It could happen, but I doubt it.

The other thing is that, speaking for myself, I would say, “Welcome.” I believe in diversity, and disability is just another form of human variation. I don't see it as an issue.

I know that there are many other concerns, for sure, but I keep reminding the committee to shift away from this medical model notion of disability, because I'm getting a message that many of you, as members of Parliament, have constituents who are being disabled as family members from sponsoring people as well.

I don't think it's going to happen, but I think that if it did happen it would be minimal. Again, I think that if it happened, it would also be an opportunity for diversity. Think about this. I raised the question earlier that if somebody like Stephen Hawking wanted to be a citizen of this country, would he be allowed to immigrate here. The answer is no.

● (0940)

**Mr. Randeep Sarai:** Very clearly the answer is no.

**Mr. Roy Hanes:** Do you see what I'm getting at? Again, the costs —

**Mr. Randeep Sarai:** I'm sorry, I'm just trying for lack of time to get some questions in.

The other thing, and correct me if I'm wrong, is that currently the average medical cost is based on the province, and currently it's averaging about $7,000 across the country per year. That's the number they use. It's whether you exceed that $7,000 number. That $7,000 number already takes into account high users and low users. It's an average.

Do you not think that when we are giving our transfer payments to the provinces and otherwise, we already are factoring this in, and by discriminating against those people, we're in fact overpaying a percentage to the provinces because we're eliminating people with disabilities? We are already, then, covering it, and we're not able to get the benefit, because we're taking 0.2% out of the immigration population. Am I correct on that?

**Mr. Roy Hanes:** Yes, I think—

**Mr. Randeep Sarai:** We don't take 0.2% out, saying that it's because we've eliminated *x* number of persons with disabilities or excessive demand users. We already take it into account to get to an average. Am I correct?

**Mr. Roy Hanes:** Yes, you are. You're close. The cost of that excessive demand is about $7,000 a year. The provision came in in 1976, so it is rather dated itself, but I would say that if you're thinking about doing anything with that threshold, you should raise it, if that's a possibility. I'm talking about abolishing the act, but if you want to talk to me about some possible reforms until that is done, I would say—was it Mr. Whelan who was mentioning this—that the cost is not that significant.

**The Chair:** I need to end this here.

We have a few minutes, maybe four minutes, for Mr. Saroya.

**Mr. Bob Saroya (Markham—Unionville, CPC):** Thank you, Chair, and thank you to the three witnesses.

We all have issues in our ridings. We get these things every single day. Somebody came to see me last week. His son has Down's syndrome, and his wife has similar issues. He told me that OHIP doesn't cover it. It costs him 400 bucks for a single shot every 10 days.

I'm not a doctor. It's a difficult situation. I'm assuming that subsection 38(1) was brought in to balance, I guess, who can come and who can't come, that sort of thing.

Anybody can ask what the balance point is at which the taxpayers pick up the bill. The $36 million may be a drop in the bucket at the end of the day. This is their money. We give it back to them. Sometimes in Ottawa we act like Santa Claus with taxpayers' money. However, going back to Mr. Sweetman, if we want to bring those people in, we have to up the money. So far it seems that we are holding back all those people. If we bring in 2,000 additional people, what will it cost?

Anybody can answer.

**Prof. Arthur Sweetman:** My point is that we don't know how much it would cost, and they're probably quite dramatically different amounts for each person. We should put in the effort to find out, and then make sure that the costs are paying for services and that the services are delivered, so that those individuals can have full and wholesome lives.

My key point is that we cannot say we're going to do something, but we're not going to pay for it, and we're going to bring people in who are going to have miserable lives. We want to bring people in to have full and wholesome lives, which means there are costs and we need to pay them, or there may be costs. We should figure out what the costs are, and assuming that there are some, then we need to pay them.

**Mr. Bob Saroya:** Would you like to add anything to that?

**Ms. Sheila Bennett:** We shouldn't leave out the knowledge that a lot of original decisions that were made about immigration were made in the economic notion that we're going to bring in people who can work really hard, earn a lot of money, and make our country better. That was a form of very basic discrimination right at the point of entry. If you look at hundreds of years ago, it was,"You can stay. You can go. You look sick; you have to go back."

We haven't really changed that much in terms of how we look at things. It's those unexamined predispositions. Why is it that we do now what we do, and how does that compare to the decisions we made a long time ago? When you look at basic, inherent discriminatory practices, and when you look at this particular clause, it's steeped in the tradition of, if you're worth it, you can come into the country, and if you're not worth it, you have to leave the country, and we decide worth by a dollar value that we attach.

It seems what I'm hearing today from everyone is a real willingness and desire to move beyond that kind of thinking to something that we can imagine that's very different. I commend you for that, because I think that reflects who we are as Canadians.

● (0945)

**The Chair:** I think I need to end it there because there might be a vote and I want to make sure our second panel gets in.

Thank you very much.

**Ms. Jenny Kwan:** I just want to correct something on the record. I think, Mr. Chair, Mr. Whalen said $135 million per year on the issue of cost. It's actually $135 million over five years.

**The Chair:** Over five—

**Mr. Nick Whalen:** Actually, no.

**The Chair:** It's a rolling—

**Mr. Nick Whalen:** It's a rolling $135 million per year, and we had that explained to us by the people. I know a number of witnesses have been confused as to that point, but it's very clear. I'm not trying to overemphasize it, because I think we should make the change anyway, but as Mr. Sweetman said, we need to be honest about the costs, and cutting the cost by a factor of five because you can't count the rolling average isn't the right way to go about it. It's $135 million a year.

**The Chair:** The policy effect is $27 million in one year, but they're doing a five-year effect. Therefore, it is every year, but it's based on a five-year thing. I think it's specious, anyway; however, that's my way of looking at it.

**Ms. Jenny Kwan:** I wanted to put it on the record.

**The Chair:** I think there are other ways to define public expenditures and that, but that's one way.

We need to end it there, but that is a confusing little moment.

● (0945)

(Pause)

● (0950)

**The Chair:** We're going to get back to work.

We have three witnesses. Welcome. Thank you for taking time out of your lives to add to our intelligence and knowledge about this topic.

Mr. Montoya is going to begin. You have seven minutes.

**Mr. Felipe Montoya (As an Individual):** Good morning, Mr. Chair. I would like to thank you for this opportunity to address the committee.

I'll begin my statement by giving a brief account of my case, followed by recommendations for policy changes based on our experience.

Last year my family and I were deemed inadmissible for permanent residency in Canada because my son Nico has Down's syndrome. Before coming to Canada to work for York University, I was warned by the immigration and relocation coordinator that my son's Down's syndrome could be an obstacle for acquiring permanent residency in Canada. This already suggested the existence of a practice of profiling and discrimination based on disability in the permanent residency application process. My son's Down's syndrome was not, however, an obstacle for obtaining temporary work and student visas for my family. These were granted for a period of four years, and we landed in Canada on July 1, 2012.

Approximately a year after our arrival, we began our application for permanent residency. As part of the normal application process, the entire family underwent the required medical exams. We all came out healthy, including my son Nico, who at the time was 11 years old. However, because of his visible genetic identity as a person with Down's syndrome, he was singled out for additional examinations, including a pediatric exam, spinal column X-rays, thyroid exam, and developmental and cognitive assessments. No one else in the family was examined or tested further because of their genetic makeup. Only Nico was saddled with the burden of proof of health and ability beyond the basic medical exams required of all family members.

The permanent residency application process dragged on for more than three years, representing additional costs in time, energy, and money for the family, precisely because of the burdens placed on Nico for his disability.

At the end of this difficult and costly process, the fairness letter we received from Citizenship and Immigration Canada in response to the application stated that Nicolas had the “medical condition” of Down's syndrome, code 759, and that due to his “moderate intellectual disability” he was deemed inadmissible for permanent residency, along with his entire family, because of the excessive demand he was expected to have on Canadian social services. In the fairness letter we were given the opportunity to submit a declaration of ability and intent, where we could show how our family could cover the costs of this excessive demand in order for Citizenship and Immigration Canada to reevaluate their decision.

While signing the declaration was a viable option for us, we chose not to sign, and instead opted for trying to promote changes in what we considered was a discriminatory process that unjustly affected not only our family, but many other families. We took our case to the media, whose overwhelming response was supportive of our arguments. Eventually I was invited to meet with representatives of the office of the Minister of Immigration to present our case and our recommendations. At this meeting my legal counsel and I were guaranteed by the minister's office that they would take the necessary steps to enact relevant policy changes by the fall of 2016. While this did not take place at that time, in August we were notified that the minister had intervened on humanitarian and compassionate grounds, granting Nico and the entire family relief from inadmissibility based on the health provisions in paragraph 38(1)(c). Soon after we took the steps to become permanent residents of Canada, which is our current status.

Our family's experience provides the basis for recommending the elimination of paragraph 38(1)(c) of the Immigration and Refugee Protection Act as it does not make sense on medical, legal, economic, social, or ethical grounds, as I will explain.

It does not make sense on medical grounds because, one, disabilities are not illnesses that can be cured by medical procedures, but rather are conditions of a person, often part and parcel of his or her identity. Two, social services are not medical services, and so should not be included under the medical inadmissibility grounds. Three, the screening of persons with disabilities on medical grounds is arbitrary and discriminatory when contrasted, for example, with the possibly much greater costs to the state from smokers, for example, who are not targeted or profiled during the initial medical exams.

It does not make sense on economic grounds because: one, the cost represented by persons with disabilities is negligible to the overall budget of medical services; two, there is no cost-benefit analysis to determine what is gained and what is lost when a family of taxpaying immigrant workers is deemed inadmissible because of the disability of one of its members, not only in tax revenue forfeited, but in productivity of all the members of the family to the economy; and three, the accounting process to determine the individual cost of including an additional student with special needs in an existing classroom of special education is deficient when using national averages to determine individual cases.

● (0955)

If the argument of excessive demand of social services were merely economic, then gifted children who also use special education would be screened, which they are not, nor should they be.

It does not make sense on legal grounds because disability discrimination goes against section 15 of the Canadian Charter of Rights and Freedoms. It goes against the United Nations Convention on the Rights of Persons with Disabilities ratified by Canada in 2010, and it goes against the Canadian Human Rights Act signed by Parliament in 1977.

It does not make sense on social grounds because social services considered for calculating excessive demand are a narrow selection of services, precisely those used by persons with disabilities, making the disabled community a burden to Canadian social services by definition. Second, paragraph 38(1)(c) implies that social services used by disabled persons are a burden, implying by extension that the disabled community of Canadian citizens and permanent residents is also a burden to Canadian society. Third, paragraph 38 (1)(c) ignores the potential contributions of immigrant working families to Canadian society, in spite of, and sometimes even because of, the presence of a disability in the family, as has already occurred on countless occasions in Canada.

It does not make sense on moral or ethical grounds because foreign immigrant workers are, in fact, Canadian taxpayers, and by signing a declaration of ability and intent, they are subject to being twice charged for what they have already contributed to through their taxes. Second, the attempt to resolve the inherently flawed paragraph 38(1)(c) of the IRPA by offering the option of signing a declaration of ability and intent simply adds another layer of discrimination, this time against people with lower incomes. Third, there already exists a moral precedent of offering exemptions to the clause of excessive demand to refugees, for example, so it is not inconceivable to extend an exemption to the category of temporary workers who have already been accepted into Canada and pay Canadian taxes. Fourth, reducing persons to what they cost the state rather than valuing them for what they can contribute can lead us down a dark path. The targets are the elderly and infirm. Fifth, it is beneath the dignity of the Canadian state, which is recognized the world over as a beacon of inclusion, to keep paragraph 38(1)(c) of the IRPA on the books when it is flawed on so many counts.

Thank you, Chair.

**The Chair:** Thank you very much.

Mr. Bellissimo.

**Mr. Mario Bellissimo (Honorary Executive Member, Immigration Law Section, Canadian Bar Association):** Mr. Chair and honourable members, thank you on behalf of the Canadian Bar Association's immigration law section for your invitation and the opportunity to comment on this very important study.

The CBA is a national association of over 36,000 lawyers, law students, notaries, and academics. This CBA section has approximately 1,000 members practising in all areas of immigration law. Our members deliver professional advice and represent clients in Canada and abroad. A key aspect of CBA's mandate is seeking improvements in the law and the administration of justice.

The issues surrounding medical inadmissibility are large and international but also personal and sensitive. The implications transcend many layers of our society. Attempting to forecast the demands on health and social services not just monetarily but in terms of the displacement of Canadians and permanent residents is a difficult process for the families affected, as we've heard, and for our many CBA members who represent applicants. As well, a medical inadmissibility finding has a serious consequence not only to the individual found to be inadmissible but to their family members as well, who are barred from entry. This ranges from family class applicants to workers and economic migrants. It can hinder family unification and have significant consequences on Canadian businesses.

To deliver a successful immigration program, historically there's been a need to protect public health and the integrity of the Canadian health care system while striking a balance with the legitimate needs of migrants in a manner consistent with Canadian charter values and international human rights standards. With a view to maintaining the lawfulness and inclusiveness of the process, the penultimate question before this committee is where and how must that balance be struck.

We've heard that the cost of health care in Canada continues to rise with advances in technology and our aging population. At the same time, an increasing number of migrants are arriving in Canada with both associated benefits and potential public health risks and health and social service costs. We've heard from many witnesses that the excessive demand, or ED, regime is not rationally connected to its purported goal of controlling health care costs, that it is discriminatory, and that it should be repealed. This includes criticism over statistical methods used to determine the cost threshold and the factors considered in the ED assessment.

Notwithstanding, we have come a long way since the Supreme Court of Canada decision in Hilewitz and De Jong nearly 13 years ago and subsequent cases like Colaco, Sapru, and Lawrence, with certain CBA members, led by the late Mr. Cecil Rotenberg Q.C., having worked for decades to minimize the discriminatory effects of medical inadmissibility. These efforts contributed to a much better process guided by the core teaching in Hilewitz that assessment should be fair, diligent, proactive, and with a move away from cookie-cutter methodology focusing on the medical condition rather than the individual. But there remain serious challenges that we have heard through testimony and that have been highlighted in the briefs. I'll just address a few today.

First, the presumptive categorical exclusion of applicants based on certain conditions remains a persistent and ongoing barrier for persons with disabilities, in particular, in immigrating to Canada. Too many refusals are still based on improper or inadequate consideration of an applicant's individualized needs.

Second, the bifurcate ED assessment process is undermined by a lack of proper instruction from IRCC to its officers clearly delineating the distinct roles of medical and immigration officers. Medical officers should be assessing medical and non-medical factors, and immigration officers must determine only the reasonability of those findings.

Third, applicants face obstacles in their abilities to properly engage with officers when concerns are raised. The process and the language in fairness letters can be presumptive and unclear, and the transparency and accuracy of pricing can be uneven. This is also contrary to the court's instruction. The IRCC website offers little by way of meaningful assistance.

How can this improve?

In March 2017, the CBA section commented on IRCC's 2015 review of the existing model. A link to this more detailed submission can be found in our current submission. We recommended, among other things, the expansion of the role of IRCC's centralized medical accessibility unit, CMAU; an increase in budget and personnel with a view to centralizing the process; better alignment of health and social services costs, in particular with respect to special education and prescription drugs, to mention two of the most common social services, and the impact on waiting lists relating to mortality and morbidity. The CMAU should also update resources, including the IRCC website.

● (1000)

The rewriting of procedural fairness letters in plain language with clear instructions, including an explanation of what can be privately disbursed is critical. This would garner more effective exchanges, minimize the need for counsel, ease the intrusiveness of the process, reduce inaccurate findings, and streamline the M5 evaluation, which was listed in the IRCC's 2015 report at 230 to 348 days.

In addition, we recommended additional training for officers on the distinct decision-making roles of medical and immigration officers.

Before this committee we have provided 12 additional recommendations. In particular, there is the need for a detailed analysis of health and social service costs as well as the impact on applicable waiting lists, to support critical policy decisions moving forward. This would aid in refining the admission threshold; examining the impact and potential expansion of foreign national exemptions quantified in the 2015 report as 27% of the 525,000 immigration medical assessments conducted annually; assessing a risk-based approach and modernization possibilities; and determining the feasibility of exploring other mitigating factors, including contribution to Canada by the applicant and their admissible family members. A view to the failed Australian attempt to implement a cost-benefit analysis could inform the feasibility of such an approach in Canada.

Such a study would contribute to framing the balance that must be struck, as well as providing a more fulsome understanding of the need for further improvements, or ultimately, as many have suggested, repealing. Any findings, given the very serious issues at play, must be convincingly shown to exist.

Following this study, the CBA further recommends that the figures and formulas for the setting of the excessive demand threshold must be transparent, with the opportunity for stakeholder input and comment, including information-sharing with provinces and territories.

To conclude, the CBA section supports IRCC's efforts to streamline the ED process while maintaining inclusiveness and individualized assessment. The process could be significantly improved if these recommendations were implemented, without the need for a significant overhaul of the program or legislative and regulatory amendment at this time, pending further study. The evolution of the excessive demand regime since 2005 has resulted in a more equitable and effective process than before 2005, but the process should be further modernized, refined, and balanced, to ensure medical assessments are consistently executed in accordance with Hilewitz, far removed from social handicapping and presumptive exclusions.

Thank you.

● (1005)

**The Chair:** Thank you very much.

Ms. Desloges.

**Ms. Chantal Desloges (Lawyer, Desloges Law Group, As an Individual):** Good morning, Mr. Chair, and committee members. It's a pleasure to appear before you today.

My name is Chantal Desloges. I'm an immigration and refugee lawyer with close to 19 years of experience. I'm certified by the Law Society of Upper Canada as a specialist in both immigration law and refugee law. I'm the co-author of a recent book, a legal text on citizenship, immigration, and refugee law.

I'm cognizant today of my co-panellists. I would be remiss if I didn't mention and draw to your attention that Mario Bellissimo is one of Canada's foremost legal experts on the issue of medical inadmissibility. He has appeared as counsel or co-counsel in virtually every single one of the seminal court cases on this issue, and has been actively involved in the interpretation of what medical inadmissibility means. On a personal level, I happen to know that he advocated most of it pro bono or close to pro bono.

I also want to acknowledge the passion and the dedication of Professor Montoya, although I'm about to disagree with him. I want to start off by saying that I really respect you, and in spite of our differing views, I was really touched by your comments.

It's my view that our laws on medical inadmissibility are sound. They're well thought out and they do a good job of balancing the objectives of the act to promote immigration while at the same time protecting the safety of our system. This also allows deserving cases to be considered for exemption on humanitarian and compassionate grounds. That system, in my personal experience, works pretty well.

If these laws were properly applied by decision-makers, which they absolutely are currently not, our system would be functioning a lot better. In my opinion, eliminating the criteria of excessive demand would be irresponsible to Canadians and an abrogation of responsibility to those who already live in Canada for the benefit of those who do not have vested rights as of yet.

I don't mean to be harsh, but getting permanent residency is not a right. I see nothing wrong with setting parameters for those who will get it and those who will not, and that certainly will result in some painful decisions that cause hardship for newcomers or intended newcomers. Nobody cares about that more than I do. I know that everyone around the table feels that. I wish that resources were unlimited, but they're not. Frankly, the needs are only going to increase in the future.

Don't change the law. This is my first recommendation. That said, I do think that many applicants are being tarred with the brush of excessive demand who do not deserve that label. As I said, the problem is not with the legislative framework; it's with the decision-making process.

I have reviewed and agree with the written submissions of the Canadian Bar Association. I support the recommendations they make in their written brief. I can say a lot about them, but I think that they've already made their points pretty well.

In particular, better research and better data is required in order to make proper assessments about the real costs and the real availability of the services that are included in the ED analysis. Likewise, better research is required to figure out what the per capita cost of an average Canadian really is, because recent reports suggest credibly that the current numbers that are being used simply don't incorporate everything that most Canadians use.

To illustrate the practical problems, I can give you a real-life example of a case that I worked on recently. This was of a man who was destined for the province of Ontario. He had had a kidney transplant in the past, and he was rejected on excessive demand, saying that his medications and follow-up care would exceed the average per capita cost. The calculation of the cost of medication was marked down as double the actual cost of what that medication is in the province of Ontario because the medical officer used the price of the name brand drug rather than the price of the generic drug, which is the one that's actually covered by the province.

A quick five-minute Internet search revealed that the costing error was obvious. This was pointed out to the officer before the decision was made, and yet no response was given. There was no explanation or analysis as to how the cost of the follow-up care was calculated. There was just a number, followed by two web links. One didn't lead anywhere, and the other one is a landing page. A privately commissioned medical report from an Ontario doctor revealed that the actual cost for the follow-up care was a fraction of that projected by the medical officer.

I've also seen cases where no costs were mentioned at all; there was just a list of services. Far too often, officers are still not doing the individualized assessment of a person's needs, even though the Supreme Court ruled on this 12 years ago. When someone has the wherewithal to respond to a procedural fairness letter, it's often completely ignored. Frequently, even if you do get a response, what you see is, “This didn't change my opinion,” with no explanation of why. This isn't good enough. Applicants deserve better. They deserve to know that at least their case is going to get a thorough and fair assessment.

● (1010)

Also, it's not for me to say whether it's poor training or carelessness, but the courts have been pretty clear about what the requirements are again and again. It's not complicated. What specific services does this person need? Are those services publicly funded and what's the cost? Often, when people do mount a serious challenge to the findings, they are successful in getting the finding overturned or at least mitigated.

The problem is that it's really difficult for an average person to know how to challenge these medical assessments. Most people don't have the knowledge about how to research the costs, and frankly speaking, it doesn't cross most people's minds to question the opinion of the medical officer and do the math. I've even seen this among legal professionals who represent applicants. I don't know if it's just an assumption that the medical officer or government official couldn't be wrong or if it's laziness, but many representatives don't even look behind the medical opinion at all.

It's very difficult to locate doctors who are willing to provide expert opinions on the costs and availability of services even when the clients are willing to pay for the report. When you can find these doctors, they're worth their weight in gold. My recommendation is that IRCC consider providing a list or a resource with the procedural fairness letter about how to find Canadian medical experts who are willing to provide these assessments and opinions for a fee. That would make life so much easier for clients, both represented and unrepresented.

My final recommendation, which I think might be controversial, is that the government consider allowing applicants for PR with legitimate excessive demand findings to simply pay the lump sum that's equal to the five-year treatment costs before being granted permanent residence. Let me be clear. I'm not talking about a bond. I'm not talking about a guarantee that you're not going to use services, which is unenforceable under the Canada Health Act anyway. I don't support a two-tier system for permanent residence. For those who don't yet have the rights of permanent residence, I am suggesting that they simply pay for it before immigrating if they have the means and the will to do so. That would satisfy the concern about expenses and it also doesn't abridge their rights later on to access health care just like everybody else.

**The Chair:** I need you to draw it to a conclusion.

**Ms. Chantal Desloges:** It also doesn't take anything away from the rights of those who don't have the means to offset the cost because they can make all of the arguments that the current system allows them to.

Thank you.

**The Chair:** Thank you very much.

Go ahead, Mr. Anandasangaree.

**Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.):** Thank you, Mr. Chair, and thank you, panel, for joining us.

Professor Montoya, thank you very much for sharing your experience with us. Could you give a sense of the value you bring to this country, as someone who is here to teach and subsequently here as a landed immigrant? What value do you and your family bring to Canada?

**Mr. Felipe Montoya:** Thank you for the question.

On a very basic level, I was paying twice as much in taxes as what the excessive demand seemed to suggest my son would cost, so Canada would have lost economically, in that sense.

Apart from that, every person's value is incommensurable, but I can maybe speak to some of my academic contributions. I'm the director of the Las Nubes project in the faculty of environmental studies at York University. I'm a tenured professor there. This is a project that looks at sustainability in the tropics, at biological corridors, and at how humans and human communities can be productive while preserving the rainforest. That's a very limited view of it.

My wife is a dancer and she began a project called Tablao Flamenco Toronto, which is a monthly presentation of flamenco artists that has continued to be in place while we have been out of Canada. It galvanized the flamenco community and they are very appreciative of that. My son, Nico, made friends in school. He was liked by his teachers and was a good classmate. My daughter graduated with honours from Bayview High School and is currently studying digital animation and working while we are in Costa Rica right now. While we are permanent residents at this moment, we are living in Costa Rica for the time being.

These are the types of contributions we would make to Canadian society.

● (1015)

**Mr. Gary Anandasangaree:** Mr. Bellissimo, it's fair to say that what Professor Montoya brings to the table, and families like his, is somewhat typical of the challenges that we face with respect to excessive demand. When we look at the global picture, individual families who are coming in who are barred because of excessive demand, notwithstanding what that cost may be, not even getting into that discussion, they bring a great deal of value to this country. Would it be fair to say that?

**Mr. Mario Bellissimo:** Yes, absolutely.

**Mr. Gary Anandasangaree:** With respect to the excessive demand right now, I know you have laid out a fairly elaborate set of issues, but in summary, would you recommend that this provision be amended or deleted, or that regulations be brought in that may increase the threshold? Where exactly do we land on this?

**Mr. Mario Bellissimo:** I think where we land is that if the provision is applied in the manner contemplated by Hilewitz, it would be compliant. Having said that, because of the operational challenges that currently exist, it's not functioning to the level it should.

With respect to applicants' contributions, I can tell you, and I think you've heard this from some of the witnesses, that most mitigation plans are successful. Oftentimes, contributions are already being considered. I'll give you one example: medical personnel who have to operate in remote regions of Canada; that's routinely put into submissions and it is considered. We have a problem with some of the application. It's very difficult because for those of us pre-2005, where we are now seems like a panacea and CMAU has been much more effective. It's been more transparent, and it's getting better decision-making. I think if the presumptive aspect of it was removed, even the language, the approach, you would not have cases like Mr. Montoya's. To the point that Ms. Desloges made, it would be a very simple exchange. It does not have to be what it is right now.

**Mr. Gary Anandasangaree:** With respect to what Ms. Desloges indicated with respect to an upfront five year cost recovery or cost payment, what is the CBA's position on something like that?

**Mr. Mario Bellissimo:** The CBA's position is that at present, again, there is no evidence that there are compliance issues. It was raised in the 2015 IRCC report as a potential challenge. Our response was, we don't see the existence of it. However, if it did exist, in appropriate cases there are schemes within the act, including the misrepresentation provisions, that would be applied not to a change of circumstances, not to what happens in life, but to when someone deliberately chose to not abide by the undertaking they provided. That system is already in place. If you provide an undertaking for your spouse or others and you don't follow through with it, or you fill out your form incorrectly—you don't declare something—that's already happening under the act.

● (1020)

**Mr. Gary Anandasangaree:** With respect to the mitigation plan, what specific challenges do you see in it and what equity issues arise as a result?

**Mr. Mario Bellissimo:** There are a few points I'd like to clear up.

First, health services can also be mitigated. I think one witness made the point that it's only social services, but health services can be mitigated as well.

In terms of the issue with respect to the mitigation, there are two stages to it. One, there are simply incorrect findings, as Ms. Desloges pointed out, and those are quickly dispatched. Then there are mitigation plans, and again, I think the problem is that when you position individuals as somehow already being inadmissible.... The current language suggests, “You're already inadmissible; tell us that you're not.” That's not consistent with the teaching of Hilewitz. It's individualized assessment. There's not supposed to be profiling. It should be the reverse. The same questions should be asked of all applicants on an application.

**The Chair:** I'm afraid I need to cut you off there. We're going to run out of time.

Ms. Rempel.

**Hon. Michelle Rempel (Calgary Nose Hill, CPC):** Thank you, Mr. Chair.

Ms. Desloges, you spoke about the process for doing the full evaluation around medical inadmissibility and sometimes how people perhaps have difficulty challenging that or understanding how things are applied. I want to give you a little bit more time to expand on that.

We've heard some testimony saying that the government, specifically the IRCC, should perhaps provide more information or provide a different type of process for applicants to understand what's involved in excessive demand assessments and what pieces of criteria are used in making those determinations.

Do you have any specific recommendations in terms of how that could be accomplished or friction points that you see right now that could be eased through process?

**Ms. Chantal Desloges:** Two of them come to mind right off the top of my head.

First of all, the way the procedural fairness letter is written—the way it's worded—uses a lot of legalese. It's hard for people to understand it and to understand the tests they need to meet and what information they might need to provide to overcome it.

The second issue is that when you provide your mitigation plan, they always give you this piece of paper that they ask you to sign to say if you're planning to pay for the services yourself. That conveys to applicants that if they just promise to pay for it themselves, that's going to be enough. In fact, it's far from enough. It's barely worth the paper it's written on, because everybody knows it's unenforceable. I've never actually seen an officer give that simple declaration weight.

It's important for people to know they have to back up their statements with evidence, and that the evidence should ideally be Canadian evidence, because that's the expense we're talking about. It's not what it is in your country, but what it is actually here. What would you be given here, what are you likely to use, and what is the cost of that? Most people don't understand that.

If they are not represented, you see people put in mitigation plans that really are not very good, simply because they are shooting around in the dark.

**Hon. Michelle Rempel:** With regard to the mitigation plan as a tool or as a process instrument, do you think it's still valid? Does it have validity? When you talk about enforceability components, is there something the government needs to do in that regard to perhaps make it more effective, or is it just flawed in general? What would your recommendations be with regard to that particular aspect of the process?

**Ms. Chantal Desloges:** The state of the law now is you have to offer someone a chance to do that. It's procedurally fair. It's mandated by the Supreme Court, so unless there were substantive legal changes, I don't see a way around it. The simple fact is that it needs to be explained better to people so they can use it properly.

There's also a dearth of research as to what the outcomes are later, when people do these mitigation plans. Do they stick to those plans? Did they actually incur those costs after they came? Did they not? There's no research on that.

● (1025)

**Hon. Michelle Rempel:** Ms. Desloges and Mr. Bellissimo, would it be beneficial to have some sort of measurement or enforcement regime on the back end for mitigation, or is that just going to make the problem more complex and a bigger burden?

We're making people do this. What should the government be doing with this information afterwards, and how does it benefit both Canadians and people who are trying to enter the country through this means, if it does?

**Mr. Mario Bellissimo:** It's an excellent question. To the point we made in our brief, there is no evidence to date that people are not complying with what they have offered.

To Ms. Desloges' point, I believe if that data were to be collected —and we suggested a pilot project of a certain number of applicants being tested to see what happens—it need not be intrusive. It need not be discriminatory. It would give us some evidence, because part of the problem right now is that there are a lot of assumptions being made, and the issues are just too critical. The fight to get to the Supreme Court and beyond has just been too hard for us to simply say that the law should be changed; let's do away with everything. It's a very fragile position we find ourselves in today.

**Hon. Michelle Rempel:** In terms of that structure, what should the government be measuring more effectively? What are the metrics we should be recommending the government be measuring? Do you have any suggestions on how to do that in terms of defining real cost and/or net benefit? It's a theme that has come up. What should the federal government be doing more effectively in that regard?

**Ms. Chantal Desloges:** It's two separate questions.

In terms of the analysis, it needs to be measured for those people who are admitted. What actual expenses did they incur? Does it match up with what the projected cost was, or not?

Also, are people complying with their mitigation plans? We don't need to go on a witch hunt, but simply to study and get more data, because I agree with what Mario says. You can't make big decisions like this in a vacuum. There need to be numbers associated with that.

The second thing is the cost-benefit analysis. All of that can be done within the context of the humanitarian and compassionate analysis. Those arguments can still be made.

With exceptional people like Professor Montoya, there's a way to make those arguments, and the existing regime is enough to accommodate that.

**Mr. Mario Bellissimo:** I want to add to that. There's a lot of discussion about the exceptionality of it and the humanitarianism of it, but the reality is that at the initial instance of an individualized assessment, one need not rely on exceptional or humanitarian consideration if they meet the threshold as is.

**Hon. Michelle Rempel:** Right.

On a related point, we just did a huge study on customer service as it relates to immigration as a whole. Both of you have spoken, as has Mr. Montoya, about how it is a big burden to get through this process. People have to find representation.

I note here that the Canadian Bar Association has recommended that the procedural fairness letters be written in plain language with clear instructions, including an explanation of which services are public and what can be privately disbursed. Can you expand on this in terms of how that would be implemented, what resources you would need to do that, and the time frame you think the government could undertake this in? To me that seems like a very common sense approach.

**The Chair:** I'm afraid you're not going to have time to answer that question.

**Hon. Michelle Rempel:** Oh well.

**The Chair:** We'll take it over to Ms. Kwan.

**Ms. Jenny Kwan:** Thank you very much, Mr. Chair.

Thank you to our witnesses for being here today.

I'd like to build on the presentation from Mr. Montoya. He advanced the issue around contributions. He advanced the issue of the essence of why we're here today, which is to talk about an immigration policy, or law, if you will, that discriminates against a class of people.

How does it discriminate? In the case of Mr. Montoya, and others, but I'll use his case for today, he went through a process which clearly said that no one else in his family would have to undergo the application for immigration purposes except for his son, Nico, simply because he has been identified with having different abilities.

Canada has signed on to a whole variety of different covenants, including the UN Convention on the Rights of Persons with Disabilities. If we want to say that we're a country that respects these rights, how is it possible that we would have a law that clearly discriminates against people with disabilities?

On that premise, I will ask Mr. Montoya to expand on that point. He made it in his presentation, but I want him to expand on it. How can we reconcile that difference on the issue of rights?

● (1030)

**Mr. Felipe Montoya:** Thank you for the question, Ms. Kwan.

I would like to point out what my fellow witness, Mr. Bellissimo, spoke about, which was Hilewitz in 2005. It's not being applied as it should be. Currently, even with Hilewitz and with paragraph 38(1)(c), the charter isn't being applied as it should be, and neither is the United Nations convention that Canada ratified.

I think it's irreconcilable. Paragraph 38(1)(c) is flawed. Maybe it could work if we improved it, if we tweaked it here and there. We've had 12 years for it to be tweaked, and it has not been tweaked enough, so it hasn't been working. In the meantime, we are confronting an international breach of our commitments, and I think we need to look at that.

**Ms. Jenny Kwan:** Thank you very much.

I appreciate the different points of views and comments, and from the Canadian Bar Association, as always, they are very thoughtful and detailed with their brief.

In the series of recommendations you have presented to us in your document, Mr. Bellissimo, it lists the issues around the flaw of the current system as it stands. I now grant that you're right: the current system is hugely flawed. The question for me becomes, is it fixable? If we use the premise of our basic rights in recognizing human rights, I take the point of view that I don't think it's fixable.

We heard yesterday from a number of witnesses. In fact, in yesterday's presentations from the two panels, they were unanimous in saying it's not fixable. In my office I've received over 1,000 emails from people saying this section of the law needs to be repealed. Mr. Bellissimo, in your submission to us, on page 2 under “Priorities and Processes” it reads:

> To deliver a successful immigration program, the need to protect public health and the integrity of the Canadian health care system must be balanced with the legitimate needs of migrants, in a manner consistent with Canadian Charter values and international human rights.... This is particularly important given the vulnerability of non-citizens with disabilities. The focus cannot be on prohibiting applicants with a medical condition from entering Canada.

On the basis of this paragraph alone—and I don't think I heard an answer from you when the question was asked about whether or not, aside from trying to fix the problem, on the issue of rights alone, should the government not entertain the idea of repealing this discriminatory policy and law?

**Mr. Mario Bellissimo:** Thank you for the question.

There are multiple levels to that question. One, there's the distinction between health and social services. Much of what we've been hearing about in terms of the issues relate to social services. Health services would also be impacted by any repealment. Second, there is a threshold question with respect to the application of the charter to foreign nationals physically situated outside of Canada. That has not been overcome as of yet in the law, so that presents an additional challenge to determining the scope of how this law should move forward.

Also, there's the issue of whether this can be applied in a discriminatory fashion. Absolutely. Should it be? No. Could it be, if it was applied in the manner that Hilewitz taught the department and applicants to apply it, and following the recommendations that we have provided in our submissions? Absent a further study that dictates otherwise, I believe as of right now the law can function. It can be applied in a manner that is consistent with Canadian charter values and human rights standards.

● (1035)

**Ms. Jenny Kwan:** I would argue that, and question that, on the very premise that a person with a different ability comes forward with an application for immigration, the entire family is flagged, and that one person who is flagged with a different ability has to undergo a different process. That in itself sets out a different standard that applies. Simply because of a disability, they have to undergo a different process. To me, that is already a violation of our basic human rights, the UN convention, our charter rights, and so on.

I'm not a lawyer, so I'm not that smart, but I know what I know from my heart, and I know what I know as human and humanity, and this applies. I believe our Canadian laws ought to reflect that. I think that's what Canadians want to see us do, as well.

With that, I will also submit that we have not taken into account the cost for government to go through all of this process every time someone makes an appeal to the Federal Court and so on. That costs the system. It costs not only in terms of staffing, but it jams up the system and creates a backlog, and you will all be very familiar with backlogs.

**The Chair:** I'm afraid I need to end it there.

**Ms. Jenny Kwan:** That cost needs to be accommodated as well. The only way to get rid of it is to get rid of this provision.

**The Chair:** We have about four minutes before I'm expecting the bells to ring.

I'm going to go to Mr. Tabbara, but I'll just inform the committee of a couple of things before I turn to him.

One is a reminder that we will have the minister for one hour tomorrow at 12:15.

We'll be doing drafting instructions on Thursday. I'm going to suggest we start at 9:45 instead of 8:45 and do one hour of drafting instructions. Given that we've had a busy week with other things, you can take the morning. We'll do that one hour then.

For witnesses for the further Yazidi meetings, I'd like a deadline of Friday the 24th at noon. Today is Tuesday. We have until Friday at noon. We should have a summary of evidence on Thursday afternoon, so we have that, but you can now be thinking about that.

I'm going to suggest no meeting on the 28th; time off for good behaviour. On the 30th, we'll have two hours with Yazidi study witnesses. That's next Thursday. Then, on the 5th, we'll do another hour of Yazidi witnesses, if we need it. If we don't, we'll move right to instructions, but we have time for three hours of witnesses and instructions.

We have the minister coming on the 7th for supplementary estimates (B), and then we'll be considering this report on the 12th.

Ms. Rempel, go ahead.

**Hon. Michelle Rempel:** I would like some clarity from the chair on the potential for the Auditor General to report to this committee on his findings today.

**The Chair:** We will absolutely do that, because now we have some time in there for another meeting as well.

**Hon. Michelle Rempel:** I just need to have a meeting cancelled, if that's a possibility.

**The Chair:** It's still a possibility. I'm just trying to get the work we have on our agenda done before we rise, and this isn't quite as time sensitive as trying to get this work done. We will consider it.

The bells are ringing now, so unless I have unanimous consent, we need to end.

Are they 30-minute bells?

**A voice:** Yes.

**The Chair:** Do you want to finish now, or do you want to go for five minutes?

**Mr. Nick Whalen:** Let's give Marwan his last go.

**Mrs. Salma Zahid:** Five minutes is okay.

**The Chair:** All right.

Mr. Tabbara, we will be ending, but you have about five minutes.

**Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.):** Thank you, Mr. Chair.

I'm sorry for the votes. It's just the nature of the job.

I'll try to share my time with Mr. Whalen, if I can quickly get through this.

Thank you for being here. My first question is for Mr. Montoya.

From your testimony, and with the committee going on, we hear a lot of witnesses saying that this is a two-class system. We heard from witnesses who have been here on temporary residence. They have contributed so much to Canada and paid their taxes. They feel they're good enough to be here, but maybe extended family members are not. They feel that Canada welcomes them to come and work; however, after their work is done, they are asked to leave. They feel that they are being discriminated against.

Mr. Montoya, in your testimony you mentioned the contributions that you, your wife, and your children have made to Canada. How do you feel this is discriminatory between temporary residents and permanent residents?

● (1040)

**Mr. Felipe Montoya:** Thank you for the question.

Temporary residents in Canada who have been accepted here as workers and are paying taxes.... I think the way the law is now, their taxes are worth less than the taxes of Canadian citizens and permanent residents, because no Canadian citizen or permanent resident is challenged and charged when their social or health services exceed the average. Maybe I'm not right, but I think that if you are paying taxes, it's a system of solidarity where everyone pays into it and when you need social services or medical services, you receive them. It's what a society does to help those in need at a certain moment, because we never know when we will need these services. Charging people who are requesting permanent residency and who have already been here for years, sometimes, paying taxes, because their taxes are not worth as much or are not as valued, is a clear discriminatory two-tier system, not to mention the fact that the whole section of disabled persons are also seen as less valuable.

**Mr. Marwan Tabbara:** Thank you very much.

I know we talked about avenues where you can apply if an application was denied under humanitarian and compassionate grounds.

Can you elaborate on other cases? From what I've been hearing under humanitarian and compassionate grounds, a lot of cases are still not approved and it's a strenuous process to go through.

Mr. Bellissimo, can you elaborate on that? Should humanitarian and compassionate grounds be looked at further and assessed in a different manner, or should we just have a different system altogether?

**Mr. Mario Bellissimo:** To Ms. Desloges' point, I think applicants far too often go to the humanitarian and compassionate considerations where they can challenge the actual finding as at first instance, so you need not necessarily go there. Insofar as how that works in terms of a discretionary process, it's very challenging for applicants, absolutely. There's also a certain limit that is allowed every year and that also factors into the number of decisions made.

I just want to make one quick point.

**The Chair:** It will be the last point.

**Mr. Mario Bellissimo:** It's about the two-tiered system.

If we are looking at a holistic aspect to the system, remember that before you can even sponsor your parents, you have to meet a minimum low-income cut-off. There's a financial component before you can even sponsor them, so family reunification is also being looked at in that aspect. In terms of a fundamental review of the act, many aspects beyond section 38 would have to be looked at.

**The Chair:** Thank you.

Sorry, we need to vote.

The meeting is adjourned.