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—
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Mr. Norman Doyle

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• (1530)

[English]

The Chair (Mr. Norman Doyle (St. John's East, CPC)): We will begin.

As I indicated, I think some members will be along a little later. We're running a bit late today in the House of Commons. We'll begin, and I'm sure we'll see other members come.

I want to welcome today the SOS Viet Phi. We have Maxwell Vo, president; Hoi Trinh, attorney with the Vietnamese community in Australia; Mai Nguyen, a volunteer with the VCA office in Manila in the Philippines; and Richard Mahoney, legal counsel and adviser.

I welcome all of you to our committee.

You have an hour today. Generally there are ten minutes to make your presentation; then we will go into questions and discussion of your presentation.

Did I detect that you wanted to say something, Mr. Siksay?

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Mr. Chair. You did see some signalling going on there.

I just wanted to let the committee know that I'd be prepared to see the motions I tabled on Monday go to the steering committee, the agenda and planning committee. We can put them in prioritization rather than deal with them today, if that makes the business today easier.

The Chair: Yes. Thank you.

We will go to our main presenter.

Mr. Maxwell Vo (President, SOS Viet Phi): My name is Max Vo.

Good afternoon, Mr. Chair and esteemed members of the committee.

I want to thank you once again for allowing us to appear for a second time in front of the committee.

I'm going to be representing SOS Viet Phi Canada. Appearing as my expert witnesses today are Hoi Trinh, a Vietnamese Australian lawyer who heads the legal aid office in the Philippines; Mai Nguyen, a Vietnamese Canadian who has volunteered at that same legal aid office in the Philippines; and attorney Richard Mahoney, who is our legal counsel.

When we were here in February of last year, there were still some 2,000 stateless Vietnamese boat people living in the Philippines,

people who had fallen through the cracks, who were living in limbo and without hope. The international community, including Canada, has heard their voices. Currently, as we speak, only 188 boat people remain in the Philippines without a durable solution. We are here again today to ask the committee and our government to please close the book on this ongoing tragedy that has lasted much too long.

Since we were here last February, a motion recommending that the Canadian government accept approximately 500 stateless Vietnamese as refugees has been passed by this very committee. Subsequently, in March 2005 the immigration minister at the time, the Honourable Joe Volpe, announced a new public policy allowing up to 200 stateless Vietnamese to be reunited with their close family members in Canada. Thanks to this policy, two individuals are here today in person to thank Canada. There is Mr. Lang Nguyen and Mr. Lam Nguyen. Because of your graciousness, they were reunited with their families earlier this month in Vancouver, after being separated for more than 14 years.

Of the 200 stateless Vietnamese who were qualified to come to Canada, only 27 applied. The resettlement programs of other countries were less restrictive and had recognized them as refugees. The other countries could not take them all, and still 188 remain. They include the father of young Phuong Nguyen and Patrick Nguyen, who are present today with us from Toronto. Note that they have not seen their father for 14 years.

At this point in time I'd like to pass it over to Mr. Hoi Trinh, who will speak more about the current situation in the Philippines.

• (1535)

Mr. Hoi Trinh (Attorney, VCA (Vietnamese Community in Australia), SOS Viet Phi): Good afternoon, everyone. As Max has said, my name is Hoi Trinh. I am an Australian lawyer of Vietnamese origin and I've been working in the Philippines since 1997.

I basically just want to brief you on what's been going on over the last year. When we appeared at this same committee last year, we had 2,000 people left. At the time I did inform the committee that the U.S. government was processing cases. I also informed the committee that we expected about 500 people would be left behind. As a result, the committee passed a motion recommending that Canada accept those 500 Vietnamese refugees. Fortunately, the U.S. took more than that; they took 1,600 people. Fortunately, Norway also jumped in and recognized those people as refugees. That's why we have only 188 people left.

In front of you there should be a booklet entitled *Stateless Vietnamese Refugees in the Philippines*. I ask you to please go to page 22 in part 4, which relates to Canada. That's a letter from the former Minister Volpe writing to the Honourable Bill Siksay, who is here today, stating among other things three points that I want to mention to the committee.

The fourth paragraph says, "Our mission in Manila has confirmed that the Australians did not accept the Viet-Phi as refugees but rather as members of a special category." What I can say is that is plainly legally wrong.

In parts 5, 6, and 7 you will see evidence from Australia, the U.S., and Norway saying that Australia did accept people as refugees. Then it goes further. It says in terms of the Norwegian program, "participants need relatives in Norway...and will not be considered as refugees." That is also wrong.

The third part states that "The American representative indicated that their policy is defined as a resettlement program and that they accept the applicants as refugees under a modified definition." Well, they accept people as refugees, period.

I want to inform you that I don't understand why there was such an assertion from the former minister. However, I urge you to please recognize the 188 people left as refugees, as other countries have done. What I hope is that Mai Nguyen will be able to give you a Canadian perspective on what being stateless means, and why these people should be considered as refugees and in need of protection by Canada.

The last point I want to raise is that among the 188 people left in the Philippines is Phuong Nguyen, the father of the two young children who are sitting behind me here. The boy has never seen his father. His father is still stranded in the Philippines, and he wants to say a couple of words if you could let him.

Mr. Patrick Nguyen (As an Individual): Hi. My name is Patrick Nguyen and I'm 12 years old. I've never seen my father before, and I live in Toronto with my mother and sister. So far there have been many Vietnamese refugees in the Philippines, and they want to come to Canada. One of them is my father. I really want him to come over. Many people are waiting for their refugees and their families to come to them.

The Chair: All right. Thank you. We'll do something to help you out there.

You can continue, Mr. Trinh.

Mr. Hoi Trinh: Patrick was not able to sponsor his father because the expanded policy announced last year by the former minister did not cover young sponsors, only adult sponsors.

I now turn to Mai to speak about her own experience.

Ms. Mai Nguyen (Volunteer, VCA Office in Manila, Philippines, SOS Viet Phi): Good afternoon, members of the committee.

Being born and raised in Canada, a nation that prides itself on freedom and equality, I did not find it easy to grasp the complete concept of what it means to be a stateless person. Now, as a firsthand witness of this tragic disregard for human rights, I would describe the effects of statelessness as much, much more than destitution. To

be stateless is to be stripped of your sense of belonging and to be exposed to a complete lack of options.

While in the Philippines, I witnessed impoverished Vietnamese as targets of discrimination, bribery, and violent crimes, yet they were unable to turn to the local authorities for fear of arbitrary arrest and denial of equal protection in front of the law. I spoke to countless hardworking men and women imprisoned for selling goods on the street, even though it was their only method of survival. As stateless persons, they are denied the right to legal employment. I met children and became friends with young adults just like myself, yearning to learn and go to school, yet denied a right to further education.

I urge you to turn to section 10 of the booklet in front of you and put faces to the 188 people we have mentioned. They are real people. Notice the families and the children.

I have been on the ground in the Philippines. I have volunteered my time, but there is only so much I can do. However, you have the power to do much more. Let's come together and do the right thing. We can give these 188 remaining stateless faces recognition, nationality, and a future.

Thank you.

● (1540)

The Chair: Thank you.

Mr. Mahoney.

Mr. Richard Mahoney (Legal Counsel and Advisor, SOS Viet Phi): Thank you, Mr. Chairman.

My name is Richard Mahoney. I appear today as a volunteer counsel to the SOS Viet Phi.

Let me give you a little about my background in this organization. I don't think I can add much to the very powerful evidence we've heard from people who have been there, but I have been involved in this issue with the SOS Viet Phi for a couple of years, and in a prior part of my professional life I spent a number of years as an immigration and refugee lawyer, so I have some perspective on this.

First of all, this committee did some very important work when it met last on this issue. Just to put some clarity on this, it's fair to note on the record that our immigration department has some reluctance to characterize these people as refugees because of an approach to the definition of "refugee" that they take.

Notwithstanding that, Minister Volpe and the Government of Canada and this committee did what I believe and what we would humbly submit was the right thing in trying to make sure that Canada did its bit to step up and take up to 200 of those people. For a number of reasons, as we've heard, that didn't happen. Some people came, but many went to other countries. We now find ourselves here.

Through the clerk, I have some submissions to make on the law on this, which I'll leave with you. Give me a couple of seconds, if you would, to go through it a bit.

First of all, it is our submission that notwithstanding, and with respect to, what the department says, the SOS Viet Phi now stranded in the Philippines clearly meet the definition of the country of asylum class, and I'll give you a couple of examples why. The country of asylum class is defined in the regulations, which say that foreign nationals are members of the country of asylum class if they've been determined by an officer to be in need of resettlement because they are outside all of their countries of nationality and habitual residence and they have been and continue to be seriously and personally affected by civil war, armed conflict, or massive violations of human rights in each of those countries.

Well, these people are stateless, have no country, and as a result of the civil war in the country—admittedly, a civil war that has now passed—are outside the country of nationality and unable to seek that protection. Your committee recognized this very fact last year by making two findings of fact—that they have remained for 16 years out of their country and that they have been seriously and personally affected—so you've already found, as fact, that which I just said happens to be a matter of law.

You went beyond that. You added a couple of things that I think were very appropriate. One is that these individuals have no possibility within a reasonable time of having a durable solution. They are, in most and all cases, privately sponsored by existing Canadian citizens and they have suffered violations of human rights.

In my submission, first of all, if this committee chooses to take that approach again, I think you can easily find as a matter of fact that these remaining 188 people meet the test of the definition of the country of asylum class.

Having said that, and having acknowledged that our department has some reluctance to so find, I can say it's not the only option available to the minister. The minister has lots of other options in law to recognize these people. He can, as my submissions say to you, find under subsection 25(1) of the act that these people should be granted admission to Canada under humanitarian and compassionate grounds. In questions, I can, if you like, expound upon that in terms of what the test in law has been for humanitarian and compassionate grounds, but I think we would quite clearly find agreement in this room that humanitarian and compassionate grounds exist. So there's the second option.

The third option is that you could easily ground the proper and lawful admission of these people to our country in international law and the conventions and treaties Canada has signed. The Comprehensive Plan of Action for Indochinese Refugees has actually expired. It expired in 1996. Our department has always taken the position that since these people weren't found to be refugees 16 or 17 years ago, they can't be refugees now; that plan of action has expired. What do we do in law if that plan of action expired in 1996—how do we treat them? It's certainly a very credible and easy argument to say we go back to general international law on this.

We are, as a country, signatories to a number of conventions, including the Convention on the Reduction of Statelessness. And again, we have, in practical terms, a number of stateless people here.

● (1545)

I'll refer you to my remarks; if you want to get into it in questions and answers, I can expound on that, but we also can ground that finding, Mr. Chairman, in international law.

Finally, I was able—and I was honoured, frankly—to help last year when the SOS Viet Phi, along with the member for Burnaby—Douglas and others, pressed the government and your committee to do the right thing. Our history as a country on this issue is quite admirable. When the original Viet Phi crisis happened, Canada literally led the world in stepping up and taking Vietnamese.

If you look at the Vietnamese community in Ottawa, the city where I live, many of the Vietnamese Canadians who are now very productive and happy members of our community came to this country via that original crisis. It's the same in almost every major city in this country. We did the right thing then.

I would argue that last year you did the right thing—and the minister and the government did the right thing—in attempting, in our own way as Canadians, to find a way to deal with the remaining people there. Fortunately for the world, the United States, Australia, and other countries did the same. Now we're left with 188 people—fewer than you as a committee and we as a country agreed to accept.

Our submission is that we should honour not only our traditions in this country and our great work in terms of responding to these people, but also our Vietnamese Canadian community. Let's finally do the right thing for those people who live in what is really a stateless no man's land.

Thank you very much for your time and patience.

The Chair: Thank you.

We were to accept 200 people, was it, from 61 families? I'm looking at my notes here.

Mr. Richard Mahoney: That's right.

The Chair: But to date only eight families in Canada have come forward to sponsor a relative. A total of three cases, representing eight people, have been accepted; five other cases are pending. Why would we have only eight families in Canada coming forward to sponsor a relative?

Mr. Hoi Trinh: May I answer your question?

Under the new policy announced by the former minister, basically the rule required that you not only had to pay for all the fares and all the costs involved in the resettlement, but the sponsorship had to be for 10 years. At the same time, Norway and the U.S. agreed to take people as refugees, and therefore none of them had to pay any kind of fee, nor were sponsors needed. As a result, some of the families here, although they wished to be reunited with their families here, basically did not have the money to satisfy the 10-year sponsorship requirement.

The Chair: Okay.

We will go to questions. I don't know where to begin today.

Madame Faillie.

[Translation]

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): I'm delighted and honoured to see all of you here today. Admittedly, we worked very hard last year and we expected to achieve greater results. Inevitably we encountered a number of obstacles which you have clearly identified.

In order to give you a little more time to focus on the whole question of humanitarian consideration or the criteria...Earlier, Mr. Mahoney stated that maybe he could look into this and provide us with more information. For the benefit of those in attendance, I think more detailed information is needed. Perhaps the committee could review some of the initiatives taken last year, with a view to asking the department to ease some of these criteria. We need more substantial arguments to work with.

• (1550)

Mr. Richard Mahoney: What kind of details are you looking for? Do you want details on the current status of these individuals, or do you want to know more about the legal arguments presented?

Ms. Meili Faille: I'd like to hear more about the legal arguments. We're well aware of the status of these persons. We need to know what they are up against, from a legal standpoint. We need to hear legal arguments from departmental officials. It would be useful, therefore, if you could shed some light on the situation. Thank you.

[English]

Mr. Hoi Trinh: Basically, CIC does not think that these refugees meet their resettlement needs. If you go again to part 4 on page 22, the minister at the time—last November—says in paragraph 3, line 3 that “Canada has considered this group against the broader definition of refugee under the Country of Asylum Class and maintains that they are not in need of Canada's protection.”

Basically, that's the standard they take. Whether these people need resettlement or the protection of Canada depends on CIC. It depends on the minister. If the minister, as was the case in the U.S. or Australia or Norway, thinks that they are in need of resettlement, that they need protection, and that they are refugees, then they will be recognized. In Norway, in fact, there is no program such as the country of asylum class. In Australia we did have a similar class, called the special humanitarian program, and that's how Australia accepted these people as refugees. Norway had to pass a special law to recognize them as refugees. Canada, in the end, just didn't want to, but that's just CIC.

Mr. Richard Mahoney: Let me try to add to that—and please, members, interrupt or drill down when you think it is important.

I am reluctant, both in terms of specifically trying to help the SOS Viet Phi, and more generally to try to represent or not adequately represent the position of the department, of CIC, but I believe their reluctance to recognize these individuals as refugees literally dates back to the original process that the UN led in the Philippines, where there were literally hundreds of thousands of these people, if not more. There was a process; at the end of that process, almost everybody was resettled somewhere. I think a couple of thousand were not found to be refugees.

We could argue until the cows come home whether that was the right decision and whether it was adequately done, whether the UN

did a good job or a bad job. I don't think that's the point here. The department's view is that since they weren't found to be refugees then, as a matter of law we ought not to find them to be refugees now. I think that's a fair characterization of their view.

While I am a lawyer, let's not get too hung up on the legalities of this—but if you want to, under the regulations of the act there is something called the country of asylum class. I would argue that the test, which is set out there in front of you, is clearly met by not only the evidence you have in front of you in this book, but by evidence that's generally available through human rights reports, state department reports, and so forth, that these people are, first of all, stateless. Second, they fled their original country, Vietnam, for fear of persecution, and can no longer return there because they have no rights of citizenship there. They are truly stateless. They fled their country for persecution; they fled their country for reasons of civil war; they clearly meet the test of country of asylum class.

That having been said, if you as a committee don't want to go down that road, or if the Department of Citizenship and Immigration—CIC—doesn't want to go down that road, there are other legal arguments and other findings available to you. As you will know as members of Parliament—you have to deal with this every single day—the minister always has the power, under section 25 of the act, to allow someone entrance into Canada, and the test is humanitarian and compassionate grounds. We can go through that if you want.

• (1555)

The Chair: Now we will go to Bill Siksay.

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

I want to thank you folks for being here again this year. I'm disappointed that you had to come back, because it would have been nice if the situation of these folks had been addressed in the past year, but thank you for coming again.

Welcome again to Mr. Nguyen and Mr. Nguyen. I waited at the airport for three hours, until I had to catch a flight to Ottawa from the airport in Vancouver, and missed their arrival by two hours. We were getting a little worried. Maybe the committee will want to look at delays at clearing customs and immigration in Vancouver as a result of their experience. I unfortunately missed out on what I understand was a very happy reunion, but I'm glad they're able to be with us here today.

I also want to thank Patrick and his sister for testifying this afternoon.

I think we could have stepped up to the plate and done a better job than we have on this issue, and I still think that opportunity exists for Canada. I think the country of asylum class is the appropriate way to go, given the experience of these people. Don't accept that they aren't refugees by any definition or any standard in that case.

It's very important that the committee pursue this matter again, perhaps in exactly the same way we did last time. I think Canada can offer a final and enduring resolution to the terrible situation these folks find themselves in.

Just looking around the room, I'm also very moved by the support of the community. I think the strongest community representation we ever saw on any matter before the committee was last time, when the Vietnamese community came to show their support for this solution. It's moving because it's a community that, now that it has settled and is for the most part Canadian, has learned about the Canadian value on refugee resettlement. You experienced that generosity and now want to return that generosity. That's a tribute to our adaptation and to your adaptation, and to your adoption of Canadian values. It says good things about the Vietnamese community and good things about Canada in general. I wish the government would make it a little easier for the committee to take on the responsibility that they're so willing to undertake.

[Applause]

Mr. Bill Siksay: We don't usually have applause in committee. That's great, though. I enjoyed that.

Anyway, I think it's very important that we proceed, so I'm hoping we can make the appropriate representations to the current government and the current minister. Maybe we can get a different approach with the new minister.

I wanted to ask Mr. Mahoney to expand a little bit on the convention on statelessness and how it might be used in this circumstance.

Mr. Richard Mahoney: As I said, Canada has had a great tradition on this and tried last year to get as many as they could. Some have come; for other reasons, other countries stepped up, so we are where we are now.

There are a couple of things in connection with the convention on statelessness. First, both Canada and the Philippines are contracting states to that convention. That is a fact. I think we can read as a matter of record into this hearing that these people are currently stateless. I don't think I need to leave any evidence to convince you of that.

Canada has previously indicated, as a point of fact, a willingness and a readiness to reduce statelessness in the world by signing the convention. We are a contracting state. We said we'll reduce the amount of statelessness in the world. So are the Philippines.

Finally, the UN General Assembly has recognized the basic human rights of individuals who are not nationals of the state in which they now reside. That's exactly the case of the Viet Phi. While we're not bound by law in any way to admit these people simply because they're stateless—otherwise we would have to do that in each and every case—given all the facts that people have put in front of us and otherwise, it's certainly yet another persuasive argument saying that whether we do it by change in regulation, whether we do it by country of asylum class, whether we do it by subsection 25 (1)—whether we do it by whatever approach you deem appropriate, frankly—the fact that we have signed and obliged ourselves to reduce statelessness, and the fact that other countries and the UN

General Assembly have done the same, is yet another argument for us to do the right thing.

● (1600)

The Chair: Okay.

The Liberals haven't had a chance yet, and I think Borys had his hand up.

Blair, do you want to defer to Borys?

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): No, I'm willing to defer to Blair.

The Chair: Okay.

You go ahead, Blair, for five minutes.

Mr. Blair Wilson (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): I'll split it with you, Borys, if I have time.

The Chair: We'll make sure he gets on here.

Mr. Blair Wilson: Okay.

Thank you very much for coming to the committee and for your presentation.

I've looked through all the documents, and speaking as a Liberal, obviously multiculturalism, tolerance, community, and fairness are hallmarks of our party's tradition and I think of Canada's tradition. I also come at this from an economic point of view as well as from a social point of view.

If you take a look at Canada right now, we have an aging population that is set to retire in 2012. We have a great demand for workers of all varieties, especially in western Canada, where we can't find enough skilled workers at all. When you have a demand problem, with an increasing demand for Canadian citizens, and you have a supply problem, with a backlog of new Canadians, yourselves included, it seems like it's an easy fit to bring the two together, based on social values and based on economic values.

I have a few questions. First, in your view, with regard to the country of asylum class, as set out by the immigration and refugee protection regulations, if they clearly meet those objectives then why does the minister need to intervene? Can't the applications be made through that channel and be accepted?

Mr. Richard Mahoney: That's a very good point. The minister only needs to intervene under subsection 25(1) if he wants to make a humanitarian and compassionate finding and issue a minister's permit. He does not need to intervene. We need a finding by a delegated officer, under the act, that these people meet the definition of the class, that's what we need, and a private sponsorship. But that doesn't exist at this point, so somebody has to make that finding.

Now, it's not the Immigration and Refugee Board, as it would be in an individual case, but we need an officer, under the act, who has the authority to make that finding.

Mr. Blair Wilson: My humble question, through the chair, is who qualifies to be able to do that?

Mr. Richard Mahoney: Any officer could make that finding—for example, an officer at the embassy in Manila.

Mr. Hoi Trinh: The unfortunate thing is that since 2002 the community has made representation to CIC asking if they could be recognized, and CIC has said no. In fact, they've tried to not recognize people as refugees by saying that other countries have not recognized people as refugees. As you can see from the fourth paragraph, it's misleading, and I find it very disappointing. It's one thing to say that Canada won't recognize them as refugees, but it's another thing to mislead Mr. Bill Siksay in Parliament to say that other countries have not recognized people as refugees. Other countries *have* recognized people as refugees; you have the evidence right in front of you.

In fact, I just met up with the Canadian embassy last month, because I took exception to paragraph four, which says, "Our mission in Manila has confirmed that the Australians did not accept the Viet-Phi as refugees..." I asked Mr. Charles Godfrey, the head of mission there, about this refugee question. He told me that he'd never said it. I told him I wanted to know who did say it, then, because it's plainly wrong: check with the Australian government.

If you go to part 6, "Australia—Confirmation of Resettlement as Refugees", the letter says clearly that there's a letter of approval from the Australian government embassy in Manila that says, with reference to the application for a refugee subclass, in 2003 a decision was taken to grant "you and your family" that visa.

All the evidence is there, but for some reason CIC is trying to say otherwise, that these people are not refugees. I don't understand why that's the case.

Mr. Richard Mahoney: If I might add to that, I believe it was CIC's reluctance to make that finding that led the minister to take the approach he did, which was to change the definition of the class. He was trying to find another way to get this done.

• (1605)

Mr. Blair Wilson: Okay.

Thank you.

The Chair: We will go to Barry.

Mr. Barry Devolin (Haliburton—Kawartha Lakes—Brock, CPC): Thanks, Mr. Chair.

I'd like to thank everyone who's here today for making this very emotional presentation, and for the obvious support of the community. I am new to this file and new to this committee, so I don't have a history with this.

To Mr. Mahoney, I understand that there are rules and procedures through which people can gain access to Canada, but I also understand that the minister has the discretion to grant access to anyone on a discretionary basis. If there was a desire to deal with this expeditiously, I don't understand why that wasn't used. I think we've had three immigration ministers in the last two years. Actually, I think Minister Solberg is the fourth.

I'm just curious, is there a reason why, to your knowledge, none of the other immigration ministers just used their authority to make a discretionary option that wouldn't set a precedent or require interpretation of policy?

Mr. Richard Mahoney: Just to be clear, you're referring to subsection 25(1), under which the minister has the authority to do that.

Mr. Barry Devolin: Right.

Mr. Richard Mahoney: Much as I would love to speak for the former government....

First, let me be cautious. There's a different fact situation now, and that's the argument I really want to make to you. For any of you who may have the view that we should proceed cautiously in these matters in terms of dealing with immigration, when....

Number one, I think CIC has the view, rightly or wrongly—in my view wrongly, but my view is not that important, frankly—that these people don't qualify for country of asylum class. You ask why they don't use subsection 25(1). At the time when this committee had its last deliberations, and at the time when the last minister changed the regulations, there weren't 188 people left, there were thousands of people left. Perhaps the advice at the time was to say that the most intelligent way to proceed was to set up a class where Canadians could sponsor relatives, and just widen the class.

In my humble submission, it's a reasonable proposition, and it probably would have resulted in, it's fair to say, more people coming to our country in this class, except for the fact that other countries, the United States in particular, also stepped up, and we find ourselves where we are right now.

So I can't speak to why previous ministers did what they did, but knowing the advice they got, and knowing the reality of the situation, that's probably why it was.

Finally, I wouldn't worry about, as you say, the precedent, or the floodgates opening up now. There are 188 people left. We're not talking about, as you say, a massive precedent, or opening the door perhaps more widely than some Canadians would be prepared to do.

Mr. Barry Devolin: Just to be clear, I wasn't suggesting that we ought to proceed cautiously. Quite frankly, I presume that every time a new minister takes office, when they're presented with a decision that one of their predecessors has taken, they would ask their deputy or senior officials why he or she ruled in this way so that they can better understand it. I suspect you probably do have a good insight into how those decisions were made.

Thanks.

The Chair: You have one minute and 10 seconds, if you want to use it.

Ed.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): I'll speak to a very narrow issue, although there are some other ones I want to deal with. It was certainly a compelling presentation, and well put together.

The former minister tended to deal with the situation by relaxing, essentially, the family class criteria in attempting to get the people in. Unfortunately, for whatever reason, very few took benefit of that, even though there was a window of time for that to happen.

Going down that particular road—without arguing the refugee matter for now, or the statelessness issue that you mentioned—is there a further relaxation that you could see as being useful for some or all of these? With regard to the 188 who are left, have they applied to, say, the United States or other countries and been refused for one reason or other, and what might that have been?

• (1610)

Mr. Richard Mahoney: I think it's fair to say that the member is asking whether or not, putting aside the country of asylum argument, there's another option that might work in terms of changing the definition of class, another option for the committee to look after these remaining 188.

Mr. Ed Komarnicki: Yes, there is some mention of the economic burden, but if that were shifted, perhaps—

The Chair: Okay, you've gone over by 15 seconds, so we'll get you on the next round.

Borys for the Liberals, and then we'll go to Madam Faillie.

Mr. Borys Wrzesnewskyj: Thank you.

I'd like to thank all the witnesses for coming forward today.

I think it's quite apparent from the questioning that we have all-party goodwill. The question is how we do this expeditiously. These people have waited a very long time.

You outlined three potential methods that the government could use. You've probably thought them through, so assuming that in this coming week there was the political will to move on this issue, what kinds of timelines would each of those entail?

Mr. Hoi Trinh: If CIC designates these people as refugees in need of Canada's protection under the country of asylum class, then it's just a matter of us making the applications in Manila. It takes six months to a year to process the cases. If that were to happen, I would hope this kid will get to see his father in a year's time. It takes a whole year to process.

Mr. Borys Wrzesnewskyj: Looking at the circumstances and going into your index...although it's quite brief, it lists off the people and their life experiences. These are people who have had horrendous life experiences and are living in conditions where we can make a difference. We can do the right thing.

In terms of political will and ministerial discretion, if under the other options it's a year before children can see parents, political will can be a scalpel that cuts through this bureaucracy. There is a compelling case. We all understand it. Fundamentally, what we're talking about here is the political will to get it done. It appears that we do have all-party consensus.

How quickly do you think this could be moved on? We had the case in 1956 of the Hungarian revolution. How long did it take for Canada to move in that case and bring those people here?

Mr. Richard Mahoney: I don't know exactly, but it was very quickly.

I think there is no question that the ministerial discretion in subsection 25(1) would probably be the fastest because the minister can issue a minister's permit as quickly as he chooses. There may be processes and checks and so forth that have to be gone through, but a

minister's permit—as honourable members well know—can be done very quickly.

Mr. Borys Wrzesnewskyj: Thank you.

The Chair: Thank you.

You can use your minute and a half or two minutes however you want to. If you want to go to Blair...or I can come back after I go—

Mr. Borys Wrzesnewskyj: After showing that cross-party goodwill, I'm more than happy to pass it on.

The Chair: Who would I go to now, Mr. Clerk?

Madam Faillie.

[Translation]

Ms. Meili Faillie: I'd like to continue along the same lines as Borys. The will of the committee is that these persons be recognized as refugees. The committee had unanimously endorsed a motion to that effect. I don't see a problem with our drafting and tabling a motion that could be debated next week. We could hear from individuals like Rick Herringer and Charles Godfrey. I don't see in the material the letter from Rick Herringer who was the official in Manila at the time. However, there is no reason why the committee can't hear from these officials. As you pointed out, the minister can exercise his discretionary authority and issue a ministerial permit.

I don't think anyone here would hold it against the minister for issuing 188 permits to persons seeking refugee status. Mention was made of delays they encountered and of the overall time it took for them to make their way to this country. We know of two cases where the applications had already been processed and it still took at least a year.

Perhaps I could table a detailed motion reiterating the will of the committee to see ministerial permits issued to these individuals. This would give the minister, or a departmental official, an opportunity to come here and explain why the provisions of section 25 could not be invoked.

• (1615)

[English]

The Chair: Also, tell me a little about the 200 people who are in the Philippines right now. Have they been integrated, both economically and socially into the Philippine community? Is that a problem for Canada if they have been integrated, in terms of resettlement?

Mr. Hoi Trinh: To answer your question, I ask you to please go to the very first page of part 2, page 4, from the Bureau of Immigration of the Philippines. Paragraph 2 very clearly says the following:

The consistent policy of the Philippine Government is to repatriate said RVNs (the returning Vietnamese) to Vietnam, or resettle them to a third country willing to accept them. The Philippines has never been, and is not, a resettlement country. It also has no intention of socially integrating persons whose applications for asylum/refugee status it denied in the first place.

They've always maintained that. And the following letters, signed in 2003-04 from the House of Representatives and the Philippines Senate, confirmed that they have no durable solution for these people.

The Chair: So has the UNHCR been asked to more or less determine again if these people should be moved because they've...? Has the UNHCR almost abandoned this particular issue right now?

Mr. Hoi Trinh: Yes, they have. They closed the camp down in 1996 at the end of the CPA. They closed all the camps down, and they left these people to fend for themselves. Since 1996, I have approached UNHCR in Manila many times asking them to at least confirm that at the time, 2,005 people were left without a durable solution. They would not do that until I went to Geneva in 2002 to get that confirmation. In fact, I presented the documentation last year.

UNHCR has consistently said that they are only looking after refugees. They don't look after any others. The letter I got from UNHCR simply said that if the resettlement countries can take them, that's great, but UNHCR cannot take them.

The Chair: Thank you.

Ed and Mario, go ahead, please.

Mr. Ed Komarnicki: I'd like to go back to the question I posed earlier; it's twofold. The first part was specifically about the relaxing of the definition, including the financial part of it. The second concerned applications made to, say, the United States, and whether there was a decline in them for some reason. I've got a few more questions. If you can give me a brief answer to the first two, we'll come back for a couple more.

Mr. Richard Mahoney: On the first question of whether they could be further relaxed, the honest answer is yes. It may be cumbersome; it may not achieve what this committee has set out to achieve in its previous motions, but we could all, I think, think of an amendment right now that would, for example, allow Philip to sponsor his father in this particular case. That would be one change. It may not address many of the others. It may not allow us to take the 200 that we as a country originally asked to take. Not knowing all the facts and all the connections and all the potential sponsors that are there and what connections they have to relatives here, I can't expound on, but that's just one example that comes to me today.

I am not aware of—and I don't know if anyone else is—whether any of these remaining 188 have applied to other countries.

Mr. Hoi Trinh: They have not applied because the other countries, just like Canada, have not been willing to take them.

Patrick's father has not applied to Canada because Canada has already said, "No, he won't be considered."

Mr. Ed Komarnicki: Going back to the country of asylum class that you spoke of earlier, you said there was no possibility of a durable solution. My understanding was that there was some legislation in the Philippines to regularize the 188 who are there in that class. Is that a fact? Is there legislation under way to integrate them? I understand many have married Philippine people and have had children with them. They've been there for a long time. They've almost integrated already, but haven't been regularized, or there's been no provision for them. Is there legislation in the offing as we speak, to deal with that number?

Mr. Hoi Trinh: No, there isn't. In fact, a number of bills have been tabled, and the community has been asking the Philippines to please grant them permanent residency, but we have never been

successful. If you go to page 5 of the submission, right after the letter from the Bureau of Immigration there is a letter from the House of Representatives to the U.S. in 2003. In paragraph 3 it says, among other things, "For those Vietnamese who have been stateless for 13 years..."

The bill has never passed second reading in the House of Representatives. They need to pass a special law, and as you can understand, it takes a long time to pass a law. It usually takes about nine years, as the House of Representatives has indicated, in the Philippines because the political situation is always volatile. There was one time when we had the bill up to second reading of the House, but then President Estrada was kicked out of office. We had another bill in the House when President Arroyo was in office, and he was faced with a coup. Then we had an election and a new committee came in.

So right now there is no bill allowing for the Vietnamese to become permanent residents. In fact, that's why they have been stateless for 17 years. Had someone tried hard enough, the situation wouldn't have lasted until now. We have tried our best in the Philippines, but to the best of my knowledge, it's easier for the resettlement countries—Australia and the U.S.—to change their policies than for the Philippines to pass its laws.

• (1620)

The Chair: You have a minute left, or I can go to Mario.

Mr. Mario Silva (Davenport, Lib.): Thank you, Mr. Chair.

I'm not a member of the committee, but I'm glad I'm here today, because this is certainly an incredible tragedy. We have heard so much about this over the years and have felt greatly for the people. They have gone through so much and been abandoned, in some ways, by UNHCR. The CIC based a lot of their decisions on information that came from the UN. That has unfortunately left a lot of people stateless. There's no question about that. They are in a very vulnerable situation and in need of international protection.

I gather from all the arguments that were made—and I believe there is also consensus between all parties—that we do want to have a resolution to deal with this terrible humanitarian situation. But maybe the best and fastest way, as was mentioned by Mr. Mahoney, is for the minister to use ministerial discretion and grant these people the right to come to Canada.

Would it be helpful if we had a resolution, endorsed unanimously by the committee, to ask the minister to expedite this as soon as possible?

Mr. Maxwell Vo: It would be great if you could do that.

Mr. Hoi Trinh: Right now our community is trying to ask the committee to think of the best way to help reunite families and find a doable solution. We come from Ottawa, Montreal, Vancouver—organizations and religious organizations. We met with you many times individually last year and at the committee. There's also a willingness in the community to offer private sponsorship under the country of asylum class.

Finally, could you please inform the minister of your willingness to agree with him or recommend to him that the people be recognized as refugees—whatever is the best way to reunite families, for Patrick to see his father, whatever you think is best? The power is in your hands.

The Chair: Mario, if you're finished I can move to Bill for a question.

Go ahead, Bill.

Mr. Bill Siksay: Thanks, Chair.

Is there anything that characterizes these 118 people? Is there anything particularly problematic because they're the last of the 2,000 people? Is there anything that Canada needs to be concerned about, given their circumstances and the fact that they're the last remaining folks there?

Mr. Hoi Trinh: No, and that's the most unfortunate thing. They have never been considered, so they have never been denied. It's not as if they were interviewed by the U.S. or Australia or Norway and then rejected because of their medical condition or a criminal background. They've never been considered. They've never even been interviewed.

He was denied simply because his father was not eligible to apply under the expanded policy announced by the former minister. He couldn't go to Australia because Australia didn't want to consider his case. In fact, we didn't even make a submission for his father to go to Australia because we knew that Australia could only take a limited number of people.

So no. In fact, the community is asking Canada to consider this group in the same way as any other refugee group. They will have to undergo medical tests, like others, and they will have to undergo criminal tests, like others. If they're clear, then they're good to go; if they're not clear, then they're not good to go.

The community is also willing to raise funds to cover part of the transportation and resettlement costs. In fact, the community and I raised over \$90,000 last year to help those refugees go to the U.S. Because they couldn't go to Canada, we helped them go to the U.S. Mai has also gone to the Philippines, as have others, to help in the processing of those cases.

• (1625)

Mr. Bill Siksay: Hoi, I wonder if you and Mai could describe the actual daily living conditions in a bit more detail. Mai, you alluded to it with a sort of list of general circumstances, but could you expand on that so people get a real sense of the difficulties they face in daily living in the Philippines?

Ms. Mai Nguyen: One story that really hits close to home, because I'm a student myself, is with a stateless Vietnamese man who was 22 years of age. I became friends with him. His name was

Le Huy. He was admitted to university on compassionate grounds. His professor let him into university, but after his professor retired, the university found out that he did not have citizenship and was stateless. They kicked him out of school. They had posters of his face all over the school and he was not allowed on the grounds. He was treated almost like a criminal because he was trying to get an education. Through no fault of his own, being stateless, he was unable to do that. I've taken my education for granted and that's a story that has really hit hard.

Mr. Bill Siksay: And that's pretty typical—not having the right to go to school and not having the right to work. I understand a lot of people make their living as street vendors because they're not legally allowed to work.

Ms. Mai Nguyen: That's right. It's illegal to sell goods on the street, so it's a catch-22: starve or try to survive and go to prison for it.

Mr. Bill Siksay: Either way, the only options open to you are the illegal ones.

Ms. Mai Nguyen: Right.

Something else I find really touching is that children who have parents who are stateless are born into statelessness. There's no way out of it; they will remain stateless. Even if stateless Vietnamese men are married to Filipina spouses, their children are still stateless. There's no solution right now.

Mr. Bill Siksay: So there's no particular status conferred on them, nor their children, because they marry a Filipina citizen.

Ms. Mai Nguyen: That's right.

The Chair: Okay.

Well, Bill, I think I'll use your last two minutes and give Rahim a question. Then we'll wrap up.

Mr. Rahim Jaffer (Edmonton—Strathcona, CPC): Thank you, Chair.

It's nice to see many of you again. It's unfortunate that it's still on this issue. We were hoping it would have been resolved. We first talked about this in this committee almost two years ago, I guess.

Under the new class that the minister talked about, there are approximately eight individuals who have arrived here thus far. Could you just verify this for me?

Mr. Hoi Trinh: Two of them are right here.

Mr. Rahim Jaffer: Yes, two of them are here now.

Are there others who have applied? I know you mentioned they were concerned that they would not be able to be processed or that they would be rejected or something. Maybe I misunderstood. How many of the 500—the 200 families—we have identified have actually gone through the process? Maybe I missed that.

Mr. Hoi Trinh: Originally, 56 families—approximately 200 people—were found to be eligible. The committee recognized 500, but the policy covered around 200 people.

Of those 56 families—200 people—only 8 families applied. The rest went to the U.S. The majority chose the U.S. because the U.S. recognized them as refugees and gave them money and all that when they settled there.

With regard to the 10-year sponsorship, there was a family we brought over last year who couldn't afford it because she's the sole-income earner. Her six siblings were in the Philippines. She was eligible to apply, but it would have cost the family tens of thousands of dollars. So they couldn't be reunited.

• (1630)

Mr. Rahim Jaffer: So you're saying there are 188 individuals left. Do those people have matched sponsors or potentially some sort of a link here in Canada? If we're going to be focusing on those particular groups, is there a way to expedite their cases?

Mr. Hoi Trinh: If they are recognized as being in the country of asylum class, one of the criteria is still that you need a private sponsor. And what we do say is that the committee does want to step in and wants to provide the private sponsors.

In the case of Patrick, we would like his mother or his uncle or whoever to be the sponsor. But in the case of someone who has no relatives, the committee will step in and provide the sponsorship that is required under the country of asylum class. It's willing to share the burden with Canada.

The Chair: Thank you. We really appreciate your coming here today to present your case. You presented it very well, believe you me.

We can't help but be moved by the support that you've brought along here today. Please be assured that the minister will be made fully aware of everything you had to say today, especially as his parliamentary secretary sits on our committee.

Thank you.

Mr. Maxwell Vo: Mr. Doyle, would it be possible for me to make a couple of concluding remarks?

The Chair: Sure.

Mr. Maxwell Vo: First of all, we just want to thank you once again for having us here today, and we want to say thanks to the 38th Parliament CIMM for passing the motion last year.

As you can see, we have members here from across Canada—Vancouver, Toronto, Montreal, and Ottawa, including members of the United Buddhist Congregation—who have come out to support us.

As we all know, there are currently 20 million refugees worldwide. So why should we step in and help this group? First of all, I just want to say that Canada has a great history of helping the boat people who have now integrated into society. In my case, being born a Vietnamese Canadian here in Canada, I've been able to contribute back to this community and this country.

Canada takes in some 30,000 refugees every year. We're asking for only a small number: 188 people. That's less than 1% of the annual quota. Last year alone, 200 spots were allocated for family reunification, and we used only 27 of those spots. As well, these people are deserving. They've waited 17 years.

We have the support of the Vietnamese Canadian Committee and our friends from across the country who have said they're ready and willing to help integrate these people into society, provide the private sponsorships necessary, and raise the money necessary to bring them over.

In fact, we put our money where our mouth is. My good friend Thao Duong and I have personally signed on as personal, financial sponsors for one of the cases of the eight coming to Canada.

For all of the above reasons, please help us find a way to help alleviate this ongoing humanitarian tragedy. Thank you very much, everybody.

The Chair: Okay. Thank you.

We'd like to continue longer, but we do have the Falun Gong group coming in. People just want to continue asking questions

Ms. Meili Faille: I don't want to ask a question. I just want to mention that we had a discussion here, and tomorrow morning I'll be tabling a motion in the wording agreed upon by the members, reflecting an update of the motion that I tabled last year in support of the SOS Viet Phi. Then we can pursue work on this with representatives of the department. So I think we'll find a way of getting the support that you require.

The Chair: Rahim, I think you had indicated to me that you had some certificates to pass out.

Mr. Rahim Jaffer: Yes. These are not from me or any of our members. There's a Vietnamese member, Wayne Chow, whom I think many of you know, from the Alberta legislature. He has actually produced a bunch of certificates from the Legislative Assembly, identifying many of you who have been working for this cause, and he wanted to present it on behalf of the people of Alberta and those who are interested in this issue.

Seeing as I am from Alberta, he asked me to present them. It's an honour for me to do so. Once we adjourn, I will hand them out.

The Chair: You can pass them out.

Again, many thanks, and you'll be hearing back from us without a doubt.

We will suspend for about five minutes.

• (1634)

(Pause)

• (1641)

The Chair: I will ask everyone to please take their seats as we want to begin our meeting.

On behalf of the committee, I want to welcome representatives from the Falun Dafa Association of Canada.

I will leave it to you, Mr. Chipkar, to introduce your people.

We have approximately one hour. I think you know the drill; we start off with about a 10-minute presentation, and then committee members will ask questions and engage in discussion.

I'll pass it over to you as spokesperson for the group, or to whomever your spokesperson might be.

Mr. Joel Chipkar (Spokesperson, Toronto, Falun Dafa Association of Canada): Thank you, sir.

Mr. Matas will speak first, but I will just introduce our panel: Shawn Li, president of the Falun Dafa Association; Carolyn Jin; and we have three witnesses with us today, practitioners, who face persecution inside China.

This is Mr. David Matas.

The Chair: You can begin any time you want. As I said, you have a 10-minute presentation or so, and we will pass it over to committee members for questions.

Mr. David Matas (Lawyer, Immigration and Human Rights, David Matas Barrister & Solicitor, Falun Dafa Association of Canada): I'm going to talk first, but I'm not going to talk the longest. I'll try to be brief.

What I want to talk about is the general legal framework for the sorts of remedies we're asking this committee to endorse. We're asking the committee to resolve that the Government of Canada, first of all, grant refugee protection to Falun Gong practitioners through Canadian visa posts abroad, outside China, through the government-assisted refugee program, because the government itself each year brings in about 7,500 refugees as government-assisted refugees. So we're asking that Falun Gong be part of that number of 7,500. We ask that a specific number within the overall number be allocated to Falun Gong and that the number allocated to Falun Gong be sufficient to encompass all those who have ties to Canada, who face persecution, and who do not have a durable solution in the country they're from.

When it comes to the in-Canada situation, we realize that determinations are made by the board or by the pre-removal risk assessment officer on an individualized basis. But often there is an issue about whether somebody is Falun Dafa or not. It is sometimes a credibility issue. The Falun Dafa Association doesn't itself, obviously, make refugee determinations and can't answer in every case whether somebody is Falun Gong. But there are some people they know to be Falun Gong, and they offer themselves as a resource and ask that when they say somebody is Falun Gong, that their statement be believed.

The third context in which the issue arises is for people who are in China. Now normally we don't grant refugee protection to people who are within the country where they are facing persecution, but there is an exception called the source country class. There's a list of countries, and there are six countries on the list right now. China is not one of the countries on the list, but we would ask that China be part of that list. So that's the refugee system.

There are two components to our submission. One, we ask for protection for Falun Gong who are facing persecution. Second, we ask that people who are persecuting the Falun Gong be declared inadmissible. We ask that people be barred entry and denied visas if there are reasonable grounds to believe that they're complicit in crimes against humanity, against Falun Gong practitioners. That's fairly straightforward. That's just a replication of the language in the legislation applied to this group of people. But we would also go

further than that and say that such people should be denied visas no matter what the purpose of their intended entry, whether it be for a diplomatic consular posting, for trade purposes, to attend bilateral meetings, to attend intergovernmental meetings that Canada is hosting, or for transit or any other purposes.

The problem faced right now is that there is something called the Foreign Missions and Intergovernmental Relations Act, which basically allows people who are attending events in Canada, international meetings listed in orders in council, to come in whether they're criminals against humanity or war criminals or not. What the foreign missions and intergovernmental legislation says is that this legislation supercedes the Immigration and Refugee Protection Act and the bar to admission in that act, when people are coming in for diplomatic consular purposes or for intergovernmental purposes. And we say that this shouldn't happen. These people should be barred no matter what the purpose for which they're coming, as long as they're complicit in crimes against humanity, against Falun Gong.

We also say that people who are in Canada, whether or not they're part of a Chinese consular or diplomatic mission, should be expelled from Canada if they're involved in incitement to hatred against Falun Gong, because that has been a problem. That is a violation of our laws, and we shouldn't be giving diplomatic or consular immunity from hate incitement laws to people who are inciting hatred against the Falun Gong from within Canada. These people, too, should be expelled from Canada.

So in a nutshell, that's our legal position and the substance of our motion. To get more to the factual basis, I'm going to hand it over to Joel Chipkar.

• (1645)

Mr. Joel Chipkar: Thank you, and I'd like to sincerely thank the immigration committee for our opportunity to present here today.

We ask you to solidify the protection of practitioners in China and in Canada, to acknowledge the expertise of Falun Dafa Association on these matters, and to protect the integrity of Canada by barring perpetrators accountable for torture and crimes against humanity towards the Falun Gong practitioners.

For those of you who don't know, Falun Gong is a profound spiritual belief. It's a cultivation practice of mind, body, and spirit that espouses the principles of truth, compassion, and forbearance. It is common knowledge that in China freedom of belief does not exist. There is no religion or spiritual discipline that exists that is not governed by the Chinese Communist Party.

In 1999, the Chairman at the time, Jiang Zemin, ordered a vicious crackdown against the persecution. Over the past seven years the persecution has penetrated all sectors of the Chinese society, covering all 30 provinces within China. The entire legal system is threatened. Lawyers and judges are ordered to not defend but criminalize Falun Gong practitioners. The entire education system forces students from kindergarten to university to condemn Falun Gong or face expulsion. State and private workplaces persecute practitioners by firing them, taking away their housing, or sending them to brainwashing classes. Citizens are rewarded for spying on and reporting on practitioners.

The persecution has led to hundreds of thousands of innocent people being jailed in prisons and forced labour camps without trial, and has resulted in thousands of deaths by torture. Some of the most barbaric methods include women being stripped naked and thrown into male criminal cells, gang rapes, forced abortions, suffocation, drug injections, burning, and electrocution.

The cases I have brought in are from NGOs, the United Nations Commission on Human Rights, and Amnesty International. They represent less than 1% of the reported tortures that are happening within China today.

In November 2005, the Chinese Communist Party forcibly closed the law office of a respected lawyer called Mr. Gao Zhisheng in China who had conducted an extensive and independent investigation into the persecution of Falun Gong. Amnesty International issued an urgent action bulletin after an assassination attempt was made on his life. The following are only a few stories that he documented in his investigation.

[Ms. Chang]...lowered her head in shame while recounting her...humiliating experience in a labour camp: ... They stripped me naked, and several inmates began pinching my breasts, plucking my pubic hair, and stabbing my vagina. They used a brush that usually cleaned the water tank. ... [They] repeatedly stabbed my vagina with it. I could not bear the excruciating pain any longer and succumbed to their demand of not doing the Falun Gong exercises in the camp.

Inmates tied many knots on a thick rope and pulled it back and forth in a sawing motion across [Ms. Wang Lijun's] vagina. Her entire lower body swelled up. The head police then ordered inmates to jab her swollen vagina with the thorny end of a broken mop stick. The torture caused Ms. Wang's vagina to bleed profusely. ... I also witnessed these inmates perform this same torture on a virgin.

Mr. Liu Haibo was stripped of all his clothes and forced to kneel down. Police pushed the longest electric baton they could find [up his rectum and turned it on]. Liu died immediately on the site. ... Twenty-three practitioners were tortured to death there. I knew many of them. The police simply buried their bodies in a hole.

The persecution is nationwide and spans over 30 provinces. It is not limited to the millions of people in China who practise Falun Gong, and it has destroyed their families and friends. The entire social and moral structure of a society is being destroyed by this persecution. Third-party reports from the U.S. Department of State and Amnesty International confirm that the persecution is arbitrary, and anyone associated with Falun Gong may face danger.

On April 21, 2005, the Canadian Immigration and Refugee Board recognized the widespread and systematic persecution of Falun Gong as crimes against humanity. On October 25, 2005, Amnesty International Canada confirmed their concerns about the deportation of practitioners to China, stating that Falun Gong practitioners who have come to "the attention of authorities in China through its vast intelligence network in China and abroad would be at risk of human rights violations, and therefore in need of protection". They further state:

We are concerned about the widespread use of arbitrary detention and torture or ill-treatment against Falun Gong practitioners and reports that Chinese authorities monitor activities of Chinese activists overseas, including...Falun Gong practitioners.

● (1650)

There are at least 120 victims currently residing here in Canada who have faced torture, including Mr. Lizhi He, who was jailed for three and a half years and was almost killed in jail. His only crime was sending letters to his friends, trying to tell them the truth about the persecution of Falun Gong.

As the issue of protecting true Falun Gong practitioners is a matter of life and death, and with the submissions of the above information, we ask that the immigration committee pass the motion attached in this regard.

We truly appreciate your time and the opportunity to be here to discuss this issue with you today.

The Chair: Have you ever applied to the international courts to have these things termed as crimes against humanity, or to Canadian courts? Has anything like that ever been done?

Mr. David Matas: There was a determination to that effect in the context of a refugee claimant called Guang Sheng Han. This is a reported case. He was excluded on the basis that he was complicit in crimes against humanity because he was in charge of a prison where the Falun Gong were being persecuted.

So we do have that determination within the Canadian legal system.

The Chair: I see. Thank you.

I guess you're ready for questions and discussion.

Borys, do you want to begin, or Blair?

● (1655)

Mr. Rahim Jaffer: Chair, I just wanted to pass on some information before we get to questions. I think it's something the committee would be willing to hear.

I notice we have some guests here who have had personal experience. I know we usually give only so much time to the presenters, but I'm wondering, if they're able, if we could allow maybe two or three minutes for them to share some of their experiences. I think it speaks to the point of what's happening, especially if you have witnesses here who've dealt with the problems themselves.

I don't know if the committee and the witnesses would be—

The Chair: Would you want to proceed in that fashion, Mr. Chipkar? Do you think it would be fair for us to ask representatives here who actually underwent torture to give us a couple of minutes, if they're comfortable doing that?

Mr. Rahim Jaffer: I don't want to put them in a bad situation, but if it's—

The Chair: We're very informal here today, and if they want to say a word or two, fine. If not, we can go to our committee members, who can ask questions. It's up to them.

Mr. Joel Chipkar: I think they'd be happy to speak on the matter, yes.

The Chair: And it's okay with the committee? Okay.

Okay, you proceed in whatever way you wish, and say whatever you want.

Mr. Joel Chipkar: Mr. He will go first.

Mr. Lizhi He (Falun Gong practitioner, Falun Dafa Association of Canada): Thank you.

I began my Falun Gong practice in 1995 and benefited a lot from the practice. I worked in the Ministry of Construction in China as a senior engineer. In 1999, with the persecution of Falun Gong, I realized there would be no freedom of belief in China, so I applied for immigration to Canada.

In 2000 my immigration application was approved, but just before I was prepared to move to Canada, I was arrested, simply because I sent personal letters to my friends trying to clarify the truth to them. I wanted them to know the persecution was based on lies and that wasn't really beneficial to people and the nation. I didn't realize all that time I was followed, monitored, and my letters were intercepted. Later I was charged with trying to sabotage the political solidarity of China. I was arrested and sent to prison for three and a half years.

In prison I suffered a lot physically and mentally. When I was detained I was stripped naked, and they poured cold water over my body. I had a high fever for almost two months. Later I was transferred to another place, and I was forced to do tough physical drills like endless running and jumping. This kind of physical punishment almost devastated my health. When I was on the verge of death I was sent to a prison, and the physical examination proved my lung adhered to my diaphragm because I had had a high fever for a long time. The X-ray showed my lung wasn't clear. I could not even take short breaths, and I also had other problems like very serious kidney problems. I cough a lot and urinate a lot.

Despite my poor health, I was shocked with tens of thousands of volts by an electric baton because I still refused to give up my belief. I also suffered mentally because every day in the prison I was forced to watch videos that purposely fabricated bloody scenes of suicides and killings. I watched them hour by hour every day, and it was worse than slavery I think. After three and half years I was released, in January 2004.

Again, I'm very grateful the Canadian government gave me permission to move to Canada. I was reunited with my wife in May 2004.

This is a great opportunity. I say thanks.

• (1700)

The Chair: So you're a Canadian citizen now?

Mr. Lizhi He: I'm now a permanent resident.

The Chair: Well, thank you. That's something.

Mr. Joel Chipkar: Mr. Chair, maybe we'll move on and answer their questions, and then if we have time we can come back to the other witnesses.

The Chair: Borys, go ahead, please

Mr. Borys Wrzesnewskyj: Thank you, Mr. Chair.

I'd like to thank the presenters, especially the people who have had this horrible first-hand experience at the hands of Chinese authorities.

I think what we just heard speaks to the fact that this isn't just an aberration. We've heard that in 1999 there was an actual government decision. We have heard a witness speak about different types of interrogation and torture that take place. The fact that there are produced videos indicates a very methodical state-sponsored

approach. It's not an aberration. It's not just that in certain places maybe there are particularly sadistic people, or that in certain provinces local governments take a particular stand. I think it speaks to China's position and the tools they are willing to use.

Amnesty International says there are approximately 2,500 practitioners who are incarcerated. Does that correspond approximately with the number you believe are incarcerated? How many practitioners are there in China?

Mr. Joel Chipkar: In 2001, the Australian Broadcasting Corporation did an investigative report. They put the persecution into a stark context, and I quote:

Falun Gong practitioners make up close to half the number of Chinese people being held in labour camps, a process that requires no legal or judicial ruling.

We know that there are thousands upon thousands of practitioners who've been murdered in police custody. We know there are hundreds of thousands of practitioners who are being held in labour camps. The Falun Dafa Association can only confirm approximately 2,800 people who've died.

We can't just fabricate a number. We would like to give it more of a truthful context, but we can't because there's a huge cover-up campaign happening, and to get media in to investigate is impossible. Reporters Without Borders has condemned China for a complete media blockage on the persecution of Falun Gong.

Mr. Borys Wrzesnewskyj: Mr. Li, please go ahead.

• (1705)

Mr. Xun (Shawn) Li (President, Falun Dafa Association of Canada): I have a few comments.

First, regarding the number of people detained, Amnesty International had a list through their own verification channels. The number we have is consistent with what ABC, the Australian Broadcasting Corporation, reported, and about 50% of the people are jailed in forced labour camps. According to a reliable source, the labour camp figure is between a quarter of a million and two million people. I believe at least 100,000 are currently jailed. Of course, many people are jailed and released, and we know the number of people detained for a brief time is in the millions. So the number of people affected is really large.

Secondly, at least 2,862 people are identified, verified as cases, and we have our channels to verify that number. But as Joel mentioned, because of the information blockage and the cover-up, the real figures may be much higher than those numbers.

Mr. Borys Wrzesnewskyj: And the second part of the question, any approximation of the number of practitioners in China—the approximate number?

Mr. Xun (Shawn) Li: In early 1999, before the crackdown, the government estimated practitioners in the range of 70 million to 100 million. It was widely reported by different media. So this is one of the reasons—they surpassed the 33 million Communist Party members at that time—and it's because of their jealousy; they wanted control and authority. This was one of the reasons they cracked down. So the number in China is 70 million to 100 million.

Mr. Borys Wrzesnewskyj: Thank you.

That's an interesting point and it leads to my next question. How many so-called "heretical" organizations are there? It's an actual term the government uses. How many heretical organizations, or organizations with that designation, are there in China?

The Chair: Go ahead. You can answer it, and then we'll move on to Madam Faillie.

Mr. Xun (Shawn) Li: It is hard to name. I know from the initial list, when they sent the report from Amnesty International, they had about a dozen. What they actually classify is anything that does not conform to the Communist ideology; they will be treated as such. So not only those organizations, but also Tibetans, Christians, and Catholics. They are all persecuted, but Falun Gong is the largest group being persecuted in China, using the most severe means of persecution.

The Chair: Thank you.

Thank you, Borys.

Madam Faillie.

[Translation]

Ms. Meili Faillie: Upon further reflection, it's clear that China's human rights violations are totally unacceptable. Canada must step up its efforts in terms of establishing economic ties or finalizing agreements with China. Human rights rules must be incorporated into such agreements.

Johanne Deschamps with whom I will be splitting my time will be speaking about the Bloc Québécois' position with respect to Falun Gong. In the short term, however, some issues require our urgent attention, such as the deportation of people claiming refugee status in Canada.

To the best of your knowledge, how many deportation orders have been issued to date against Falun Gong practitioners? I've been asked to get involved in a few cases, but surely you have a better idea of the numbers involved. I'd also like you to explain the political context that you've described. You had the support of the Prime Minister of the day. What's happened in the interim at the IRB? Why suddenly are Falun Gong practitioners being deported?

[English]

Mr. Xun (Shawn) Li: Thank you very much for bringing up this question, and Joel can add more after my input.

Canada is the first country in the world to condemn the persecution of Falun Gong, officially on July 26, 1999. A headline in the *Globe and Mail* was entitled "Canada condemns China's crackdown". Later on, Axworthy also spoke out, on November 9, as reported by Reuters. So we are quite proud of the initial government gesture.

We are also, at the same time, disheartened when we hear that Hu Xiaoping, a Montreal practitioner, was scheduled to be deported in early August of last year, and that was just one month prior to the Chinese President Hu Jintao's visit. Timing-wise, this case is really disheartening for us. We can now confirm it was for the purpose of pleasing the Chinese visit, but we were very disheartened by the gesture or the action taken.

I understand there could be errors or mistakes in the process, but prior to that a similar situation also occurred. About four years ago, there was another individual scheduled to be deported back, but the Falun Dafa Association stepped forward and identified that he was a practitioner and Canada took immediate action to stop the deportation, even within a very short period of time.

We did the same, we made our efforts even just before the airplane was scheduled to fly from Vancouver in early August, and we held a press conference on Parliament Hill. We see that somehow there's a kind of determination to return him back. So this is the only case in Canada for the Falun Dafa Association to identify a practitioner who was being sent back to China.

Besides Canada, we know that Cambodia did this on August 9, 2002, with the pressure from China to send back two practitioners. They even had a certificate of UN refugee protection, and they sent them back regardless, and they got condemnation worldwide. Also, Thailand made such an effort, and the United Arab Emirates made efforts.

For the case of the UAE, United Arab Emirates, and Canada, we appealed to the Canadian ambassador there, and Canada gave a special visa so that Yuzhi Wang, the lady, could come to Canada. With regard to the case—and this is one of our requests—we hope, number one, that this will not happen any more. Number two is we want him to come back to Canada, because when he was sent back to China, first, he was already persecuted mentally and he could not practise freely. Secondly, he's facing physical persecution at any time. Even with our fellow colleague in Montreal...trying to reach her to verify her status in China...she is fearful and does not want to reveal the situation.

Sorry.

• (1710)

The Chair: That's okay. In the interests of time, I have to move on to Bill now.

I know you had a question, Mr. Xun, but we'll do it on the next round. I think we'll get you on the next round, rest assured.

Bill.

Mr. Bill Siksay: Thank you, Mr. Chair, and thank you for being with us this afternoon.

I would like to give a special thank you to Mr. He, Mr. Qiu, and Mr. Lin for coming, given your own personal experiences.

Mr. Matas, you mentioned the need to expel those who incite hatred against Falun Gong practitioners in Canada. Can you give us any examples of that kind of incitement to hatred that's happened in Canada or persecution that's happened to folks here in Canada that might require this kind of remedy?

Mr. David Matas: Well, yes. In fact there was the case of the Chinese consul in Calgary. There's a hate crime unit in Edmonton that recommended to the Attorney General prosecution for incitement to hatred. It's an offence that requires the consent of the Attorney General—the police can't actually just lay a charge—and the Attorney General didn't consent. But obviously, there was substantial evidence there or the police never would have made such a recommendation.

What we have with Falun Gong, which is typical for crimes against humanity, is a dehumanization. These people are slandered that they're a cult, that they're engaged in barbaric practices. This is the sort of stuff that Mr. He was talking about, the kind of stuff he was being forced to watch all the time. And the Chinese repeat that. There have been a number of libel suits in Canada. One of them is going on in Toronto right now against *MingPao*, if I remember correctly. There's another one that's going on in Montreal. It's against, I think, the *Chinese Daily News*.

This is a big problem in Canada. The Chinese government is not just inciting hatred against the Falun Gong in China; they're doing it worldwide, including in Canada.

We should say that this is not appropriate behaviour in Canada.

• (1715)

Mr. Bill Siksay: Mr. Matas, I understand that you and a former member of Parliament, David Kilgour, have undertaken to do an independent inquiry into one of the most horrific accusations that has been made against the Chinese government, that organs are being harvested from some folks, including Falun Gong practitioners, who are interned in labour camps.

I wonder if you can explain a little bit about that accusation and your experience of trying to do that kind of investigation to find out information about that particular circumstance.

Mr. David Matas: It's true that we have been asked to do this. The reason we've been asked to do it is that unlike the other persecution that you've heard of, which is well documented—we have witnesses, we have Amnesty—this particular accusation has been met with disbelief, even amongst people who protest the human rights violations against Falun Gong. Amnesty International is not sure it's happening. The United States government is not sure it's happening, and there are various people that.... It's so horrific, it's hard to believe. So this is not a situation where we're at the stage of saying, let's do something to stop it. We're at a stage of asking, is this really true?

The coalition that was set up to protest violations of human rights against the Falun Gong asked David Kilgour and me to investigate these allegations, and that's exactly what we're doing. We will produce a report by the end of June. We've been interviewing witnesses. While David Kilgour was in Washington he interviewed some witnesses there. There have been a number of investigators who've been phoning the hospitals, the doctors, and people who are working in the transplant system in China, and getting inculpatory statements from them. Then we have to evaluate the credibility of these admission statements, and we are putting this all together. Of course, there's all this contextual information about incitement to hatred, the mass detentions, the persecution, and so on.

We will come up with a report evaluating all this evidence and saying either that these allegations are true in our belief or not true, or there needs to be further investigation. But I can't tell you now what the result of that report is going to be.

The Chair: You have thirty seconds.

Mr. Bill Siksay: I'll ask a quick question, then.

If we're identifying Falun Gong practitioners as a particular class of people who are subject to persecution, can you tell me how

membership is determined or how we would understand someone to be a practitioner of Falun Gong ?

Mr. Joel Chipkar: I think that's the million dollar question for the IRB. It's very difficult, because Falun Gong is a spiritual belief. It's a belief system. You believe it. It becomes part of who you are. But there's no membership. There are no rituals. There's no worship. It's a belief. So what we try to do is give the IRB some information based on our personal expertise of who we feel the Falun Gong practitioners are, because we are the ones who are involved in the Falun Gong community day after day. Through their sharing, through their history, and also through their involvement in the community we can verify if they are true practitioners or not.

The Chair: Thank you.

Nina, please.

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you, Mr. Chair, and thank you to the presenters.

We see in your brief that the *Ottawa Citizen* reported that the RCMP has placed 15 officials on a watch list. Has the RCMP contacted your organization for additional information? What actions, if any, has the RCMP undertaken to investigate those who are there?

Mr. Xun (Shawn) Li: Canada has a war crimes and crimes against humanity program, as we learned in the summer of 2003. We contacted the RCMP in that special unit and had a meeting with the immigration officer and two RCMP officials. After watching our video and presentation, they made an immediate pledge. They said those individuals would be barred if they acted as the video was showing.

Early in 2004 we contacted the RCMP war crimes unit. They confirmed they had opened a file on the Falun Gong, and if those individuals came into Canada they would take further action to investigate. We had a press conference jointly with David Matas, from the legal perspective and the moral perspective. So they have contacted us, but with the current pressure from the Chinese regime, how effective will it be? That is what we're asking.

• (1720)

Mrs. Nina Grewal: How many Falun Gong associations currently exist worldwide?

Mr. Xun (Shawn) Li: The Falun Gong is recognized in more than 70 countries. China is the only country that persecutes the Falun Gong. Many of them have associations—many even on a small scale, with assistance centres or coordinator centres. So we believe there are thousands of Falun Dafa associations worldwide. China used to have many of those kinds of associations, but after the crackdown they were destroyed. There were ten thousand of them in China.

The Chair: Ed, you have two and a half minutes.

Mr. Ed Komarnicki: Obviously some of the allegations, as mentioned to Mr. Siksay, are of such a nature that there's been a measure of disbelief. But most of it boils down to a question of proof or evidence, which I understand you're taking some steps to try to rectify in one fashion or another.

Of course, the IRB first considers a refugee claim before anyone is removed. They look at a pre-removal risk assessment, and if you can establish them, those types of allegations play into the very issues that are to be determined. That's really the body that's set up to deal with those kinds of things.

Are you satisfied that you have put the most current documentation, proof, and evidence you have before the board?

Mr. David Matas: The concern here is not just with the board or the pre-removal risk assessment; it's also what happens afterwards. For instance, there was the case where somebody was removed who the Falun Dafa Association had identified. The board said it was not credible and didn't believe she was a Falun Gong. The pre-removal risk assessment said there was no new evidence. It was after those two decisions that the person came to the Falun Dafa Association. At that point, the Falun Dafa Association communicated to the government that she was Falun Gong.

The problem here is timing in relation to what's going on. It may well be that if that information had been communicated to the board or the pre-removal risk assessment officer, this person wouldn't have been in that situation. But our position is that no matter when the information comes, it should be acted on or reacted to. It should never be too late, as long as the person is here.

Mechanically, of course, if the Falun Dafa Association gives subsequent information that a person is Falun Gong, there could be a new pre-removal risk assessment application, and the person should not be removed in the meantime until that new information is considered.

The trouble was that this person was removed, basically without consideration of this new information on the identification of the person as Falun Gong by the Falun Dafa Association, because the formal steps in the process had been completed.

The Chair: Thank you.

Thank you, Ed.

Blair.

Mr. Blair Wilson: Thank you, Mr. Chair.

Thank you, presenters.

Before I ask my question, Mr. Chipkar, we have you down here as a spokesperson in Toronto. What specific organization do you represent?

Mr. Joel Chipkar: Sorry, I should have made that clear at the beginning. I'm with the Falun Dafa Association of Canada.

• (1725)

Mr. Blair Wilson: Is there a representative here from Amnesty International? We were provided with some briefing notes from Amnesty International.

Mr. Joel Chipkar: There is no one here today from Amnesty International.

Mr. Blair Wilson: Okay.

The question I have is, how many Chinese nationals are currently making refugee claims here in Canada on the basis of the allegations

you've made of persecution for reasons of membership in Falun Gong?

Mr. Joel Chipkar: I think that's a really good point because it gives credibility to our organization.

I've done a lot of presentations. I actually did two presentations last year to Immigration and Refugee Board members in Toronto; I've been on probably 40 cases as an expert witness, and we have been successful with all of those.

I have been told by refugee board members that thousands of Falun Gong claimants come in to try to gain refugee status. Last year the Falun Dafa Association had a maximum of 40 cases.

Our mandate is not to actively seek those who we feel are true or false claimants, but to actively protect those who we feel are true Falun Gong practitioners who come to us for support.

The IRB has repeatedly accepted the Falun Dafa Association's testimony as credible and as an expert witness. We are the only organization that again, as I said, is within the Falun Gong community on a daily basis.

I myself have been approached by lawyers asking me to come to help them with refugee cases, and I say no. Mr. Joel Laten, my lawyer, whom we use in Toronto and whom we trust very much as a very good supporter for Falun Gong practitioners, told me he could make over \$150,000 a year just by Falun Gong claims if he wanted to.

It's a huge business, and we don't want to get involved. We sent a letter to the IRB asking for another hearing because we have heard other organizations are charging money for letters to claimants, saying, "We will give you a letter saying you're a Falun Gong practitioner, but you have to give us \$300." As soon as we heard that, we wanted to stop that. This is not what this is about, so we wanted to make sure the IRB understands the Falun Dafa Association is the only authorized organization with the expertise to verify true practitioners.

Mr. David Matas: I should say I've got the board's statistics on my hard drive here, and it says that for 2005, there were 1,743 claims from China—all claims from China—decided in the calendar year, and 1,879 are still pending at the end of the calendar year.

Mr. Blair Wilson: And how many of those pending claims relate to persecution for beliefs in Falun Gong?

Mr. David Matas: The board doesn't break out the statistics that way. It's just by country.

Mr. Blair Wilson: Would your organization know? How many people are you working with on the backlog?

Mr. Joel Chipkar: Members have told me it's about 80%.

The Chair: Mr. Li, you wanted to make a comment to Mr. Wilson?

Mr. Xun (Shawn) Li: Yes, I'll give you more concrete information. To the best of my knowledge, the Falun Dafa Association has seen 75 people obtain refugee status in the past seven years. About 70 people are applying now. So the total is under 150 in the past seven years.

I have the geographical distribution of the individuals; if you need that information I can talk to you separately.

Mr. Blair Wilson: I have one other question. Do I have time?

The Chair: Go ahead.

Mr. Blair Wilson: Does the IRB require any further information to allow it to expedite the briefings of these cases more quickly? Is there something the committee can provide to the IRB so they will have more information to go on?

Mr. Joel Chipkar: If the committee could accept that the Falun Dafa Association is an authority on who are true practitioners, it would probably help expedite the cases we're involved with. Again, our mandate is not to get involved with all cases, but only the ones who come to us looking for support, who we feel are genuine practitioners.

The Chair: Okay, thank you.

Madame Deschamps.

[*Translation*]

Ms. Johanne Deschamps (Laurentides—Labelle, BQ): Thank you, Mr. Chairman.

First off, I'd like to thank the witnesses, specifically the three individuals who have agreed to testify today before the committee. I am profoundly touched by and extremely sympathetic to your cause.

I also want to let you know what our party's foreign affairs critic, Ms. Lalonde, is doing. Last April, she forwarded a letter to the Minister of Foreign Affairs, Mr. Peter MacKay, informing him that the Falun Dafa Association had contacted parliamentarians to relate to them the persecution they were experiencing at the hands of the government and to tell them about certain ongoing practices, specifically the practice of removing and selling vital organs and human tissue.

In my view, it's important for the committee to hear about some of these horror stories.

The letter also talks about the existence of 36 concentration camps in China which may house up to 120,000 people. It informs the minister that the UN Special Rapporteur on Torture announced last March that he would be conducting an investigation. The association calls on the minister to press for this international investigation as soon as possible in order to shed light on this situation and as well, to give his utmost consideration to this letter.

We've also been told of cases where persons applying for refugee status who claim to have been persecuted have had their applications denied. Had the refugee appeal section been operational, it likely would have allowed these individuals to state their case, contrary to what we are now seeing.

• (1730)

[*English*]

The Chair: Thank you. We have about five minutes left, so I think I'll give a question to Bill and a question back to Borys, and then we'll wrap up, if you've finished, Madame Deschamps. You did have a couple of minutes left, if you wanted.

[*Translation*]

Ms. Johanne Deschamps: No. I don't think that words can begin to describe everything these people have endured.

[*English*]

The Chair: Thank you.

Bill, for a last question, and then Borys, for one last question.

Mr. Bill Siksay: Thank you, Chair.

Mr. Matas, one of the things you mentioned was source country class and that Falun Gong practitioners should be recognized as a persecuted group within China, and Canada should allocate specific numbers of government-assisted refugee visas to assist those people. Can you explain a bit more how that works?

I think a lot of us are more familiar with people who have actually fled their country as refugees and then get the assistance of Canada in that situation, and we may have seen some of the problems of folks who are internally displaced refugees and the difficulties of assisting them. So I would assume that there are similar problems with assisting practitioners who are still in China and are experiencing persecution. I wonder if you can talk a bit about how that might work and what kinds of numbers the association has in mind.

Mr. David Matas: The way the regulations work is that normally you have to be outside your country to get refugee protection under the refugee definition and other Canadian laws. Canada has an exception for a few countries, six of them, and I see that the six are Colombia, El Salvador, Guatemala, the DRC—that's Congo—Zaire, Sierra Leone, and Sudan. If you're in those six countries, and only in those six countries, you can get protection while you're still in those countries and come to Canada as a protected person.

We're saying to add China. Make China number seven, so that somebody can come to a Canadian visa post within China and say, "I am at risk", and the person can come directly from China to Canada as a person at risk without having to go through a third country. That's the proposal.

When it comes to the government-assisted refugee program, the way it works is that it's very finely broken up. Canada accepts 7,300 or 7,500, but they do it not just as a gross number. They do it by visa posts, and it's all finely broken down. So there are allocated numbers for government-assisted in third countries. And we say that since they're breaking it down and they're doing it by visa post, they should allocate a certain number to Falun Gong who have family ties in Canada and who are not durably resettled in a third country, whatever those numbers happen to be.

• (1735)

The Chair: Thank you, Bill.

Borys, you will have the last question.

Mr. Borys Wrzesnewskij: Thank you.

I'd like to return to the issue you raised, Mr. Matas, about hate crimes legislation. It's extremely worrisome that you have state-exported incitement to hatred from China. There are diplomats, in fact—it's documented—who have participated in incitement to hatred. There's also the situation of satellite television potentially being used as a method for incitement to hatred.

This is why I turn to you for your expertise. The legislation refers to various forms of hatred, including religion. Would Falun Gong fit the legal description in the hate crimes legislation, and if it doesn't, are there any suggestions you would want to make in terms of amendments to the existing legislation to capture this particular category?

Mr. David Matas: In my view, it would fit. This is a belief. It's a spiritual belief. In my view, it would be captured by the existing legislation, and it wouldn't be necessary to amend the legislation.

Actually, now that I think about it, Joel Chipkar himself was involved in this issue, because he was engaged in a libel suit against a member of the Chinese consulate in Toronto; he won that libel suit by default, and the fellow has since left. The libel laws are one way of getting at it, but of course with the libel laws you get damages.

These people simply should not be in Canada. When you're dealing with the diplomatic corps, Canada can just say we don't want you. It's as simple as that. They don't even have to give a reason. They don't have to say it's a violation of the law. They don't even have to establish in criminal court that a crime has been committed.

We're not suggesting here that these diplomats and consular officials should be prosecuted, although that's obviously an option. We're suggesting, simply, that they be expelled. Once they're doing this stuff, whether or not there is a legal opinion that fits four-square within the laws of hate incitement, it's so offensive that it is certainly grounds for expulsion.

The Chair: Yes.

Mr. Xun (Shawn) Li: I want to add a recent case.

My mom was a member of the Ottawa Chinese Senior Association, and because the persecution extended to Ottawa, through discrimination her membership was terminated late in the year 2001. She filed a complaint with the Ontario Human Rights Commission. The commission eventually referred it to the tribunal to decide whether Falun Gong could be regarded as a creed. This was a determining factor in that case. The expert witness, Professor David Ownby from the University of Montreal, who is the director of Asian research there and is cited in the ruling, testified that Falun Gong, from the western point of view, is regarded as a creed or religion. Although we ourselves call this a cultivation practice, because we don't have formalities and we don't have churches, from the western perspective we do. So the tribunal ruled that it was discrimination based on creed. They had to pay damages for that, but the case is under appeal and is still ongoing.

• (1740)

The Chair: Thank you.

We have to wrap it up there.

I want to thank you for your presentation today.

And I want to thank the committee members for a great discussion.

We're all very familiar with Falun Gong. You've been very active on the Hill over the last few years, so the information you gave us is not entirely new, but very much appreciated.

Thank you. The meeting is adjourned.

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