



House of Commons
CANADA

Standing Committee on Citizenship and Immigration

CIMM • NUMBER 018 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Tuesday, February 8, 2005

—
Chair

The Honourable Andrew Telegdi

All parliamentary publications are available on the
"Parliamentary Internet Parlementaire" at the following address:

<http://www.parl.gc.ca>

Standing Committee on Citizenship and Immigration

Tuesday, February 8, 2005

•(1115)

[English]

The Chair (Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.)): I call this meeting of the citizenship and immigration committee to order.

Today we're going to be dealing with a part of the Citizenship Act that has been at issue in quite a controversy for many years. Just to give a background to everybody, having a new Citizenship Act is the number one priority for the committee in our work plan. This is something the government has been trying to enact since 1998. We started with a couple of different versions of Bill C-63, then we had Bill C-16, then we had Bill C-18, and we haven't had new legislation, even though we've been trying to do this since 1998.

The current Citizenship Act, Bill C-29, was done before the charter, and I think it's important that legislation—particularly when it's as important as citizenship, which impacts on all Canadians, but in particular on those Canadians who were born elsewhere and came to this country—is updated.

We have a number of witnesses with us who are going to be making presentations to the committee. We're going to let them all make their presentations, and once the presentations are made, we're going to go into our rounds of questions.

But before I start I would like to wish a happy birthday to Monsieur Roger Clavet. It is great to have you on the job, even though it is on your birthday. This is really fantastic.

Let me start off by calling upon Mr. Grod, who is the chair, I understand, of the Canadian Citizenship Coalition.

Mr. Grod.

Mr. Paul Grod (Canadian Citizenship Coalition, Ukrainian Canadian Congress): Good morning, Mr. Chairman and members of the committee. My name is Paul Grod, and I'm representing the Canadian Citizenship Coalition.

With me today are representatives of some of the participants in the Canadian Citizenship Coalition, namely myself, Paul Grod, LLB, MBA; Dr. Ulrich Frisse, PhD, LLM, German Canadian Congress; Ms. Ameena Sultan, BA, LLB, Canadian Arab Federation; Ms. Avvy Go, BA, LLM, Metro Toronto Chinese and Southeast Asian Legal Clinic; Mr. Khurram Awan, LLB candidate, Canadian Islamic Congress; and Mr. Bill Pidruchney, BA, LLB, QC, Ukrainian Canadian Congress.

The Canadian Citizenship Coalition is a recently constituted group of concerned Canadian ethnic groups that are deeply troubled by

Canada's citizenship legislation and the abusive process Canadians have experienced at the hands of the Canadian government through its citizenship revocation process.

The coalition includes members of the Chinese, Arab, Ukrainian, Islamic, African, German, Somali, and Sikh communities—and this is growing—as well as organizations such as the National Anti-Racism Council of Canada and other immigrant aid, refugee support, and civil liberties groups.

We thank you for your time allowing us to make representations to this committee.

Allow me to begin by congratulating the House of Commons Standing Committee on Citizenship and Immigration for its tremendous work over the past three years and for its report entitled “Updating Canada's Citizenship Laws: Issues to be Addressed”.

The Canadian Citizenship Coalition supports the general principles set out in your report; namely, there must be equal treatment of Canadian-born and naturalized citizens; second, there should be no “probationary” citizenship status; third, citizenship should be seen as a right for those who qualify rather than a privilege; fourth, no one should be deprived of Canadian citizenship if doing so would render them stateless; and fifth, all determinations under the act should be made by an independent decision-maker in a judicial process free from political influence.

Our coalition felt it was critical to make representations to this committee because of long-anticipated changes to the Citizenship Act and the recent actions by the Minister of Citizenship and Immigration, as she was known then, the Hon. Judy Sgro, which undermine the efforts of this committee.

Furthermore, the current Minister of Citizenship and Immigration, the Hon. Joe Volpe, has made no indication that he plans to review the recommendations of the previous minister.

Our outrage stems from the decision during the recent Christmas holidays of the former Minister of Citizenship and Immigration, Judy Sgro, to issue notices to a number of Canadians advising that she will be recommending that their citizenship be revoked for misrepresenting themselves when immigrating to Canada well over half a century ago.

It was most infuriating that the recommendations of your citizenship committee have been disregarded by the Minister of Citizenship and Immigration. Despite your report, the minister continues to proceed with denaturalization and deportation proceedings against Canadians despite complete lack of evidence that these individuals committed or were complicit in committing war crimes.

Furthermore, the minister has disregarded the findings of the Ontario Superior Court and the Federal Court of Appeal in the recent decisions relating to Helmut Oberlander, which found the decision of the Governor in Council to revoke his citizenship was not reasonable. Nor did they follow their own policies. Furthermore, the minister has acted unconstitutionally by being both judge and jury.

Canada's war crimes program is in disrepute and needs to be substantially reviewed, as it undermines the credibility of the Government of Canada, Canada's justice system, and Canadian citizenship. Most importantly, it has highlighted that Canada has two classes of Canadian citizen: those born in Canada and those born outside of Canada.

As a first-class citizen born in Canada, I stand before you today without fear of denaturalization or deportation. However, more than 20% or six million Canadians who were born outside Canada do not have the same level of comfort. In fact, under today's legislation the Minister of Citizenship and Immigration has the power to strip any naturalized Canadian of their citizenship and deport them from Canada, regardless of whether they have lived exemplary lives and have raised children and grandchildren in Canada during the past 60 years, for no other reason than a misrepresentation.

We believe Canadian citizenship must be irrevocable and that a Canadian citizen accused of a crime by the Canadian government should be prosecuted by Canadian criminal courts and have the right to full answer in defence against any such accusations.

• (1120)

The citizenship revocation process, often referred to as denaturalization and deportation, or D and D, begins when the Minister of Citizenship and Immigration gives notice to a Canadian that he or she will be submitting a report to the Governor in Council recommending the revocation of that person's citizenship, pursuant to section 10 of the Citizenship Act, for their fraudulently obtaining their citizenship.

Publicly, however, the war crimes unit labels that individual a war criminal and never presents any evidence to that effect.

Allow me to pause and to emphasize to this committee that the revocation process does not deal with the substantive issue of war crimes. In fact, in each of the cases presented to date, there has never been any evidence presented of war crimes or complicity in war crimes.

In the next step in this process, the accused Canadian has a right to a Federal Court judge making a finding of fact, but only on the matter of misrepresentation. There is no trial or decision on the issue of war crimes, nor is evidence ever introduced or heard about any criminal wrongdoing committed by the individual.

The judge then makes a finding of fact on a balance of probabilities about whether the citizen misrepresented himself when coming to Canada. These proceedings are conducted despite the fact that the government's employees have already destroyed the necessary immigration files in accordance with government policies for disposal of unnecessary records after a fixed period of time, and despite the fact that relevant witnesses have long since passed away.

If the judge makes a finding of misrepresentation, then the Minister of Citizenship and Immigration has the discretion to recommend revocation to the Governor in Council. The Governor in Council is often made up of four members of cabinet, who meet privately to make the decision. As was recently brought to light in the Oberlander case in the Federal Court of Appeal, two of the four members of the cabinet presiding over this recommendation were in fact the Minister of Citizenship and Immigration and the Attorney General, the same two ministers who are prosecuting that individual.

We believe this committee must immediately demand that the current Minister of Citizenship and Immigration, Joe Volpe, set aside the recommendation put to the Governor in Council by Madam Sgro. These contentious issues are currently before this committee during your consultations. The Minister of Citizenship and Immigration must allow your committee to complete its work before allowing any further revocation orders relating to 50-year-old immigration cases to move forward.

In conclusion, Mr. Chairman, and members of the committee, citizenship is one of the fundamental tenets of any nation. Throughout our history, Canada has opened its doors to the people of the world who are looking for a tolerant and free society based on democratic principles. The proposals brought forward by our coalition attempt to strengthen our citizenship legislation, enhance the value of Canadian citizenship, and ensure that the core values of our justice system are utilized to guarantee fairness, transparency, and justice for all Canadians, without regard to the manner in which their citizenship was acquired.

Thank you very much for your attention. I look forward to answering any questions you may have.

The Chair: Thank you very much.

Next we have Dr. Frisse.

Dr. Ulrich Frisse (Kitchener-Waterloo, German Canadian Congress, National): Thank you, Mr. Chair and members of the committee. Speaking for the German Canadian community, it is my position that the current citizenship revocation process threatens the legal status of all naturalized Canadians. It is most concerning that under the current law Canadian citizenship obtained from naturalization never becomes irrevocable.

In Australia, for example, there's a 10-year limitation period after which Australian citizenship cannot be revoked even if it was obtained under fraudulent means. In Germany, this limitation period is only five years. As my learned friend explained, the current laws allow the government to strip long-term Canadian residents of their citizenship on a balance of probability that they might have lied to a question that might have been asked some 50 years ago.

The government neither has to prove that the person has committed war crimes nor that he or she obtained Canadian citizenship by fraudulent means. The resulting insecurity of status makes all naturalized Canadians second class citizens in this country. The very fact that myself and my learned friends do not only address you as representatives of our respective ethnic communities but also as members of a multi-ethnic citizenship coalition is a clear manifestation of the scope of the issue that is before you here.

Please let me give you a brief review of the rulings in the case of Helmut Oberlander, which identify the outrageous flaws of the current process. In 1941, Mr. Oberlander was a translator with a German squad in the Ukraine. He came to Canada in 1954 and six years later obtained Canadian citizenship. In 1995, the government accused him of having participated in war crimes. In February 2000, the federally appointed Justice MacKay, who heard the case, cleared Mr. Oberlander of all war crimes allegations. He stated that there was no evidence that Mr. Oberlander had been directly or indirectly involved in any crimes against humanity. However, on the balance of probability he ruled that Mr. Oberlander had not told the truth about his service during the war when immigrating to Canada.

Based on this ruling, the Minister of Citizenship and Immigration recommended to cabinet to revoke Mr. Oberlander's citizenship and to deport him. Consequently, in 2001, Mr. Oberlander was stripped of his citizenship. Fortunately, he had the financial means to challenge the government's decision and eventually his Canadian citizenship was reinstated in 2004.

The main issue of concern for more than five million Canadians is that the current law puts the government in a position where it can strip any naturalized Canadian of his or her citizenship upon unproven allegations and that the balance of probability ruling is not open to judicial review.

I ask those honourable members of this committee who were born in other countries than Canada, do you want to be exposed to a political process that can destroy your family and everything you have worked for since coming to Canada in good faith? For me, as a landed immigrant, the risk of being separated from my Canadian-born wife and my Canadian-born children on fabricated allegations is far too great to consider at this stage trading in my first class European citizenship for a second class Canadian one.

Various courts and learned members of our legal community have concluded that the current law violates the Charter of Rights and Freedoms. In January 2004, Justice Reilly of the Superior Court of Justice of Ontario argued that by revoking Mr. Oberlander's citizenship, the government had infringed on his rights under section 7 of the charter. Section 7 determines that:

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

I was very pleased to learn that you, Madam Ablonczy, as the critic of the Conservative Party on immigration issues, in your reply to the throne speech argued in a similar manner that the charter must apply to citizenship issues as well. Particularly at the present time when the Prime Minister tirelessly quotes the equality provision of the charter on the same-sex marriage issue, there's no justification whatsoever to ignore the legitimate claim of more than five million naturalized Canadians to be treated as full equals as well.

In the matter of Mr. Oberlander's rights as a Canadian citizen, the highest court of this country, the Supreme Court of Canada, determined that the government actively tried to interfere with the courts. Justice Reilly of the Superior Court of Justice of Ontario also questioned the secrecy of those cabinet deliberations that led to Mr. Oberlander's loss of citizenship. Justice Reilly also noted that Mr. Oberlander was not legally represented at the crucial cabinet meeting

behind closed doors, that the government had neither reviewed nor considered all the information he had submitted, and that there might have been a conflict of interest involving the Minister of Citizenship and Immigration and the Attorney General.

On May 31, 2004, the Federal Court of Appeal reinstated Mr. Oberlander's citizenship arguing further that the government had violated its own policy.

•(1125)

I refer the members of this committee to the 2000-01 government report on the war crimes program that states explicitly:

The government pursues only those cases for which there is evidence of direct involvement in or complicity of war crimes or crimes against humanity.

The Federal Court of Appeal reinstated Mr. Oberlander's citizenship based on the convincing argument that the government had failed to explain how a policy that applied only to suspected war criminals could be applied to Mr. Oberlander after he had been cleared of all war crimes allegations. Given that the government must have consulted in all these cases with in-house lawyers, I can only conclude that the legal considerations were sacrificed for political reasons.

Honourable members of this committee, the current citizenship revocation law does not only violate the charter and the government's own policy, it also puts Canada in conflict with international law. The government's current practice clearly contradicts article 15 of the United Nations Universal Declaration of Human Rights, which determines that, "No one shall be arbitrarily deprived of his nationality".

Based on these considerations, the German Canadian Congress makes the following recommendations to the government.

Suspend all pending cases under the deportation and denaturalization strategy as long as this committee is at work. Otherwise the committee's country-wide hearings will be turned into a mockery.

Implement the recommendations made in this committee's report of November 30, 2004.

Try alleged war criminals under criminal law in Canada only. The Crimes Against Humanity and War Crimes Act provides the proper legal framework for dealing with war criminals in Canada. If there is no evidence of war crimes, there should be no deportation proceedings. The government's current backdoor approach is unworthy of a modern constitutional state.

The power of citizenship revocation must be vested in the courts. Both the facts of the case and the government's decision-making process in this individual case must be subject to a clearly defined and transparent appeal process. It must become irrevocable after no more than five years from the date that citizenship is obtained. In view of the serious repercussions of citizenship revocation, the overall standard of proof in all matters relating to Canadian citizenship must be beyond a reasonable doubt, and not balance of probability.

Mr. Chairman, honourable members of this committee, I thank you very much for your attention.

• (1130)

The Chair: Thank you.

Next we have Ms. Sultan.

Ms. Ameena Sultan (Canadian Arab Federation): Good morning, Mr. Chair and members of the committee. My name is Ameena Sultan and I speak to you today on behalf of the Canadian Arab Federation.

I'd like to begin by thanking the committee for inviting the federation and other member groups of the Citizenship Coalition to speak to this very important issue.

The Canadian Arab Federation is an umbrella organization that represents 40 member groups across the country and whose mandate is to identify, articulate, defend, and otherwise pursue the interests of the Arab Canadian community. This community is among the fastest growing in Canada today, as immigrants and refugees from Arabic-speaking countries continue to come to Canada to build new lives.

This committee is entrusted with the important task of determining the shape that citizenship legislation ought to take in this country. I would ask that in making its assessments, this committee keep in mind that this country is built on an openness to newcomers and immigrants and diversity, as well as on principles of equality and justice, which are enshrined in the Charter of Rights and Freedoms, this country's supreme law.

The primary concern that has been reiterated by my friends in the coalition is that revocability of citizenship necessarily creates a hierarchy of citizenship. As stated in the existing legislation and in previously proposed amendments, revocation applies solely to naturalized citizens. This is problematic in that it suggests that some Canadians—that is, those who are born in this country—are more Canadian than others.

I'd like to speak today about revocation of a specific kind, which has been brought up in recently proposed amendments to the Citizenship Act. Previous proposals, specifically those in Bill C-18, provided for the revocation of citizenship for those accused of terrorism, war crimes, or organized crime.

Similar to other provisions on citizenship revocation, these provisions lack the most basic protections of procedural fairness. For instance, they provide that the court is not bound by legal or technical rules of evidence, the court may receive or make its decision on any evidence it deems credible or trustworthy, no hearing is provided, and the decision is final, with no recourse to appeal or judicial review. The matter is further complicated by the fact that if security is at issue, the subject of such revocation is merely provided a brief summary of the evidence, often with the most relevant points excluded.

These proposals mirror the provisions on inadmissibility one finds in the Immigration and Refugee Protection Act, wherein permanent residents may be removed for reasons of serious criminality, as well as terrorism, war crimes, or organized crime.

Certainly in the three years of permanent resident status as it currently is found in the legislation, information with respect to an individual's history could be gathered to determine if they do in fact pose a security risk. We submit that it is best to address these matters during this period mandated by the immigration legislation, which then becomes a sort of testing ground prior to full citizenship. Then, we submit, once an individual passes such a period of scrutiny and is granted citizenship, their citizenship ought to mean something.

Terrorism, war crimes, and organized crime are extremely serious, and they are crimes. Those accused of such activities, whether they are born in Canada or naturalized citizens, ought to be dealt with within the criminal justice system, where they can be punished for their crimes if they are found to be guilty.

Revocation of citizenship is not the appropriate remedy for criminal conduct. The Criminal Code and accompanying case law embody the system and remedies that Canada employs for those accused of crimes. There is also legislation with respect to security and war crimes that has been put into place and can be enforced. Those accused of these heinous acts ought to be tried in a court of law, and those accused of serious offences, such as terrorism or war crimes, ought to be provided with the protections provided by Canadian law—namely, the right to full answer and defence.

The provisions with respect to revocation are completely lacking in protection of procedural fairness. The Federal Court has ruled that even visa officers in embassies and immigration officers at ports of entry are held to a standard of procedural fairness in their decisions. Certainly, a judge making a decision that could strip an individual of his or her citizenship ought to be held to the same standard, that is, one that incorporates protections of fairness.

Revocation of citizenship also invokes the issue of deportation and the conditions an ex-citizen would face on removal to his or her country of origin. Canada has an obligation to ensure that individuals, citizens and non-citizens alike, are not subjected to torture or ill treatment. In fact, this is specifically addressed in section 12 of the charter.

This has been most clearly articulated in the recent Federal Court decision of Mahjoub. In that decision, Justice Dawson said there were powerful indicia that deportation to face torture is conduct fundamentally unacceptable, conduct that shocks the Canadian conscience and therefore violates fundamental justice in a manner that cannot be justified under section 1 of the charter. Therefore, Canada cannot deport individuals, regardless of the accusation, to countries where they will face torture.

• (1135)

As they stand, and as they exist in the legislation, the proposals on citizenship revocation are highly problematic. We submit the revocation of citizenship should not be provided for in the legislation. It supports the distasteful and very un-Canadian suggestion that there are two classes of citizens in this country. The period of permanent resident status ought to be employed to deal with accusations of criminality of all sorts, including terrorism and war crimes.

Perhaps the committee could consider how the period of permanent resident status ought to be characterized, so as to avoid allowing for two kinds of citizenship. We also submit that if the minister finds that an individual has committed, or may have committed, terrorists acts or war crimes, that individual ought to be charged in the courts, using existing legislation.

If, however, revocation is to be invoked in any amended legislation, it must certainly be accompanied by procedural safeguards that allow for the individual to reply to the case and, furthermore, to appeal any decision to a higher court. Considering the fundamental rights that are at stake, the subject ought to be provided with the protections guaranteed to everybody else in the Charter of Rights and Freedoms.

Thank you for allowing me to make these submissions.

The Chair: Thank you very much.

Next we have Ms. Go.

Ms. Avvy Yao-Yao Go (Director, Metro Toronto Chinese and Southeast Asian Legal Clinic): Thank you.

My name is Avvy Go and I'm the director of the Metro Toronto Chinese and Southeast Asian Legal Clinic.

We have presented a number of submissions before this committee in the past. Specifically, we also appeared before this committee on Bill C-18, which was the previous bill to try to renew the citizenship act back in 2003. We understand that this committee sees renewing the citizenship legislation as its priority. We welcome the opportunity to submit to this committee some of the critical issues that we hope will be addressed in its review.

We echo many of the concerns expressed by other members of the Canadian Citizenship Coalition with respect to the issue of revocation of citizenship. We have also reviewed the report of this committee from November 2004 on the Citizenship Act. We support many of the ideas and recommendations put forth by this committee.

Symbolically and legally, the Citizenship Act is one of the most important pieces of legislation that defines who we are as Canadians. It is therefore critical that all of the values and principles that Canadians hold dear are fully reflected in the Citizenship Act.

Equality for all is one of the most fundamental principles shared by all Canadians and is one of the rights enshrined in the Canadian Charter of Rights and Freedoms.

Also enshrined in the charter, as has been mentioned before, is section 7, which deals with the right to life, liberty, and security of person.

In addressing the Citizenship Act, the standing committee must ensure that it is consistent with these principles as enshrined and reflected in our charter. It is therefore our respectful submission that in many respects the current Citizenship Act fails to live up to the charter principles.

Despite the rhetoric, the act continues to perpetuate two classes of citizens in Canada: those who were born in Canada as first class citizens and those who were born outside as second class.

Many of the recommendations that this committee made in its November 2004 report will go a long way in strengthening the Citizenship Act from the perspective of the charter.

Here we would like to highlight a few of these recommendations, including the issue of revocation. First of all, the committee recommends as one of the general principles that there must be equal treatment of Canadian-born and naturalized citizens. We agree. We will recommend, however, that this principle be expanded to ensure that the future Citizenship Act will be consistent with the charter principles in all of its aspects.

As such, we would recommend to the committee that any new Citizenship Act must be enacted and reviewed through the charter lens to ensure that any of its provisions will be consistent with the principles as enshrined in the charter, including the principle of equality, and that such a principle would also apply to ensure equal treatment of Canadian-born and naturalized citizens.

On the issue of revocation of citizenship, we agree with the committee's analysis of Bill C-18 and its various provisions dealing with revocation and annulment of citizenship. While the draconian measures introduced by Bill C-18 never came into effect, there remain concerns with respect to the current Citizenship Act, as have been expressed by others.

Like many present today, we believe that current procedures for stripping someone of his or her Canadian citizenship fall short of the requirements of fundamental justice as guaranteed in our charter. Indeed, a person who has been charged with shoplifting is afforded more rights under our law than the citizen who faces revocation of his or her citizenship.

While the former will be presumed innocent until proven guilty beyond a reasonable doubt and will have a full right to appeal upon conviction, the latter is subject to a non-reviewable process, which requires only that the government prove the case according to a civil standard.

If and when the new citizenship legislation is introduced, the process for citizenship revocation must be amended.

While we recognize that the state ultimately has the right to decide who can or cannot be a citizen, that right must be balanced against the rights of individuals under our charter. As it now stands, the Citizenship Act simply has not achieved the right balance.

At the very least, the standard of proof for revocation must be raised to that of reasonable doubt, and there must be a right of appeal for those who find themselves facing this prospect.

On the question of residency requirements, we agree with the committee that means of compliance other than physical presence should be considered. However, we believe this must not be restricted to the guidelines as provided by the Immigration and Refugee Protection Act.

The Federal Court has developed a body of jurisprudence concerning the issue of residency in the context of citizenship, which goes beyond what the IRPA has outlined. So we recommend that any future residency requirement must take those jurisdictions into account.

•(1140)

We also recommend that any future residency requirement must include every day of the time spent by the person in Canada, irrespective of the person's immigration status, so as to facilitate the granting of citizenship to those who came as convention refugees or under other non-permanent resident status.

On the issue of adoption of children, we welcome the recognition in the standing committee's report that all children, whether they are related to the parents by birth or through adoption, be treated equally under the citizenship law. For that reason, the inclusion of adopted children into the citizenship process will be a step in the right direction. However, we remain concerned about any proposed requirement that the adoption must create a genuine relationship of parent and child. We submit that this test is highly subjective and has been used in the immigration context to discriminate against cases of adoption involving pre-existing family relations, which are more common among certain cultural and ethno-minority groups.

In conclusion, our Citizenship Act helps define who we are. Canada prides itself on being a country built by immigrants from around the world. We strive to maintain an international reputation based on our humanitarian treatment of immigrants and refugees.

Ultimately, the debate about our new citizenship law is a debate about the future of Canada. Do we want to build a country that is open, welcoming, and respectful of diversity, or do we want to surround ourselves with barbed wire and create a society with a two-tier citizenship system defined by the accident of one's birthplace? The choice is in our hands, and we hope we can make the right one.

Thank you.

The Chair: Thank you very much, Ms. Go.

Next we have Mr. Awan.

•(1145)

Mr. Khurram Awan (Law student, Canadian Islamic Congress): Mr. Chairman and members of the committee, good morning.

My name is Khurram Awan and I am here today on behalf of the Canadian Islamic Congress.

The Canadian Islamic Congress represents the interests and concerns of tens of thousands of Muslims who reside in Canada and draw from a variety of backgrounds, nationalities, and ethnicities.

Our community has been disproportionately impacted by a variety of legislative measures post-9/11. We feel that the citizenship laws of Canada and some of the recent bills that aimed at amending these laws disproportionately impact minority groups, including the Islamic community. Now, as this committee and the government consider reform to the citizenship laws, I would like to draw your attention to some measures that are of particular concern to our community and other minority groups.

Our first submission is that the revocation and annulment powers reflected in the current citizenship laws of Canada, and subsequent proposals for reform, violate the equality rights enshrined in the Charter of Rights and Freedoms. Any measure that allows for the revocation or annulment of citizenship and that applies exclusively to naturalized Canadians differentiates between them and non-

naturalized Canadians and assigns to them the status of second class citizens. Further, most naturalized Canadians are members of particular minority groups, meaning that these groups will feel a disproportionate impact of such laws.

We are concerned about the possibility of ethnic profiling under such measures. Many naturalized Canadians belong to particular nationalities, and members of these groups are more likely to be subjected to surveillance under revocation powers. Therefore, the law as it currently stands sends out the message that certain citizens are more Canadian than others. We recommend that any citizenship laws to be tabled in the future must be based on equal treatment of naturalized and non-naturalized Canadians.

Our second submission is that the revocation, annulment, and security certification powers reflected in the current citizenship laws of Canada, or in proposals for reform, violate the principles of fundamental justice and rule of law as laid out in section 7 of the Charter of Rights and Freedoms. We have strong concerns about any kind of security certification or annulment powers, as were reflected in clauses 17 and 18 of Bill C-18. These powers represent a vesting of discretion in the executive branch of government that is inconsistent with the checks and balances that have evolved in Canada's democratic system. It taints the transparency of the citizenship process. It's susceptible to political influence and replaces the rule of law with the rule of the cabinet.

The possibility of a miscarriage of justice is grave, given the minimal procedural protections mentioned by the other presenters who have just presented before me. The arbitrariness and excessive discretion in the security certification clause was compounded by the fact that it applied to persons suspected of terrorism, war crimes, and organized crimes—no clarification was available or provided, in the legislation or the bill, as to what activities are encompassed within these categories.

For the Islamic community this is a big area of concern, because members of our community have felt a disproportionate impact of broad and vague terminology in other legislation introduced in the last few years. According to the Supreme Court of Canada, section 7 of the Charter of Rights and Freedoms requires that the punishment be proportional to the moral blameworthiness of the accused. We submit that the punishment, which is the stripping of citizenship followed by potential removal, is not proportional to what may be an ordinary case of fraud.

Also, under section 7 of the charter, the Supreme Court has held that where the liberty and security of the person are at stake, the evidentiary burden and procedural protections for the accused must be higher. Many of the liberties that we enjoy as Canadians depend upon our citizenship status, and the stripping of citizenship clearly implicates these liberties.

We recommend that any future legislation should discard the use of security certification, annulment, and revocation powers and provide for maximum procedural protections.

Our third submission is that the current citizenship laws of Canada and subsequent attempts at reform raise significant access-to-justice and cost-of-litigation concerns. Few people in our society can afford a lawyer, particularly when the litigation may be dragged on for a substantial period of time. Naturalized citizens, who have often been in Canada for only a few years and are usually in the process of establishing their financial security are often the persons who can least afford the luxuries of our justice system. It is possible that persons will be deprived of citizenship, not because they have committed a substantive wrong, but because they cannot afford the justice of our system. Therefore, our representatives must ensure that the laws of citizenship they enact are carefully defined and lay out clear criteria to permit action only when it is absolutely necessary and through rule of law constraints.

Our fourth submission is that the current citizenship laws of Canada and subsequent proposals for reform negatively impact on freedom of expression and civil liberties. The security certificate, annulment, and denial powers in Bill C-18 are examples of legislative measures that have become alarmingly common over the last few years. Examples include Bill C-36, the Anti-Terrorism Act; Bill C-17, the Public Safety Act, 2002; and Bill C-24, which included Criminal Code amendments to prevent criminal liability for the police.

• (1150)

The cumulative impact of these laws represents a serious erosion of civil liberties and due process. This trend must not be allowed to continue. The new citizenship law to be tabled is an opportunity to begin to undo this dangerous trend, which impacts severely on freedom of expression and civil liberties.

Our fifth submission is that the current citizenship laws of Canada and the subsequent attempts at reform are contrary to the multicultural fabric of Canadian society. Unequal laws that discriminate on the basis of national origin and that treat naturalized Canadians unequally run the risk of legitimating unequal treatment under the law. This unequal treatment risks promoting segregation across national and ethnic lines and is clearly inconsistent with the values we desire to promote as Canadians.

Our final submission is that any denial of citizenship based on vague criteria violates section 7 of the charter. Due to time constraints, I am not going to get into this in detail, but in conclusion, Mr. Chairman and members of the committee, the Canadian Islamic Congress and other members of the coalition would like to see the government and our elected representatives deliver on their obligation to uphold the charter and basic principles of fairness and justice.

I want to commend the last report released by this committee. It addressed many of the concerns that we raised here today. I hope the committee will continue its good work and play an instrumental role in the formulation of the new citizenship law.

I would like to remind you that one of the driving forces behind the patriation of our Constitution in 1982 and the subsequent enactment of the charter was the idea that certain values are so important they must be put beyond the reach of even the elected legislature, and that these values must govern not just a few laws of our choosing but also all of our laws. We do not expect our

representatives to bring a notwithstanding clause through the back door by saying simply that the charter does not apply. If they do not want the charter to apply, then they should be up front about this and use the notwithstanding clause in section 33 of the charter and then bear the political price. The charter does and must apply if we believe in constitutional supremacy.

Thank you.

The Chair: Thank you very much, Mr. Awan. Let me apologize for having your first name as your last name when I introduced you, but you can take that nameplate with you and keep it as a souvenir to show that the government doesn't always get it right, and neither does Parliament. Thank you very much.

Next we have Mr. Pidruchney.

Mr. Bill Pidruchney (Edmonton, Ukrainian Canadian Congress): Good day, ladies and gentlemen. I want to tell you that having been born in the beef province of Alberta, these denaturalization and deportation provisions do not affect me directly as a victim, but they do everybody who has come to Canada as an immigrant.

Sixteen years ago I was across the hall in the Railway Committee Room when the Government of Canada presented me and 24 other persons with citations for citizenship. At the time, it appeared to be a little reward for community work within our Canadian community, but as the years rolled by I realized that award was more a challenge to ensure that our citizenship in Canada is meaningful and valid and remains the most desired citizenship in the whole world.

I'm a retired lawyer. I thought that in my retirement this would perhaps be my contribution toward ensuring that laws that were unfair, improper, illegal, and unconstitutional would not get on our books, and that the values we value in this country would not only be preserved in writing but would actually be proactively supported.

The proposition you've heard very well presented from my colleagues today was that the D and D provisions should be struck from the current legislation, and any attempts to introduce or add anything of that nature should not be followed. Secondly, we should utilize and implement whatever better ways there are to manage the problem of people who want to come to Canada who have good reason and are not probably acceptable to us.

While these provisions have been popularly referred to as D and D, I prefer to use a shorter term. I call them the strip and ship sections—strip you of your citizenship and ship you out of the country. Get rid of the problem in that fashion. I'm going to refer to that as S and S.

The Charter of Rights and Freedoms, of course, has been referred to an awful lot, but I would like to read the actual words that are binding on us in every act we do in this country. Section 7, which has been referred to, says:

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

I emphasize “fundamental justice”.

Section 15 is on equality rights and says:

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

I underline “without discrimination”.

Section 11 deals with the rights to due process, which means judicial process essentially. It states:

Any person charged with an offence has the right (a) to be informed without reasonable delay of the special offence;

Our law under the act allows a letter to be sent to your last known address. If you didn't get it, at three o'clock in the morning somebody will be knocking on your door saying, “You're under arrest for D and D”.

Paragraph 11(c) says you have the right not to be compelled to be a witness in proceedings against yourself with respect to the offence, whereas our current legislation says you will be forced to give evidence against yourself. If you don't, you will be in contempt of court and we will send you to jail for contempt of court.

Paragraph (d) says you have the right:

to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal.

By that we usually mean a court. We do not mean the cabinet of the government making a decision as to whether or not there shall be deportation. The cabinet is not a judicial body, and it has usurped the function of the courts. Usurping the function of the courts is a basic disability in our system, and we cannot allow this to happen.

Section 12 says:

Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

What's cruel and unusual? The worst thing you get for murder in Canada is a 25-year life sentence. If you're deported, it's permanent. A murder conviction can be reversed later on if things change, as we have found out. Deportation cannot be reversed. You can never come back to Canada if you're deported, whereas if you are a criminal, like Mr. Olson in B.C., who murdered 15 girls...he sits in jail and utilizes our system, flying in helicopters for his hearings and so on.

• (1155)

Here's what the Canadian Bar Association said in a brief to this committee back on November 22, 2002, and it's on their website, and I quote, “Revocation and annulment of citizenship are among the most serious penalties that the state may invoke against its citizens.” Notice the word “against”. We have the state against the citizens, not the state working for the citizens, who are the state. The consequences can include loss of any status and removal from Canada. “These consequences are obviously severe and require strict adherence to due process, procedural fairness and appropriate appeal rights.”

This is very interesting because the Citizenship Act itself, the current act, says in section 6:

A citizen, whether or not born in Canada, is entitled to all rights, powers and privileges and is subject to all obligations, duties and liabilities to which a person who is a citizen under paragraph 3(1)(a) is entitled or subject and has a like status to that of such person.

This essentially means, regardless of where you were born, you get equal status with everybody else in Canada.

And interestingly enough, one of the proposed amendments to Bill C-18 even strengthens that existing statement. In section 3 it says “The purpose of the Act is”:

(d) to reaffirm that all citizens, no matter how they became citizens, have the same status;

Paragraph (g) says:

(g) to promote respect for the principles and values underlying a free and democratic society—

• (1200)

Hon. David Anderson (Victoria, Lib.): Let me ask you this. You are saying that the words of the bill are saying no matter how that person acquired citizenship?

Mr. Bill Pidruchney: That's right.

Hon. David Anderson: Okay. Thank you.

Mr. Bill Pidruchney: I will be pleased to provide you with a copy if it assists you.

Hon. David Anderson: I just wanted to confirm that this was a quote.

Mr. Bill Pidruchney: Section 12 of the proposed new act says:

All citizens have the same rights, powers, privileges, obligations, duties, responsibilities and status without regard to the manner in which their citizenship was acquired.

Accordingly, Mr. Chairman, ladies and gentlemen, is this just window dressing? Is that all this is, just talk that is written down and recorded to be dismissed, disregarded, neglected, actually allowing contrary opinions?

I'm not at risk under this legislation. Many of us are not. The Governor General of Canada is potentially a victim of this legislation because she came to Canada as an immigrant, as a babe in arms. And wouldn't that be interesting if this kind of legislation applied to her?

I guess my time is up. The remainder of this will be mailed to you, ladies and gentlemen. Thanks very much.

The Chair: Thank you very much.

I might mention that half of the members of this committee were not born in Canada.

We are going to go on our round of questioning and it's going to be a seven-minute round, which means that the questioner and the responder on the first round have to conclude in seven minutes.

Mrs. Ablonczy.

Mrs. Diane Ablonczy (Calgary—Nose Hill, CPC): Thank you, Mr. Chairman, and thank you to all the witnesses. The presentations were outstanding, and if anyone watching these proceedings doesn't get it yet, they haven't been paying attention, because it's very clear that there is something very wrong with an act that purports to strip citizens of their citizenship behind closed doors by a few people who also have political considerations guiding their decisions.

I have taken the position, as a spokesperson from our party—and I think other parties the same—that if we're going to strip someone of citizenship, it must be by the highest standards of due process and the highest burden of proof beyond a reasonable doubt.

As was mentioned here, in the case of Mr. Odynsky, now before the cabinet, the court specifically found that this individual did not commit any war crimes, but on a balance of probabilities, may not have disclosed some background information when he was admitted to Canada. That's not the highest standard of proof. The highest standard of proof is not on a balance of probabilities; it's beyond a reasonable doubt.

I would suggest that stripping someone of citizenship can reasonably be made analogous to capital punishment. Capital punishment separates a person from their liberty, and Bill mentioned that stripping someone of their citizenship is akin to social and identity capital punishment, because you're separated from all that has given you liberty up until that period of time. That's a very serious matter.

So we've spoken out very strongly against the continued moves by this government to act in this fashion.

I have a question for you, because most of you mentioned the charter. The question I have is, why hasn't the charter been applied when you've been arguing with the government about this matter of revocation? For example—and someone mentioned this—in the current legislation on marriage, the government says we have to change the definition of marriage because we don't want two classes of citizens and because we want to have equality under the law, and yet, as many of you have pointed out, this legislation and the procedure that's being followed by cabinet right now creates two classes of citizens: some who are safe from having their citizenship revoked and others who are not.

The equality under the law has been violated, because for most offences you have a right, as Bill pointed out, to a fair and public hearing, but in this case the hearing is not public; it's behind closed doors, by cabinet, by a few members of cabinet, some of whom have already prosecuted the individual in question.

So when you bring up these arguments to the officials who are trying to justify this procedure, what justification do you get about the fact that the charter is being violated, that the prohibition against classes of citizens is being violated, and that the prohibition against violating due process is not being followed? Do you get any kind of reasonable argument to justify this process?

• (1205)

Mr. Bill Pidruchney: Ms. Ablonczy, I can't respond as regards a response from anybody we've talked to in government, because we essentially talk to our representatives, who are you people, who carry the message, and the political process and parliamentary processes then are to take over. We all know those processes are sometimes very slow. I'm glad you're keeping it alive here.

I do want to comment in response to the Constitution thing. Subsection 52(1) of the Constitution says:

The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

I take that very literally, and it is my intention, together with my colleagues and other people I've worked with, to bring this to the Supreme Court of Canada as a reference on the legality, the constitutionality of S and S, D and D, because in my interpretation of the Constitution, it is totally unconstitutional.

I even hear there is a little grant fund somewhere to pay for people who want to spend their money to go to the Supreme Court of Canada, so I hope you'll back me when we get to that point. But should you not and should Parliament not take action on this, citizens are left only with that recourse. That's the one that counts.

Thank you.

Mrs. Diane Ablonczy: I would certainly think not. Our Prime Minister said recently that you don't get to pick and choose which rights you uphold and which you don't. Certainly, I can't think of, nor have I heard of, any real justification for this that would be persuasive in any way.

I have another question. Let's take the case of Mr. Odynsky, which is now before the cabinet. The cabinet will decide behind closed doors whether to strip this individual of citizenship on the basis of war crimes, although the court found he didn't commit any. In September the government released a report that said in the last year the number of war criminals walking our streets increased from 75 to 125. I am puzzled—and maybe you can help me—as to why the cabinet and the government would go against Mr. Odynsky, who was found not to be a war criminal and who I think is in his late seventies and clearly can't be much of a threat to our society, but at the same time allow an increasing number of known war criminals to walk our streets without, as far as I can see, taking any steps to remove them. Have you discussed this, Mr. Grod, or any other members of the coalition? Can you come up with an answer to this?

The Chair: Time is up.

Mr. Grod, perhaps you could give a short answer.

Mr. Paul Grod: Ms. Ablonczy, I would say that the numbers being presented to Canadians by the war crimes unit are bringing the reputation of the Canadian government into disrepute. There have been inconsistencies. In the "Fifth Annual Report: Canada's Crimes Against Humanity and War Crimes Program", it says:

In 1985, the government established the Deschênes Commission of Inquiry on War Criminals which produced three lists of suspects containing 883 names. The principal recommendation of Mr. Justice Deschênes was that the RCMP and the Department of Justice be mandated to carry out investigations of these suspects.

This is clearly inaccurate. The Deschênes commission recommended that 622 of those 883 cases be closed immediately. There was no evidence and no rationale. This also perpetuates the initial 400% exaggeration in the number of alleged war criminals living in Canada, which led to the creation of the Deschênes commission.

We're contending that if the Government of Canada does have evidence somebody committed a war crime or a crime against humanity, then that person should be brought to justice through a criminal court process. The war crimes unit should not be tarnishing Canada's image by alleging there are World War II or any war criminals in this country if they can't prove it. They should not mislead Canadians into believing there are. If there is actual evidence, then prove it in a Canadian criminal court, rather than make allegations. It tarnishes our image as Canadians when it makes it appear that we are harbouring war criminals.

• (1210)

The Chair: Thank you very much.

Now we're going to Madam Faillie.

[Translation]

Ms. Meili Faillie (Vaudreuil-Soulanges, BQ): Thank you for your testimony.

Quebec welcomes many people from different ethnic origins. I was deeply touched by your eloquent comments.

I agree that we are on the verge of disrupting the balance between individual rights and State's rights. You've noted this serious trend and Quebec and Canadian societies rightfully expect that steps will be taken to reverse it.

With respect to citizenship, the Bloc Québécois supports the principles that you have espoused. Citizenship is a right, not a privilege. Citizens are entitled to fair, equitable treatment. We're concerned about the potential impact of the citizenship revocation measures put forward by the federal government. We deplore the fact that a person could be denied access to fundamental, natural rights. This is unacceptable.

Specifically, we're opposed to deporting persons to countries where they could possibly be tortured. We deplore the absence of any right to appeal citizenship rulings, the lack of impartiality of administrative tribunals and the fact that appointments are politically motivated, or even partisan in nature.

In the aftermath of September 11, 2001, a series of measures and laws were brought in. These harsh measures have not been unanimously endorsed in Quebec and in Canada.

In your opinion, has the confidence of various communities in our institutions faltered at all?

Have these measures made it more difficult to integrate people or to promote citizenship?

Thank you.

[English]

Ms. Avvy Yao-Yao Go: I welcome the opportunity to speak on this issue because, as some of our colleagues have talked about before, part of the war against terror has resulted in racial profiling, the stripping of the civil liberties of many Canadians.

A lot of things happened since September 11 and have been justified that way, but I think at the same time we need to recognize that many of these laws, including the Citizenship Act, in fact existed before September 11 happened. The government cannot use

September 11 to justify what it is doing with the Citizenship Act, and certainly I think that alone has rocked a lot of the confidence of many community groups as to what Canada represents in terms of our status as Canadians, both here and abroad. What is the message we are sending out in contrast to the humanitarian tradition that we have often portrayed ourselves in?

I also want to go back to the issue raised by Ms. Ablonczy in one of her first questions. I think one of the reasons why the charter has not been raised is that many of these individuals could not afford to use the legal process in raising charter challenges to the Citizenship Act because it is a very costly process, and I am sure that many of them, as you said, are in their seventies. Some have Alzheimer's. It's not something that an ordinary citizen without resources can do, so I think it's something that you also have to take into account when you're recommending changes.

Although on the one hand we are suggesting to put in the protection of having the reasonable doubt as the standard, or the right to appeal, ultimately these are still very expensive procedures. Perhaps a better alternative is to put on a time limit as to when someone can have their citizenship revoked.

• (1215)

[Translation]

Ms. Meili Faillie: Do you see any parallels between Canadian and US policies, or, in other words, a trend toward policy harmonization?

[English]

Ms. Ameena Sultan: To follow up on your question and Ms. Go's comments, speaking for the community I represent, which is the Arab Canadian community, I do believe they feel that the war on terror is what's guiding a lot of the changes in legislation.

Certainly the legislation we're discussing today was in existence far before September 11 and the war on terror, but there seems to be an increased vehemence in terms of not only enforcement but providing vehicles to fight the war on terror. What it feels like from the community's perspective is that it targets their communities and activities. So one finds that the Public Safety Act and particularly Bill C-36 and then this legislation are seen as vehicles by which certain communities can be disproportionately targeted and their activities can be controlled. Suspicions can be executed in a way that's harmful and deleterious to them as communities and individuals.

Mr. Khurram Awan: I want to add that while we have been given all these new pieces of legislation, there's very little democratic input or public participation into what the risks are. We are told very little by the government about what the actual risks to the well-being of Canadians are and then there's very little democratic or public input into what kinds of measures are required to address this.

We are constantly told there is a threat out there and that a certain measure is necessary. It is interesting to note that a lot of measures that are introduced are actually measures that the government already has available under the existing criminal law. For example, in Bill C-36 there were all these terrorism-related offences. However, first degree murder, being party to a conspiracy, and things like that were all offences that were already covered under the Criminal Code.

Really it raises a lot of redundancy issues, and we can see that in the citizenship laws as they stand now. We could potentially have a situation where the government could charge someone under the anti-terrorism law and then issue a security certificate under the citizenship laws. It is a little bit of double jeopardy applied there.

The Chair: Thank you. We are going to go on to Mr. Siksay. If you're going to direct a question to somebody, just indicate who that might be.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Mr. Chair. I'd like to thank everyone for your very powerful presentations this morning. They were very important.

Let me say that I share your frustration with the former minister for undertaking to issue further notices for misrepresentation, especially given the kinds of questions this committee has raised in recent months, but also given the discussion in the community of the issues. With a minister who has no problem ignoring provisions of the Immigration and Refugee Protection Act—we just have to look at the refusal to implement the refugee appeal division as one example of the minister's willingness not to act on parts of the law that were passed by Parliament—I certainly think, given the important questions that have been raised, this was the wrong time to go ahead with those notices, to put it mildly.

I also need to express my frustration that we're sitting here imagining what a new citizenship act might look like. We've had so many attempts to get this legislation before us. Last fall we had promises from the government that if the committee spent some time looking at the Immigration Act work that had been done in the past and making some recommendations, we would have a new immigration act before us in February. We're in the second week of sitting. We still don't have that before us, and rumours are we might not see it until April. That's not acceptable, again given the incredible questions that are raised around this.

Let me say again that I agree with you 100% that we are talking about two classes of citizenship. That is, to use a word opposition parliamentarians often use, completely unacceptable in this country. When I think of the times I've been at a citizenship ceremony and the importance of that act for people, to think that somehow it was tentative, or exploratory, or something that could be changed later on is unacceptable. It seems to me there's a mutual commitment made at that time, where people make certain promises and vows regarding their participation in Canadian society, but also Canadian society makes an equal promise to those people at that time. It seems to me that's the part that's going unfulfilled right now.

I also believe the security certificate process needs to be repealed. I don't see that function. It seems to me a lot of this new legislation and the other provisions have called into question the effectiveness of some basic Canadian law, which I don't think was ineffective. It would be important for me to hear what's wrong with the Criminal Code that we need these special provisions, or what's wrong with the war crimes and crimes against humanity provisions. Is there something there that needs to be addressed, rather than going through this back door and doing things like this low standard of proof? There's no excuse for that.

I have just a couple of questions. Ms. Sultan, you mentioned the permanent residence process as an alternative to a time limitation

procedure. Could you expand on that and say how you see it might go, or what kinds of questions you see not being answered in the permanent residence process? Just expand on that idea, which I thought was an interesting and helpful suggestion.

• (1220)

Ms. Aameena Sultan: As I understand it right now—well, as I know, actually—the permanent residence period is an opportunity in which individuals can be deemed inadmissible. For instance, if during that time period someone is found to have been guilty of serious criminality or terrorism or war crimes, at that point they can be deemed inadmissible and can lose their permanent resident status, and certainly they will not become citizens.

An idea that came up in our coalition was that this actually serves the purpose that it seems the citizenship legislation or the revocation provisions are trying to serve, which is to bar certain people from coming to Canada. Perhaps as a way of dealing with it, if the three-year period is insufficient to properly examine the history of an individual, that period needs to be expanded. Although I think that would be onerous on the individual, it's still less harmful than having a provision that takes away people's citizenship once they've been told they're accepted and they're full members of our society.

So perhaps that's a consideration—an extension, or provisional extensions. Things like that I think would be acceptable, because certainly Canada has the right to choose who it is who will become its citizens. As it stands, I think it could be acceptable, or perhaps be expanded to be more helpful in the process.

Ms. Avvy Yao-Yao Go: Can I respond to that? While I agree with the principle, I'd make two caveats. First of all, under the current Immigration and Refugee Protection Act, not all of these inadmissibility hearings or provisions will lead to a right to appeal. Often for certain convictions you don't have the right to appeal to the Immigration and Refugee Board, so that person could be in the same situation as he is under the Citizenship Act.

Second, while on paper it only takes three years to become a citizen, in reality, because of the security check and all the other bureaucratic delay, it's not unusual for someone to wait for a year and a half to two years after the day they submit the application. In effect, you're looking at five years.

I understand the concern and the suggestion, but I think we need to look at the reality and the drawbacks within the immigration system as well before we come to any concrete suggestions.

Mr. Bill Siksay: Mr. Awan, you mentioned that you might have something more to say about the denial of citizenship and the reasons given, the vagueness in the proposals and those kinds of things. I just wanted to give you a chance if you had something further to add on that issue.

Mr. Khurram Awan: Sure. I just want to quote the denial provision that was actually there. Bill C-18 allowed for the denial of citizenship to an applicant when:

there are reasonable grounds to believe that a person has demonstrated a flagrant and serious disregard for the principles and values underlying a free and democratic society....

This clause is way too open-ended. For example, what are the values underlying a free and democratic society? What are Canadian values? What level of dissent is permissible? Are unpopular or non-mainstream opinions covered? The vagueness of this provision results in uncertainty in the law and really does not satisfy the requirement of fair notice to citizens regarding what the law is. Again, it results in excessive discretion with the executive branch of government because it is effectively deciding what constitutes the values of free and democratic society, rather than the courts or the public at large.

Bill C-18 allowed denial of citizenship due to criminal charges and convictions abroad—although different countries may have substantially different criteria of criminality. Many members of the Islamic community can attest that in their country of citizenship, minimal dissent is criminal.

I came to Canada about five years ago, and I'm of Pakistani origin. It's interesting to see every other day in the newspapers that a certain member of the opposition gets thrown into jail because President Musharraf decided that person's values were going to be a threat to public order.

So we recommend that any power to deny citizenship must specify clear criteria, first of all, and should be assigned to the courts to determine the factual basis, and that there should be full rights of appeal. There must be a clear mechanism to establish reliability if criminal charges are brought.

That was my concern with the denial provision.

• (1225)

The Chair: Okay. Thank you very much.

We are going to go on to Mr. Wrzesnewskij.

Mr. Borys Wrzesnewskij (Etobicoke Centre, Lib.): Thank you.

As my colleagues have already stated, I'd like to say thank you for a very concise presentation. You make an incredibly strong argument.

When you stated that this particular process creates two classes of citizenship, it diminishes the value of the Canadian citizenship of those who were born outside of the country. I'd just like to add that although I'm born here, I feel that my own citizenship is devalued when fellow Canadians do not have the same rights I do. So it devalues citizenship for all of us, not just for those born outside of the country.

Mr. Grod, you said that in this particular process the government is "both judge and jury". Listening to the presentations, would you actually agree that it goes beyond that, that the government is in fact the prosecutor, judge, and jury?

Mr. Paul Grod: Absolutely. You're correct: it is the prosecutor, the judge, and the jury.

The Minister of Citizenship makes the revocation notice and the war crimes unit prosecutes it. The war crimes unit is a joint initiative of Citizenship and the Attorney General. They then hear the finding of fact and make a determination of whether or not they will make a recommendation to cabinet to revoke the citizenship. So they are deciding to prosecute, they are deciding whether to recommend

revocation, and then they also sit on the cabinet committee that determines whether or not revocation should take place.

Mr. Borys Wrzesnewskij: Thank you.

Mr. Pidruchney, how many sections of the Charter of Rights are being violated by this process? You listed a number. Do you have an exact number?

Mr. Bill Pidruchney: Thank you, Mr. Wrzesnewskij.

I identified six sections of the charter that I recited here today, and these are the ones that are most important to the particular issue.

Mr. Borys Wrzesnewskij: Thank you.

We've heard a great deal about how this process affects rights and about the process itself in a theoretical way. Although some particular cases have been mentioned, I have taken an interest in this and think that for added clarity, sometimes it's interesting to look at a particular case because it really makes it real for us.

Is it correct that Judge MacKay in the Odynsky case stated that he did not find any direct or indirect involvement in any sorts of crimes or war crimes, or any criminality?

Mr. Bill Pidruchney: I can only repeat what I've read in the media, but Paul Grod has really been following the case and is very familiar with it, so I would defer to him.

Mr. Paul Grod: That is correct. The judge made a number of findings, first that there was no evidence of individual criminality, that there was no evidence of complicity, that the individual was not deemed to be a collaborator. In fact, what's most shocking is that the prosecution in this case did not even present any evidence of individual criminality. In the case of Mr. Odynsky and in the case of a number of these alleged war criminals, the media has tarred them as war criminals, but the government has never presented a shred of evidence to determine whether they were war criminals or not. That's a complete mockery. I'm embarrassed by that.

Mr. Borys Wrzesnewskij: Going back to the Odynsky case, I remember reading the specifics and the evidence that was before the courts. In fact, it was reviewed and it appears to be absolutely correct.

In fact, was he not a victim of Nazi persecution? When the German armies arrived in his village, they rounded the people up. He escaped into the woods and was facing a death squad himself. Is his wife not a former slave labourer as well?

• (1230)

Mr. Paul Grod: That's correct. According to the findings of the court, after hearing the testimony in the finding that Justice MacKay delivered, he in fact did find that Mr. Odynsky had escaped and under duress of threat to his family was forced to be a guard.

Again, I would rather not get into the nuances of each case because we're not here to defend an individual. We're here to outline the policies. The policy to outline here is that a Canadian citizen who has lived his entire life here in Canada, over 60 years, and has raised a family here is being tarred as a war criminal without a shred of evidence being produced.

If I could just emphasize what this is doing to that community, people were afraid to step up and provide affidavits to state that in fact they went through a similar screening process and in fact were not asked those questions. There were hundreds of people who lived through the DP camps, the displaced persons camps, after the Second World War. There were hundreds of thousands of them who came to Canada through that process. There were hundreds who had anecdotal evidence that they in fact were not asked those questions, but they were all afraid to come forward. They were all afraid that their citizenship would be on the line.

It's frightening that you have that type of community that has been contributing—

Mr. Borys Wrzesnewskij: Mr. Grod, you've answered my question.

I'd like to return to my first question—

The Chair: No.

Mr. Borys Wrzesnewskij: In that case I won't ask a question.

I was very disturbed by this whole process and I thought, am I not getting something here? It just doesn't seem to make sense. I go back to the Odynsky case.

At that time it was supposed to go before a special committee of cabinet. I had the opportunity to speak with Deputy Prime Minister John Manley at that time to find out internally how this process that we're not able to see actually functions. I was told that a recommendation arrives and basically there's not a lot of discussion. They vote on the recommendation, and the recommendation comes from Citizenship and Immigration. When I called the minister at that time, he said he bases his recommendation on the recommendation of Justice. When I called Justice, they said they base their recommendation on the recommendation of the war crimes unit.

The Chair: Thank you very much.

We're going to go on to the next one, but you are quite right. There are no judges in cabinet.

Ms. Ablonczy.

Mrs. Diane Ablonczy: Mr. Chair, this issue has been raised, and I think as a committee we should try to deal with it. The issue is the status of the new act.

Our witnesses know that the Citizenship Act was brought into law in 1977. That's nearly 30 years ago. Yet in spite of the fact that it allows manifest unfairness and injustice, as we've just been discussing, the government has not tabled an act in this Parliament. We've been promised an act. I'd like to know, Mr. Chair, do you know where the new act is so that we know what we're talking about here?

The Chair: Thank you very much. I wish I knew the answer to that question myself.

As you know, the minister representing the government came to this committee and asked us to do a report recommending issues that they could address in the new Citizenship Act. We were told that this was going to come before this committee early in February. I thank the witnesses for endorsing the report because I think this is one report that went through unanimously.

I don't know when the bill is coming. While it was promised by the previous minister, the new minister has not indicated that it's going to be coming any time soon. Maybe the parliamentary secretary might have some more information on it, but I certainly do not.

Hon. Hedy Fry (Vancouver Centre, Lib.): I think that would be a question to ask the minister when he comes to this committee as a new minister; let him answer that.

When I speak, when my turn comes, I want to make a couple of points that may actually shed some light on what Madam Ablonczy is talking about.

• (1235)

The Chair: We look forward to getting to you.

Mrs. Ablonczy.

Mrs. Diane Ablonczy: Mr. Chairman, just let me ask the witnesses, in addition to the deep flaws that they have pointed out in the current legislation from 1977 and the injustice that has come about due to this old act, what advice would they have for our committee when we look at a new act, as we hope to do one of these days, and what other provisions would you like to see changed or included in the new act, in order to address concerns from the communities and organizations you represent?

Ms. Avvy Yao-Yao Go: Can I respond? I raised a couple of the issues in my presentation. In fact, many of the issues are included in the report this committee did, but from our perspective, the residency requirement is one issue that needs to be looked at. As I suggested earlier, we should look at how the court has treated the issue of residency as a guide. I think it's too limiting to look at the IRPA, which is very specific to IRPA. It doesn't really deal with the content of residency that the court has looked at.

The other issue, around adoption, is important as well, because currently there is a distinction between children who are born and children who are adopted. Certainly the report actually deals with the adoption issue very well, including some of the concerns around the lack of right to appeal. So I think the right of appeal for citizenship denial or refusal, as a general kind of provision, would be a good addition to the new legislation as well.

Those two are the ones I can think of right away. There may be some nuances around the language and knowledge requirements that we can look at, but that may not be dealt with under the act. That could be a policy issue. Certainly the delay issue cannot be dealt with under the act, but it is a huge issue right now in terms of the delay for individuals to get citizenship status.

Mr. Paul Grod: To add to that, I think the common theme here with all the witnesses, and the coalition, is that the sanctity of Canadian citizenship is in question. Right now you're hearing many ethnic communities saying that in their view there are two classes of Canadian citizenship. I think this committee is required to look at it and say how they are going to address that question.

There are really four major recommendations.

One is that there should be either a provision that citizenship is irrevocable once it's attained, or else at least a limitation period that citizenship must crystallize, so people will feel that they don't have to worry about defending themselves their entire lives, whether there was a misrepresentation or not, because that's an unfair onus to put on any Canadian, and it fundamentally creates two classes of citizens.

Second, there needs to be a higher standard of proof in any of these proceedings, because it's such a significant penalty that there needs to be a balance—not a balance of probabilities argument, but a beyond a reasonable doubt argument—that has to be presented.

Third, there needs to be due process before the courts, and citizenship revocation should be decided by the courts, not by the political process.

And fourth, there need to be full appeal rights.

The Chair: The time has expired. We'll go on.

Madame Fry.

Hon. Hedy Fry: Mr. Chair, these are very interesting presentations, and thank you, but they've raised a couple of questions.

I've heard a lot of talk recently about permanent residence and I'd like to get some feedback from you on it. I would like to hear from you about what you consider to be a reasonable residency requirement, and this is just a simple question; there's no hidden agenda. If there are going to be exemptions to it, what are the exemptions?

I'm also hearing strong support for the charter. There is a strong sense, on polling of Canadians, that they believe citizenship should be a responsibility, but nobody has defined what the responsibilities of citizenship are. It would be interesting to hear, but I think I feel personally that the values for Canadians are in the charter. That is our value statement, really.

So I'm pleased to see everybody around this table supporting the charter and all the minority rights provisions of the charter. It is good to see all my colleagues doing so.

What I want to clarify, though, is this. Obviously we're saying the question is, should there ever be a revocation of citizenship, and if so, under what conditions? I'm hearing from you that in fact it should be done with due process, which is a very important point you're making. If you're going to accuse someone of something under the law, you should have due process. It should be a matter of innocent until proven guilty. The burden of proof must be there and it must go through the process. I'm hearing everyone saying that, and I think you're making a solid statement. But I think we need to define exactly that.

Now, it's difficult when people came here and became citizens 50, 55 years ago, after World War II, to go back and find that information. So we need to talk about the issue of war criminals here. Currently, post-9/11, we're living in a very different world, and we as a government need to make the right decisions in our Citizenship Act on some of these. There is now information coming forward, and I know the Conservative Party has been harsh with us on this. They said we should not let in anybody during these times unless we were sure they were not criminals. Well, in refugee

situations you don't know. The question then is this. How many of these people are indeed war criminals in Kosovo and Rwanda, etc. and they did not tell us? If so, is the process the same for finding that out? If so, should revocation of citizenship be a "punishment"?

Those are the questions I want to ask. How do we clarify that in a post-9/11 situation when it's very difficult to get information on people coming through? How did we deal with it in a pre-9/11 situation, and should they be the same?

Bill, you talked a lot about the ability for people to have access to the Supreme Court. That's the court challenges program, and it's there exactly for that. It was brought in by Trudeau, it was actually removed under the Mulroney government, and we brought it back in 1993. It is the single most important thing to allow people to have their rights addressed. I think it's a very important program.

• (1240)

The Chair: Okay. We'll have a half minute for answers, Bill and Paul.

Mr. Bill Pidruchney: Thank you very much, Ms. Fry. Those are good questions and I think there are answers out there. Actually, I would offer the services of this whole coalition, for a decent fee, to write a new act for you.

As pointed out by Avvy, though, it's important to have everything in context, because immigration and citizenship and the security certificate, etc., all impact on each other. It's really very difficult to remedy one act and say we've fixed the whole ship. We've fixed one hole, but the ship has a lot of other holes in it and may sink.

Anyway, I'm sure that all of us here have a very fine knowledge in this, and we wouldn't mind at all helping out if there was any way we could do that.

The Swiss require you to live in the country for 12 years before you are granted citizenship. I've forgotten what the Australian one was. What's the German—

Dr. Ulrich Frisse: Five years for the Australian citizenship. I think it's also five years in Germany.

Mr. Bill Pidruchney: Right, and it seems to me this now implicates immigration. Can we get our immigration system to very effectively vet people applying for landed immigrant status and so forth? If we need more time to do it, I wouldn't be offended if we took eight years to do it, six years, ten years, something like that. People would come in on that complete understanding.

In answer to your first comment, I thought I made it clear that my position is that citizenship once granted is inalienable. You can't take it away. It's not just a contract. It's not a commercial contract for buying or selling goods. Citizenship is a status that is granted to you, like being born a male, a female. That's it. Some of those can be changed a little perhaps.

The first responsibility of a citizen is to abide by the laws. That's a legal responsibility. The second one, a very onerous legal duty, is to pay your income taxes. The remainder are probably moralistic: be a good citizen and help your fellow man, etc.

• (1245)

The Chair: Thank you very much.

We ran over on that one. I encourage short questions, so we can get more answers.

Monsieur Clavet.

[*Translation*]

Mr. Roger Clavet (Louis-Hébert, BQ): Thank you, Mr. Chairman.

I'd like to welcome the witnesses to this meeting of the Standing Committee on Citizenship and Immigration and thank them for their presentations. At the same time, I am somewhat troubled by the comments made by the German Canadian Congress, namely that revocation of citizenship is a matter for the courts, not for politicians. As well, I listened to the Canadian Arab Federation representative say that there are first- and second-class citizens in this country. The Metro Toronto Chinese and Southeast Asian Legal Clinic maintains that a criminal has more rights than a naturalized citizen. These are indeed disturbing comments. Mr. Pidruchny talked about S and S, or strip and ship, provisions. That's a little disturbing as well. At the same time, nothing is said of the economic and cultural contributions that immigrants bring to our regions.

Judging from the testimony presented, it's clear that you fear deportation or loss of citizenship, and that other citizens do not have this concern. As representatives of your communities, do you feel that you have a sword of Damocles hanging over you, while other citizens of this country who are protected by the Charter do not have a similar fear? In an ideal world, how could we improve upon these revocation procedures?

[*English*]

Dr. Ulrich Frisse: If I can answer that question, I fully agree with you there, but I think we also need to consider the implication for individual families. We are not just talking about people who are in court and who are stripped of their citizenship. We are also talking about very severe and very serious implications for the Canadian-born children and grandchildren.

In the case of those elder gentlemen who are right now faced with deportation threats, they came to Canada in the 1950s and some of them in the 1960s. Their grandchildren are second-born Canadians. I think that is definitely something we have to take into consideration.

What is happening? Are you just removing this individual person from the country or, as I remember one suggestion that was made previously by the government, will there also be consequences for the children and grandchildren, because initially their citizenship is obtained indirectly through the person who is being deported? Those are very serious issues.

The other thing I might want to add and that I would also like you to consider is the question of statelessness, which has not been put on the table yet. Not every single person who is coming to Canada has the privilege of dual citizenship. There are quite a few countries

in this world that require you to submit your original citizenship the moment you become a Canadian. What is happening to these people? Under international law, under the UN convention, you cannot make people stateless. Those are most severe consequences.

I would like to appeal to you, the members of this committee, really to take that into consideration as well when you are making your decision and when you are making your recommendations to the government.

Ms. Ameena Sultan: Thank you for your question.

Just to speak to the issue of a fear that these naturalized citizens could have, I would remind the committee that most people who are naturalized citizens have also gone through the period of vulnerability, that is, through the permanent residence period and prior to that a period either as refugee claimants or simply as immigrant applicants. In those periods they are not granted the full rights of citizenship. We treat those as acceptable because they are periods of application, of waiting for your refugee hearing, and of establishing your residence.

So if we allow for citizenship to be revocable for naturalized citizens, basically we are allowing those people to remain vulnerable for their entire lives, and that's problematic. There has to be a limitation to that period of vulnerability.

• (1250)

The Chair: Thank you very much.

We have run out of time on that one.

We go over to Ms. Beaumier.

Ms. Colleen Beaumier (Brampton West, Lib.): Thank you for coming today.

This is not something I have studied extensively, but one thing puzzles me. Say I was born in Canada and it was discovered that 20 years ago I went to Lebanon and became a member of the FLA. If I came back to Canada and there were charges against me of crimes against humanity, they couldn't strip me of my citizenship. But could the government not deal with that by sending me to an international court or trying me here in Canada? If so, what is the purpose of stripping someone of their citizenship if in fact we can still meet our international obligations? You agree with me. I can see you all nodding your heads. Has the government responded to that question for any of you?

Mr. Paul Grod: The issue came up in the Finta case, where they did try somebody in a criminal court and failed because they didn't have sufficient evidence. The defence of superior orders was used. As a result, the government decided to pursue the denaturalization and deportation process. However, since then, the government has changed the scope and has made some amendments to the Criminal Code under the Crimes Against Humanity and War Crimes Act, which does allow for trying people for war crimes or crimes against humanity in a Canadian criminal court. Furthermore, we have well-developed treaties where we do allow for extradition if another jurisdiction is going to be trying somebody. So there are all the tools to do that.

If we believe they have committed a crime and there is that evidence, then we have a moral responsibility as Canadians to try those people and not to simply ship them off to somebody else. We have a responsibility to bring those people to justice. But they have to be brought to justice in a Canadian criminal court. And we would support that.

Ms. Colleen Beaumier: From the point of view of the Canadian government, what is the justification for stripping someone of their citizenship? I just don't understand why they feel that is a necessary step.

Mr. Paul Grod: The shocking thing, Ms. Beaumier, is that their rationale is there is not sufficient evidence to prove they have committed a war crime to the criminal standard, which is a mockery of our justice system. If we don't have sufficient proof that these individuals have done something wrong, then why are we trying them in the first place?

Ms. Colleen Beaumier: That's it.

The Chair: Bill, do you have something to add?

Mr. Bill Pidruchney: You probably have heard this several times. In the Revised Statutes of Canada, 2000, you will find the Crimes Against Humanity and War Crimes Act. That was prepared very deliberately to deal with genocidal items, terrorist items, and so forth in Canada, as Paul has indicated. That act came along laterally, well after S and S was in the Citizenship Act. It was designed expressly to do this. That is why we say we now have the tools in Canada, including extradition or anything else, with which to deal with that.

The other thing I should mention is I'm told that the idea of including S and S in our legislation came from the U.S.A. I'm really embarrassed to say this, although I'm not accountable for it, but Britain adopted our S and S provisions last year. So we're spreading the rot.

The Chair: Thank you very much.

Mr. Siksay.

Mr. Bill Siksay: Thank you, Mr. Chair.

I want to come back to the issue of criminal charges and convictions outside of Canada, the standard we would apply, and the process we might go through to deal with those in our context. How do we make judgments about that? What kind of process would be appropriate to evaluate that circumstance? I'm wondering if any of the groups have reflected on that.

Mr. Paul Grod: If I understand the question correctly, it is, what do we do if we find among us somebody who has committed a war crime?

Mr. Bill Siksay: If we're looking at criminal charges that happened outside of Canada, how do we evaluate that justice and legal system to see if there are problems with it and whether it matches Canadian standards? Then how do we use that in the system here in Canada?

• (1255)

Mr. Paul Grod: I will let Ms. Sultan speak to that.

I would like to say that we do have provisions in the Canadian Criminal Code that have not been tested. However, there is a process

that has been implemented by the legislature. What we're suggesting is that if there is that evidence, then let's utilize that process.

Ms. Ameena Sultan: Sorry, Mr. Siksay, are you asking if somebody has been convicted of crimes abroad or charges have been laid...?

Mr. Bill Siksay: Yes, in all of those, in the consideration of prohibition, of their being denied citizenship.

Ms. Ameena Sultan: If I'm not mistaken the immigration legislation actually provides for an equivalence, so if somebody is convicted of a crime outside of Canada that in Canada is considered a serious crime, then on those grounds they can be rendered inadmissible. So it's already contemplated, and it's a contestable issue. It can be addressed in tribunals. It's not perfect, but it already is addressed in terms of the immigration legislation. That's what I can speak to.

Mr. Khurram Awan: If I could just add, I think historically whenever discretion has been given to the courts they have developed appropriate tests. For example, you see this in the area of aboriginal law, where there were difficulties in establishing the basis of aboriginal land claims and things like that because there were evidentiary difficulties, as obviously it would require the aboriginal people to relate historical stories that were 100 or 200 years old. The Canadian courts then developed an appropriate test around that where they lowered the evidentiary standards that were allowed.

We think the courts, if allowed the discretion, have experience they could apply to this area. The problem is they are just not being given this discretion at all. The legislation just says that if there is a criminal conviction outside Canada we're going to deny you your citizenship, and that's clearly inappropriate. We think the judges of this country have the appropriate expertise to develop a test that's appropriate, if they are given the discretion.

Mr. Bill Siksay: Would it be fair to say that in dealing with equivalence in the immigration process, this has been a generally positive kind of experience?

Ms. Ameena Sultan: I wouldn't say that.

Ms. Avvy Yao-Yao Go: Do we have another hour on immigration?

I'm always very leery of moving the problems from the citizenship realm to the immigration realm, because there are many problems within the immigration realm. Just take security certificates as an example. Since 9/11 most of the security certificates cases came out of immigration. The government has been relying on the Immigration and Refugee Protection Act to deal with these issues, as opposed to the Anti-Terrorism Act, and one of the reasons is because there is a lesser standard of protection.

I think we have to be very careful when we say we want to find a solution and let's move everything to deal with everything before they become citizens. The problem is that before they become citizens they have even fewer rights. So I think we have to be very careful with that.

On the question of dealing with war crimes, we have all the eminent expertise that Canadians have provided overseas. One of the eminent Canadian experts, Louise Arbour, who is now the human rights commissioner, had been prosecuting war crimes. I think there is a lot of expertise in Canada to deal with those kinds of issues. The problem, as we recognize, is it's not so much that we don't know how, but we know that to take this route we have to have a higher burden of proof, and the government is not willing to bear that burden so that it becomes easier for the government to decide on how to deal with citizenship or immigration issues.

I think the issue is not so much whether we have the tools; it is the lack of political will, or maybe it's political expediency, because we want to portray to the Canadian public, especially in a post-9/11 world, that we are concerned, we are serious, about security, and therefore it's okay to trump individual rights for the sake of security. I think all these things just got caught up in that kind of a fiasco as well.

The Chair: Thank you very much. That wraps up that timeframe.

Mr. Temelkovski.

Mr. Lui Temelkovski (Oak Ridges—Markham, Lib.): Thank you very much, Mr. Chair.

We're talking a lot about security. When someone applies to come into Canada, as I did and as maybe five or six of us on the committee here did, there's an application and also a security check at the time of application. Further on, once you arrive here, there's a security card that you need to leave the country, so there's a security check again. Subsequently, when you apply for Canadian citizenship there's a third security check, and that will take anywhere between three to five and maybe even ten years from the first application until the citizenship application.

Then if we're further looking to revoke or to have somebody's citizenship taken away from them.... I want to ask the question directly to all of you. Should the government have the capability of revocation? Should we have that in an act, or should it be left to the United Nations or international forums for war crimes issues?

• (1300)

Mr. Paul Grod: Thank you for the question.

It has been stated a number of times that we believe citizenship should be irrevocable. We have stated and tried to evidence the tools we have as Canadians to deal with issues of fraud, of criminality, of terrorism. In fact, we have the obligation to deal with those.

Putting the onus on Canadians to be concerned that one day their citizenship may come into question is a mockery of our Canadian citizenship. Quite frankly, look at a number of onuses that we impose upon Canadians. For example, in tax legislation, we have an obligation to keep your financial records going back seven years. After that period of time, there is a limitation period wherein you're then not responsible for having to report on that process. In fact, we see statutes of limitation in a number of our processes.

We're saying individuals don't have to keep records for tax purposes beyond more than seven years, but then we're expecting these people to keep records of their immigration process for their entire lives? It's a significant burden, and our position is that

citizenship should be irrevocable to ensure that we do have one class of Canadian citizens.

The Chair: Thank you very much.

Madam Faillie, we only have a few minutes left, so try to keep it short. I want to get Mr. Anderson in. He hasn't spoken yet.

[*Translation*]

Ms. Meili Faillie: During previous meetings, witnesses expressed concerns about the practice of profiling. You seem to have a similar concern. They recounted instances of errors and abuse on the part of security services, including the RCMP, CSIS, the Canada Border Services Agency and other government institutions. I believe we need to address a number of prejudices about various communities in Quebec and Canada and take concrete steps to counter exclusion. Others have asked that specific measures be taken to provide consular and legal protection to Canadian citizens travelling abroad, regardless of ethnic origin.

I agree with Mr. Frisse that we need to consider how families will be affected by our decisions. My mother is a naturalized Canadian, while my father is a Quebecer. Therefore, I understand how certain things could have happened.

Canada also has an obligation to uphold the right of children to have access to their parents. Are you concerned about possible abuses associated with the revocation of Canadian citizenship? Would you like to see a critical, transparent analysis conducted to bring to light the potential impact on the fundamental public rights and freedoms of naturalized citizens? Such a study could be carried out under the auspices of the committee or of the Canadian Human Rights Commission.

[*English*]

Dr. Ulrich Frisse: If I may speak for all of us, I think we would definitely welcome any kind of initiative that would make these issues more public. These are very urgent issues, Mr. Chairman, and you already answered the question that you don't know where the legislation is. Obviously the government is procrastinating on this issue. Whether they're first class Canadians or second class Canadians, anything that gets the message out to all Canadians, that gets it out to the people of Canada, that really informs them about what is at stake here and about the ongoing process.... They're sacrificing the constitutional framework of this country and are alienating individual people, destroying individual lives, without providing any kind of evidence that would justify such actions. As I said, anything that gets that out to the people would definitely be welcome, and I would encourage you to take that initiative and go ahead within this committee.

• (1305)

The Chair: Thank you very much.

Let me just jump to Mr. Anderson. You're going to get the last question for the day.

Hon. David Anderson: The first issue I'd like to question you on is one that all of you have raised at different times and in different ways: the length of permanent residence before citizenship can be granted. This ranges from 12 years, in the Swiss reference, to five years in other countries. There seems to be general agreement among your council that three years is going to be inadequate if we are in fact to have irrevocable citizenship granted at the end of the period of permanent residence.

Have you come to any formal decision on that as a council, or if you haven't, have you fully discussed it?

My second question, which is similar, has to do with the period after which the period of limitations runs out—in other words, the period when you could check the record, or the government could look at...or evidence might come up of past misrepresentations. I think the words are “false representations”, where citizenship is obtained by false representations through fraud or knowingly concealing material circumstances.

How long might be that period before the statute of limitations that you'd like to put on it would expire?

So two questions, both related to time, and of course they're interconnected.

Ms. Avvy Yao-Yao Go: Can I address the first question, on the residency?

I have two concerns about that. First, three years does not mean three years; three years often means five years, and five years would mean ten years, because of the bureaucratic time—

Hon. David Anderson: Yes, you went through that before. If you don't mind, you went through that before, and I would like to—

Ms. Avvy Yao-Yao Go: The problem is not so much with the residency issue, the problem is the inherent system we're using right now to determine when and how to revoke somebody's right—

Hon. David Anderson: But have you discussed this in your council? That's the point. I need an answer to that question, not a repeat of your previous answer.

Ms. Avvy Yao-Yao Go: I can't speak for the others, but I don't think I have come to a conclusion around whether it should be three years or five years. I don't think the problem is whether it's three years or five years.

Hon. David Anderson: Okay.

The Chair: Mr. Grod.

Mr. Paul Grod: Again, we've not discussed actual terms at the coalition. However, in principle we all agree that in fact there should be terms. In other words, it shouldn't be left open-ended.

As to what the term should be, I think what we would all agree to is that we should find a reasonable term, whatever that is. Whether it's three years or five years, that's open to discussion, but I think we're suggesting to the committee that they adopt in principle that in fact there should be a limitation period. Whether it be up front or after you receive citizenship, there should be a defining crystallization moment when in fact you become a full-fledged Canadian citizen and it can't be taken away from you.

Hon. David Anderson: To pick up on the word “reasonable”, would five years for the permanent residence part of citizenship and seven years thereafter, after which revocation would not be possible, totalling a 12-year period, appear to you to be within the ballpark of reasonableness?

Mr. Paul Grod: I can't speak for the coalition, because that term has not been fully vetted, but I can tell you personally that I don't think that's unreasonable. Whether it's too long or too short, again, there has to be a defining period.

Hon. David Anderson: Thank you.

The Chair: Perhaps after you discuss that particular point you can provide input to the committee by letter or what have you.

I have just one question for you, because we have to wrap up now. We're at the end of our time.

The committee is kind of in limbo now. We have booked travel across Canada for March and April, and we were supposed to have had a new Citizenship Act tabled with us by now. That hasn't happened. We were going to do a consultation around citizenship, credentials, and family reunification. Now, it really puts the question to the committee, which the committee will have to deal with. But since you're here, I'm going to ask you for your advice. Yours will be the last piece of advice we get before the committee has to decide.

Do you think we should continue with our plans to travel the country when we don't have the new Citizenship Act, or should we go out there and basically talk about our report and how that should fit into the act?

• (1310)

Mr. Khurram Awan: I think the idea of travelling around the country and obtaining input is very important. It's an excellent idea, and a refreshing change. One of the points that concerns us is the fact that there's so little public input, or democratic input collectively, into measures that really impact so strongly on the rights of Canadians.

I mean, I didn't really know about this legislation until a few months ago, although I'm sure these proposals have been around for awhile. It just goes to show how something that is so critical is not even known to so many Canadians out there. My parents didn't know about this until I informed them a month ago.

I think it's very important that people go around and do this, because I think it enhances the institutional legitimacy of the legislature as well. I don't think Canadians vote for parliamentarians and then expect them to just stay in Ottawa on Parliament Hill and not come as close as possible to the community to obtain feedback.

So I think it's an excellent idea. I just hope it actually translates... and that whatever feedback you obtain is actually taken seriously by members of the cabinet and by the citizenship minister.

The Chair: Thank you.

Do you all concur with that?

Mr. Paul Grod: I think Awan echos all our thoughts on this. We commend the committee for all the time and effort, because it is a huge undertaking. Seeing your schedule, I see it's quite taxing on you as parliamentarians and as people with families. So we congratulate you on that effort.

As I said, there's a real need for that, because we're dealing with some very critical issues, such as irrevocability of citizenship. You're making some very strong recommendations, and I think it's very powerful for you to present that to the minister who's drafting the legislation, that you have the support of Canadians when recommending these very significant changes to our legislation.

Congratulations, and thank you very much for your time in hearing our thoughts.

The Chair: I want to thank you very much for taking your time. One of the things we said in the report we put out is that we were looking for responses from citizens. We very much appreciate your giving of your time and your effort to be with the committee. Thank you very much.

The committee is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliamentary Internet Parlementaire at the following address:
Aussi disponible sur le réseau électronique « Parliamentary Internet Parlementaire » à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.