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—
Chair

Mr. Norman Doyle

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• (0900)

[English]

The Chair (Mr. Norman Doyle (St. John's East, CPC)): Good morning. We'll call our meeting to order.

We welcome representatives from various churches who are here today to talk to us about refugee issues in general and refugee issues especially as they relate to sanctuary.

I will ask you to introduce yourselves. I think you know how we operate. You make an opening statement of five to seven minutes, and then our committee members will ask questions or make comments.

I think I'll pass it over to whoever wishes to go first.

Mary Jo, feel free to make an opening statement; then the committee will engage you in questions and comments. Please go ahead.

Ms. Mary Leddy (Director of Romero House of Refugees, Sanctuary Coalition of Southern Ontario): Bonjour, mesdames et messieurs. My name is Mary Jo Leddy, and I've been a member of the Ontario Sanctuary Coalition for fifteen years. My remarks will be general, and they will be followed by some very specific remarks by other people.

The offer of sanctuary begins as a moment of conscience. Someone—a mother, a father, a person who is alone—knocks at the door of the church and asks for help. The minister, the priest, or a member of the congregation, sometimes a secretary, is then faced by another desperate human being, and these Christians are then forced to face themselves and to respond to the summons that this refugee presents.

This is the ethical moment, and it has been repeated many times over in this country. It is indeed remarkable how many modest, middle-class congregations have opened their doors to provide sanctuary to a refugee whose life is in danger. It is a fearsome commitment for these congregations. It places the congregations at legal risk and it demands incredible daily fidelity.

Those of us who have been involved in providing sanctuary are not more caring or more moral than any of you. We simply see the refugee from a different point of view. We do not see a case. We do not see a file number. We do not see a political issue. We simply see the person who faces us and searches us out as Christians.

No church leader tells congregations to offer sanctuary. No church leader can make us stop. I mention this because I was part of a delegation of church leaders who met with former immigration

minister Judy Sgro. They were the leaders of churches where congregations had offered sanctuary, and the minister was disturbed by the growing number of churches that were offering sanctuary. At that meeting, she asked the church leaders to tell the congregations to stop, and offered them a back channel for resolving their difficulties.

The minister said the church leaders could come to her in private once a year with twenty cases that would be dealt with in that quiet, private way. The church leaders refused this option, and quite wisely so, certainly for the simple reason that they did not want a private process that was available to them and not to other religious groups, that was available to them and not to other advocacy groups. Secondly and more importantly, they acknowledged that we did not ask these congregations to do this and that we cannot make them stop, because this is a question of conscience.

This movement of conscience will continue—I want to assure you of that—as long as there is no effective mechanism of appeal in the refugee determination process. As I see it—and I see it daily—the present Immigration Act gives enormous power, the power of life and death, to single immigration officers, and this act is based on the premise that those officers do not make mistakes. Within the act, there is provision for an appeal on the merits, but it has never been implemented.

• (0905)

What we have now is a labyrinth of partial appeals, which do not add up to a single, whole consideration. It has been argued that to implement an appeal process would be costly, but from where I sit, it would be far less costly and less expensive than the inefficient morass that swamps the refugee determination process.

For the last year, a family from Costa Rica has been living in the church of St. Philip Neri in Toronto. I have met with them; I have met with their pastor, Father John Juhl. The family is disintegrating, haunted by depression.

It is argued that there are no refugees from Costa Rica. This father was a police officer in a drug enforcement squad. He learned too much about the drug cartel, which is overwhelming that country. The police have now admitted they could not protect him. Evidence accumulates every day, and it becomes clear why he cannot return to Costa Rica.

It seems now as if everyone has washed their hands of this family and others. Bureaucrats within the department are not willing to admit that sometimes, maybe a mistake is made. Sometimes, probably often, it is simply because they have a workload that is overwhelming. They do not have the resources with which to resolve cases. The minister could; ministerial discretion was made for moments such as this.

We in the sanctuary movement, the group I belong to, believe that Canada has signed international agreements that oblige it to protect refugees whose lives are in danger. When the government will not do that, citizens are obliged to take a civil initiative to do so, so that we honour the laws of our country.

Thank you.

• (0910)

The Chair: Thank you.

I should have said in the beginning that we have five churches represented here today: the United Church of Canada, the First Unitarian Congregation of Ottawa, St. Joseph's Roman Catholic Church, All Saints Lutheran, and the Presbyterian Church in Canada.

Now we will move to Heather Macdonald.

[*Translation*]

Ms. Heather Macdonald (Program Coordinator, Refugee and Migration, Justice and Global Ecumenical Relations, The United Church of Canada): Hello. My name is Heather Macdonald.

[*English*]

First of all, I want to thank the committee for having us here today and for their interest. I'm also going to be asking for your support.

I'm going to speak about the United Church's long-standing involvement in refugee work. In the twenties and thirties, we were working with Armenian orphans. After World War II, we were meeting the boat trains that were bringing refugees from the war. Since the signing of the master agreement in 1979, we've settled many thousands of refugees. We've been involved in the founding of refugee-serving agencies in Montreal, Toronto, Winnipeg, and Edmonton. We've been involved in community development work, especially with the Afghan Women's Organization.

We were founding members of ICIR and the standing committee that grew into the Canadian Council for Refugees. We are part of KAIROS: Canadian Ecumenical Justice Initiatives, which works on social justice. And our members and our congregations are deeply committed to refugee claimants and sponsored refugees. It's from this that our sanctuary practice has grown.

What is sanctuary? For us it is a public appeal for justice in the face of a terrible wrong. It is an attempt to uphold the law. It is not covert. It is not underground activity. In upholding the need for sanctuary, the church asks that justice, compassion, and the lives of refugees be respected.

Government, in streamlining the refugee determination system, has sacrificed justice for refugees by choosing not to implement the refugee appeal. The cost of that decision is refugee lives. In the face of what we believe is an injustice, we may consider the moral

witness of sanctuary or receive distressed, desperate people within the holy confines of a church building.

Historical traditions inform our sanctuary action, and it may be a form of civil disobedience, but we act not in defiance of the law. Really, sanctuary, as a prophetic action, displays ultimate respect for the law and the justice it demands of it. It's inspired by two commandments—love of God and love of neighbour—and we understand that the public face of God's love is justice.

Our members are engaged to ensure the protection needs of both refugee claimants: those who come to Canada on their own; and resettled or sponsored refugees, those selected abroad. As such, we encounter those who sometimes need our help. We believe our help is an act of obedience. Through families such as the Raza family, in sanctuary in Winnipeg, we feel we are being accountable to a deeper law and to God.

How do we plan for a sanctuary? Well, there is a lot of prayerful discernment. It must be a community action. We never act alone or even as an isolated faith community. Because conscience is partially shaped by prejudices and biases and we can be mistaken, we need the wisdom of others in the passions of the moment.

We question our motivation. We need to honestly reflect on what it is, why we are doing it, and for whose sake we are doing it. What could we or those more at risk, the refugees, gain or lose? We ask that it be an informed decision. We look to see what other options are available. For us, it should only be a last resort while we continue to work on all other possible legal avenues of protest. We consult with Amnesty International, with local sanctuary coalitions, with lawyers, and with CIC.

It's not a solution. It's a time for a sober second thought for transformation of the law. We appreciate that there is no guarantee of success, and the congregation and the refugee must also understand that. We recommend that congregations consider development of a protocol even before they're put in a situation that demands a response.

We try to protect the credibility and the practice of sanctuary for those who need it most. We have refused more requests than we have ever accepted. It may come as a surprise to you that it is not something we want to do. Rather, it is something we must do.

•(0915)

In our denomination, congregations make their own decision. There is a handbook that informs that decision—available, sadly, only today in English—should you wish to see it. We work with congregations so they make informed decisions. We work respectfully with government officials to resolve the problem with integrity to everyone's satisfaction. We always try to avoid sanctuary if possible, because it's exhausting, physically and emotionally; it's expensive; it's tedious; and in the long run, it's just plain boring. But when a commitment is made to a refugee, we honour the commitment. We are firm and persistent in what we understand to be the truth.

Since 1983, the United Church has had 14 cases in sanctuary, six of those 14 since 2002, when multiple sanctuaries simultaneously began to happen. We ask if it's a coincidence that this coincides so completely with the IRPA legislation—the single decision-maker and the lack of an appeal.

An observation I've made is that the United Church seems to specialize in families in sanctuaries. I think it's because for us the principle of family reunification and best interests of Canadian children inform our work. Our own church policy or laws ask that we respond to the needy; offer hospitality to strangers, sanctuary to the endangered; love our neighbours whether we like them or not; provide justice for the persecuted and protection for the weak and the homeless.

Our general council policies have consistently asked that we call upon our government to implement the right of a merits-based appeal for refused refugee claimants, which is provided for in IRPA. With RAD in place, we also believe sanctuary pressures on our church would be far less. Ideally, Canada should be the sanctuary.

To paraphrase the words of Sandwell, the honorary chairperson of the Canadian National Committee on Refugees just shortly after World War II, the obligation to grant sanctuary is not and never has been unlimited, but the obligation to grant sanctuary still exists. Nations that ignore this obligation will suffer, as all nations ultimately do who ignore the fundamental and moral obligation and the debt that man and nations owe to the human being at their gates, simply because he or she is a human being.

I think that text still speaks to the discussion. Canada is obligated to provide sanctuary to those in need, and there are times like the present, given the lack of appeal, when as citizens and human beings we have a fundamental and moral obligation to provide sanctuary within Canada.

As a church, we want to concentrate on working with asylum seekers, resettling refugees, especially from these offices of refugees. We cannot get enough cases from our visa offices. We want to work for migrant justice. We want to work with our government on healthy immigration programs that reflect real labour and family reunification needs. But given the lack of protection, the non-implementation of the appeal has exacerbated the need for sanctuary within Canada. Therefore, we look to you, members of Parliament, to ensure that the protection needs of refugees are met and we can get on with the other work of the church.

Thank you.

The Chair: Thank you, Ms. Macdonald.

Mr. Gauthier.

[*Translation*]

Mr. Pierre Gauthier (Refugee Outreach Committee, St. Joseph's Roman Catholic Church): I am happy to be able to appear before your committee. Allow me first to talk to you briefly about the group of volunteers that I have the honour of representing.

•(0920)

[*English*]

For more than 16 years, the Refugee Outreach Committee of St. Joseph's Parish on Laurier Avenue in Ottawa has befriended the newly arrived refugees in Canada's capital area. The usual role of the committee is to carry out simple acts of everyday kindness. For refugees in need, we help find living quarters, furniture, warm clothes, and jobs.

In 2005, for our first time ever, we took the extraordinary step of providing sanctuary for a most worthy case. We felt duty-bound in conscience to help a refugee claimant who was ordered deported without a complete, fair, and just hearing.

[*Translation*]

After spending a year in a sanctuary with our help, Maoua Diomande was authorized to remain in Canada. We are grateful to the Minister, who, once all the facts had been uncovered, decided to issue the permit on compassionate grounds.

[*English*]

However, and this is an important point for you to consider, a church congregation should not be put in a position in which its only recourse is to provide sanctuary for refugee claimants. Churches have been put in the invidious position of offering sanctuary only because the refugee determination system is not working properly. Clearly, when a valid refugee claimant has to turn to a church for help, there is a problem with the system.

[*Translation*]

Of course, everyone here wants a fair and equitable system that is more effective. Based on our experience, the absence of an appeal process poses a serious problem. Our refugee status claimant lived in fear of being removed from Canada without having had the opportunity to appeal. Although we brought her case to the attention of the public, we had no other choice than to let her take sanctuary in our place of worship. Countless other refugee status claimants—hundreds and maybe even thousands—have been turned down by Canada because they did not have the opportunity to fully present their case.

[*English*]

I will give you our recommendations.

Our first recommendation to you, members of the Standing Committee on Citizenship and Immigration, is to again ask the government to implement the refugee appeal division, as called for in an act of Parliament legislated in 2002. We ask that you call for this implementation as a matter of fairness and justice. We ask on behalf of refugee claimants whose cases, owing to the lack of an appeal process, have not been properly heard or have been ignored.

[*Translation*]

We recommend that your committee demand that the government rapidly set about reorganizing and staffing the Immigration and Refugee Board of Canada. Pressing changes should be made immediately.

The recent IRB report to your committee stated the insufficient number of members at hearings. The report also noted that the recruitment of competent members was progressing slowly. We encourage your committee to demand that the IRB immediately set about eliminating the chaos created by the congestion in its activities. It is clear that the number of members must be increased in order to solve the immigration backlog. In addition, the process of selecting and appointing members must be depoliticized to ensure greater fairness and justice.

[*English*]

Further to the IRB reorganization, we recommend that your committee urge the government to question the fairness of a system that allows the plight of a refugee claimant to be decided by a single member.

From our experience, we note that the person or member ruled against the three refugee claimants represented by the church groups here. Following their rejection and with no access to appeal, the three claimants sought sanctuary.

• (0925)

[*Translation*]

We recommend that your committee ask the government to provide the IRB and Citizenship and Immigration Canada with instructions concerning the language rights of refugee status claimants. At Board hearings, claimants should have the right to be heard in either of Canada's two official languages. However, we have noticed that the fundamental language rights of refugee status claimants were not always respected. Your committee should insist that the IRB apply the refugee status claim process in accordance with the spirit and the letter of the Official Languages Act. In addition, based on our experience, the quality of the translation of all the languages used at hearings needs improvement.

[*English*]

We recommend that your committee urge the government to take steps to make sure that the IRB and the CIC are accountable to the public they serve. This has not been the case. For instance, for the entire year we cared for a refugee claimant in sanctuary, the bureaucracy avoided talking to us. In the meantime, the government states, on the CIC website and elsewhere, that the current system is fair and generous. Our experience indicates otherwise.

[*Translation*]

Thank you for listening to me and giving me the opportunity to speak to you about these issues.

[*English*]

The Chair: Thank you, Mr. Gauthier.

Now we go to Mr. Walt.

Mr. Gordon Walt (Vice-Chair, Congregational Council, All Saints Lutheran Church): Good morning. My name is Gordon Walt, and I am vice-chair of the Congregational Council of All Saints Lutheran Church here in Ottawa. Thank you for allowing me to address you on behalf of my parish.

The Evangelical Lutheran Church in Canada was established as an immigrant church, and our parish reflects this in our demographics, as we have many recent immigrants from Africa and Asia. All Saints has also cooperated with the government sponsorship program for many years in the acceptance of refugees from several parts of the world, supporting their integration into life in Canada. However, the granting of sanctuary to Moti Nano, one of our own members, is the first time our parish has been forced to take such drastic action to save the life of a young Ethiopian refugee. Moti is 34 years old and has been living in sanctuary in our church building for more than nine months.

Other speakers have told us about the acceptance of sanctuary in Canada, but in our view, because the refugee process does not work as well as it should, we, as churches, find ourselves in the position of either obeying our government and allowing it to send back someone whose life is in real danger, or helping the person by providing sanctuary, and therefore appearing to oppose our own government. We are naturally very angry and upset about being put in this position, but as people of faith, we really do not have any other choice.

One of the main factors in the decision by All Saints to offer sanctuary to Moti Nano was that he had been an active covenant member of the congregation since his arrival in Ottawa in July 2001. He is a lifelong Lutheran—his father is a Lutheran pastor in Ethiopia—and is also a member of the church house group who first made our congregation aware of his ongoing difficulties with the refugee process.

At a special meeting our congregation voted overwhelmingly in favour of providing sanctuary. However, it did become an issue in our parish. We formed a special sanctuary committee to manage the financial and other forms of support for Moti. One very troubling concern for many of our members of having someone in sanctuary in the church building was the fear of our own government. We are law-abiding citizens by choice and by faith commitment, and the consequences that were rumoured that might result were many—for example, loss of public service jobs and pensions, being arrested and jailed, loss of charitable status for our church, and either a fine of \$50,000 or two years in jail for our leaders. There was a feeling that by offering sanctuary the rights and privileges of our citizens might be in jeopardy from our own government and its authorities.

Fortunately, our government, through the Canada Border Services Agency, has chosen to honour the tradition of sanctuary and has told us it will not enter our church building to remove Mr. Nano. As Mary Jo has indicated, the provision of sanctuary in a church building that was not designed for residential living has also been a huge challenge. It involved some building renovations, the provision of meals, companionship, medical and dental care, and emotional and spiritual support. In addition, there are significant legal costs in dealing with the current processes. Finances were raised through fundraising events and personal contributions by members of the congregation. This requires a lot of ongoing effort by our committee members and the parish as a whole. For Moti Nano, sanctuary is really a form of voluntary imprisonment, which, when it endures for a long time, can be quite debilitating, even for a person of strong personal faith like him.

Talking a bit about the process, it's been a genuine challenge for Moti and those supporting him to deal with a system that often seems overly bureaucratic and unresponsive and whose sense of fair process and timing is questionable. As examples, a personal information form must be filed within 28 days of arrival, but in Moti's case the hearing did not take place for two years and seven months. This is a very long and difficult wait for anyone, but especially challenging for those who live in fear and uncertainty.

• (0930)

This long period also gives the claimant time to find employment and housing and become integrated into life in Canada.

Moti was fortunate that he had good language, interpersonal, and computer skills, as well as support of friends in the church and community. He was able to fit into a life in Canada very easily and find employment. He has never been a burden to our social support network. He worked and supported himself in his own apartment, obtained a driver's licence, and travelled to conferences in Nova Scotia and Winnipeg and to visit friends. He took courses and generally enjoyed what he thought was the beginning of a new life in Canada.

By entering sanctuary, Moti has given up this life, including his apartment, his job, and some of his social relationships.

As far as the hearing process is concerned, it seems to be designed from the perspective of someone living in Canada. There seems to be an assumption that a refugee claimant will feel totally safe and free to communicate all information to the adjudicator, as it is in his best interest to do. Because as Canadians we have not lived with the fear of torture and the presence of spies in our bureaucracy and in our jobs, the fact that people would hesitate to tell everything in front of strangers, including interpreters, does not seem to enter into the design and conduct of the hearing process.

However, in our experience with Moti Nano, there were times when this assumption may not have been true. For example, Moti continues to be very concerned about the threat of persecution as a former human rights worker if he returned to Ethiopia, based on his history of harassment, intimidation, imprisonment, and torture.

The evidence supporting this level of fear, such as reports from Amnesty International, do not seem to be weighed as highly as our

own government's research documents and the opinion of the adjudicator.

Since there's only one adjudicator, who may be biased or poorly informed about the current situation in a foreign country, the adjudicator's opinion becomes precedent-setting, and any appeal of a negative decision requires you to provide enough information to overturn this opinion.

In this case, the negative decision was taken, stating that there was also no documentary evidence that human rights workers are being persecuted in Ethiopia, in spite of the fact that there was information to the contrary readily available from Human Rights Watch and Amnesty International.

There is another example from the hearing. The presence of an interpreter—or in Moti's case, an interpreter and an interpreter-in-training, both from Ethiopia, but who are not from his own ethnic community and who have not been met and vetted by the claimant in advance—can be fear-inducing and inhibit the claimant in his testimony. He is still fearful that one or both of them would supply information about him to the Ethiopian embassy, and that the embassy would find out about the people who might be named and harass them in Ethiopia. This fear can weaken a person's initial claim.

On the aspect of appeal, if a claimant is rejected, he or she is denied the opportunity to meet with the person who rejected the claim to present a differing point of view. Once the decision has been made, all appeals and further submissions are to the courts or to an anonymous bureaucracy. There is a lack of dignity and fairness for the claimant in these processes.

It also appears to us that government employees are reluctant to question what an adjudicator or senior person may have written.

As far as recommendations are concerned, they will no doubt support what others have said or will say today. Based on our experience with Moti Nano and the provision of sanctuary for him, we are offering four recommendations.

First, the Government of Canada should immediately implement the refugee appeals division of its own act of June 2002. The current system of appealing to the courts is not a fair and reasonable process. A refused claimant should have access to a just hearing, especially since the initial hearing now has only one adjudicator. An adequate process could help remove the need for churches to provide sanctuary. And as another speaker has mentioned, we don't want to be in this business. It's too time-consuming.

Also, there should be a means of accrediting persons, such as lawyers, personal advocates, and organizations that offer services to refugee claimants, so that there is some minimum standard of competence. This could be applied first to the legal profession.

●(0935)

Regarding the appointment of board members, there is an excellent book some of you may have heard about. It was written by Peter Showler, a former member of the board and chair for six years. It is called *Refugee Sandwich*. According to him, the appointment of board members should be entirely based on competence; the political level should be completely removed from the selection process.

Pierre and others have spoken about the need for resources. The government needs to ensure that there are adequate human resources and that they are structured to ensure that the services provided to refugee claimants are timely and efficient, so that long delays in processing claims and appeals do not occur. This includes the need to correct the current lack of cooperation among departments and agencies.

Thank you very much for allowing me to speak to you.

The Chair: Thank you, Mr. Walt.

We will now go to Mr. Nagy.

Mr. Phil Nagy (Chair, Hitschmanova Committee, Unitarian-Universalist Congregation, First Unitarian Congregation of Ottawa): Thank you. My name is Philip Nagy. I'm representing the First Unitarian Congregation of Ottawa.

Ottawa First Unitarian fully supports the points made in the previous briefs. The case of Samsu Mia, who lived in sanctuary at First Unitarian for 18 months, illustrates some of the problems encountered within the CIC system.

Samsu Mia lived in sanctuary at Ottawa First from July 2003 to December 2004, when Minister Judy Sgro granted him and his family permission to come to and stay in Canada on humanitarian and compassionate grounds.

Mr. Mia came to Canada in 1995 as a domestic employee of a senior official in the Bangladeshi High Commission. He was treated as a slave. His wages were withheld. He was not given his contractual trips home. He had to sleep on the floor, and his shoes and passport were confiscated.

In 1999 he escaped and attempted to recover his wages and passport. He, his family at home, and his rescuer in Canada, a Bangladeshi Canadian, were all threatened.

Mr. Mia's initial refugee claim was turned down by a single judge on the grounds that this was simply a personal dispute between two individuals. The judge ignored the fact that one individual was an illiterate cook and the other a powerful official. Shortly after the turndown, Mr. Mia's brother in Bangladesh was threatened by a different official, who had been transferred home from Canada. This was new evidence, and evidence of continuing danger, but there was no way to present it under present procedures.

Judicial reviews of the case actually agreed that the initial judge had failed to consider all evidence, but concluded that Mia had failed to show that the Bangladeshi government was unable to protect him. This was a situation in which officials of the same government were in fact the problem.

In 2001 his son in Bangladesh was beaten and admonished to "Tell your father to be quiet and go home." In March 2003, the pre-removal risk assessment noted that this beating, although reported in a humanitarian and compassionate application, was not documented. The result was a removal order.

It would have been better if a decision on removal had been delayed to allow time to document the son's beating. In many countries doctors are reluctant to provide such evidence out of fear for their own safety. With the help of one of our contacts, a Canadian who operates several orphanages in Bangladesh, documentation was finally obtained, but it took some time. However, there was no procedure in place to allow him to present this new evidence; the decision had been taken.

There are times when a refugee cannot get such evidence; there are times when it takes longer; there are times when the need is not understood until it is too late.

In July 2003 Mr. Mia went into sanctuary in our church. Sanctuary is no small commitment, either for the individual involved or for the church. That is one reason it is used so rarely.

Mr. Mia became a voluntary prisoner in the church for a period that eventually became 18 months. With no guarantee of success, the congregation committed itself to provide for all of Mr. Mia's needs, including sending money to Bangladesh to support his family for an indefinite period.

For the first year we provided 24-hour accompaniment out of fear that either CIC or the RCMP might enter the building and remove him. Only a deep belief that an injustice had been done sustained the effort.

In the first weeks of sanctuary, we were kept under surveillance by unknown individuals in cars with diplomatic plates. We continued to collect evidence. On the basis of the dossier we put together and their own research, Amnesty International supported Mr. Mia's case. The turning point, I believe, was when a refugee from Bangladesh gave oral evidence to an MP that he was unwilling to put in writing out of fear for his own safety. The MP, Marlene Catterall, conveyed the information to the minister. Finally, in December 2004, the humanitarian and compassionate application was successful.

Let me move to subsequent events.

Please understand that everyone we have dealt with in CIC has been cooperative and helpful, and has appeared competent. The point I wish to make is that the system is overloaded, underfunded, understaffed, and poorly organized: we came within a few weeks of Mr. Mia's two-year minister's permit actually expiring before the paperwork for permanent status was completed.

The lack of a forum for presentation of new evidence, combined with poor communication across government units, presents a problem: the removal process carried on, independent of any outstanding humanitarian and compassionate applications. Granted that documentation can be forged unless we check carefully, surely there could be a triage process saying in effect that the government ruled that documentation was absent; this new evidence seems to be exactly what was declared to be absent; and, pending verification, the removal process should be put on hold.

● (0940)

It would not take more than an hour or two to decide that the piece of new evidence, on the face of it, seems to fill the gap identified in the refusal decision. Simple communication would save heartache.

The process of settling Samsu Mia, his wife, and four children was inordinately slow and inefficient. The medical certificate for one of the sons was actually lost at CIC and had to be redone at the church's expense. The other five medical certificates expired because they are only good for one year and also had to be redone. Basic forms were filled out two and even three times because officials simply couldn't find them.

Record-keeping is deeply flawed within the system. Samsu Mia's passport was confiscated by the Bangladeshi official in question. Canadian officials had Mia renew his Bangladeshi passport for use in his removal. They immediately confiscated this new passport when it was issued. After Mia was granted permission to stay, this history was put into the record in an affidavit in early 2005.

On September 28, 2006, just five weeks ago, I received a phone call from a CIC official asking for a copy of his passport. This should not happen. The stakes are too high for these kinds of record-keeping errors.

In conclusion, I offer the following.

There must be an appeal process and a regularized method of presenting new evidence. It should not be dependent on churches and on the minister's compassion. It should not require a large, well-organized pressure group to achieve justice.

There must be additional funding for more staff and a reorganization of procedures. The system is in danger of breakdown. Time spent on searching for lost documents could be better spent processing claims.

Thank you for hearing our concerns and allowing us to tell Samsu Mia's story.

The Chair: Thank you, Mr. Nagy.

And now, Mr. Allen.

Mr. Stephen Allen (Associate Secretary, Justice Ministries, The Presbyterian Church in Canada): Good morning. My name is Stephen Allen and I serve with the Presbyterian Church in Canada in our national offices in Toronto.

On behalf of our denomination, I thank the Standing Committee on Citizenship and Immigration for the chance to be with you this morning and to brief you on our denomination's policy on sanctuary and, as importantly, how our denomination arrived at that policy.

My focus is going to be a little bit different from the presentations you've heard. You have received our statement, which was approved at our general assembly in June 2006. So it's a recent statement and policy by our denomination.

Our denomination now has the policy for a congregation to provide sanctuary to a claimant whose claim has been rejected and who faces probable risk of persecution or torture if removed to his or her country. Our policy is rooted in our faith. It's a cautious one, and sanctuary is seen as the last resort.

The Presbyterian Church in Canada is a master agreement holder. Many congregations have sponsored refugees over the years. Our church, through our programs overseas, supports refugees and also supports internally displaced people, for example, in Darfur.

I need to take a few minutes to explain our decision-making process in our church as a way of underscoring that the issue was not taken lightly by our general assembly in June.

The highest decision-making body or court, as we refer to our structures, is our general assembly. It meets annually. Each presbytery, a cluster of congregations, and there are 46 presbyteries across the country, sends a specific number of delegates or commissioners to general assembly. Commissioners include both laity and ministers, and there are 350 commissioners from across our church at general assembly. They have read this statement.

Our general assembly is responsible for making decisions on a wide range of issues and our assembly receives what we refer to as overtures; that is, recommendations for the church to prepare a statement or a report and bring forward that statement or report to a future general assembly. Overtures can deal with matters such as educational requirements for a minister transferring from another denomination to our denomination, or an overture may request a statement on sanctuary.

The overture comes to our general assembly from a presbytery, and general assembly may or may not approve receiving that overture. In the case of sanctuary, the general assembly in June 2005 received and approved the overture, which then meant that my office was directed to prepare a response for general assembly in June 2006.

So that's our process. It's a very careful process, which takes into account our structures and the courts of our church.

The draft that was considered by general assembly this past June was reviewed by my advisory committee, by the board I'm accountable to. In addition, there were several external reviewers who critiqued that draft, and I had it reviewed by a theologian at Knox College.

Our board approved the statement. It went forward to general assembly, and in March of this year it was sent to all commissioners across the country.

So that's the process and the timeline.

As an executive staff in my denomination, I am expected to spend the whole week at general assembly, but, unless requested, staff are not permitted to speak or participate in the deliberations. This is the time for commissioners. Again, that reflects the nature of the church's polity.

The debate considered various dimensions of the statement—the theological and ethical dimensions, the international convention, the Canadian context, the Immigration and Refugee Protection Act, the recourses available to failed claimants, and the legal consequences that you've heard about already. The section entitled “A Matter of Conscience and Faith” reviews church doctrine and church polity—that received the most attention in the debate—and then guidelines for congregations and the recommendations that you have before you.

The debate was prayerful. It was thoughtful and at times it was passionate. I have two examples to share with you.

● (0945)

A commissioner—a lay person, a retired member of the Ontario Provincial Police—stood up. This was his first general assembly. He was terribly nervous. He reminded the general assembly that providing sanctuary was in contravention of the law. There was silence. A few minutes later, a retired RCMP officer, a minister of the church, stood up and said, “Yes, this is true.” He reminded the church that we are called to obey a higher authority, and that on matters of conscience our accountability is to God.

A second example was an intervention by another minister in our denomination. He had come from a country in Central America over 20 years ago. He had been severely tortured. In his case, the system worked well. He and his family found refuge in Canada and have now contributed to the life of our society. He acknowledged that the system can work well, but the system is not perfect. He said that if there was a probable risk of persecution if a claimant were returned to his or her country, the church has no choice: it must provide sanctuary. He said that one person returned to face persecution and torture is one person too many.

Our general assembly also requested our moderator to write to the Minister of Citizenship and Immigration urging the minister to implement the appeal process as provided for in the act.

Many members of our general assembly were astounded that there is no appeal process on the merits of the case. As one commissioner said, I can appeal my parking violation, but a refugee who has faced insurmountable pressures, tortures, and intimidation cannot appeal the merits of a decision.

It seems that in our justice system the right to appeal the merits of a decision is pretty fundamental, and yet it excludes some of the most vulnerable people on our planet.

I hope members of this committee will support Bill C-280, the private member's bill that calls for the implementation of the refugee appeal division.

You may recall that in December of 2004 the Standing Committee on Citizenship and Immigration unanimously passed a resolution calling for the minister to implement the appeal or to advise the committee as to an alternative proposal. The appeal process has not been implemented, and no alternative proposals were brought forward.

Both the Inter-American Commission on Human Rights and the UNHCR have said that the lack of an appeal on the merits of the case is a major flaw in our refugee determination system.

Thank you very much.

● (0950)

The Chair: Thank you, Mr. Allen.

And thank you all for your presentations. They were very interesting and very well done.

We will move to comments and questions. According to my list, Mr. Wilson, you are first.

Mr. Blair Wilson (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.): Thank you, Mr. Chair.

Thank you all for coming and speaking with us and giving us your case.

I have to state that I deeply respect the compassion and commitment you all share in the protection of human rights and the pursuit of moral justice. The committee, as you stated, is obviously deeply concerned with the refugee appeal process and the fact that refugee claimants can only be heard by a single IRB member.

The question I want to ask the panel is, given that the current government continues with the 2001 Immigration and Refugee Protection Act without creating the refugee appeal division that has been called for in the past, and given that there is a major backlog with respect to the number of claimants and the processing time, and given the fact as well that the department is accelerating this backlog with their refusal or inability to appoint staff to the Immigration and Refugee Board to deal with it, if the minister or if a new government were to provide the refugee appeal process, would that be enough for churches to cease providing refugee claimants with sanctuary? If there were an appeal process set up, would churches then not be forced to be in this position? Would that be enough?

The Chair: Anyone can answer questions, but I would ask questioners if you would direct your question to someone specific.

● (0955)

Mr. Gordon Walt: Maybe I could attempt to respond from our point of view. We have discussed within our parish whether or not we would ever offer sanctuary again. The answer was, it would depend on the case. If it is seen that there is a fair, just appeal process and the results of that were correct, then I don't think we would need to offer sanctuary. But it will depend on a case-by-case situation from our point of view.

Mr. Stephen Allen: If I may respond on behalf of the Presbyterian Church in Canada, Presbyterians are not keen on earthly absolutes. What does that mean? This came up in our general assembly, that if there was an appeal process, does that mean there would never be a need for sanctuary, and the answer from the general assembly was no.

The Chair: Does anyone else wish to make a comment?

Ms. Macdonald.

Ms. Heather Macdonald: Yes. I would just speak to that a little.

We've thought about this. We know the pressure would certainly be less, and I think our history gives you the answer. Between 1983 and the present day we've had 14 cases, six of them because there was no appeal.

So we anticipate a very different scenario, but again, we don't believe in earthly absolutes either.

Mr. Blair Wilson: What percentage of the people who are seeking sanctuary in your churches have decided or been able to seek the judicial review in Federal Court?

I know that's a costly and expensive undertaking.

Mr. Pierre Gauthier: Over 90% of the appeals to Federal Court are not even considered, let alone heard or reviewed. As a so-called appeal process that is legal, the Federal Court is a high-test court. It is like going from your small claims court to the Supreme Court in one step. It is very onerous, very expensive. Lawyers need to spend a lot of time, and the rationale I guess is that the Federal Court doesn't want to become the default refugee appeal division that is provided for in the law. So they say no. They don't even give their reasons for saying no in over 90% of the cases.

The Chair: Ms. Leddy wishes to make a comment.

Ms. Mary Leddy: There's also the fact that the Federal Court only looks at whether the law was applied. It deals with matters of law, not of fact.

That's what I mean when I say that there are several avenues but they're fragmented and partial. They don't add up to a whole view of the case that involves both questions of law and fact, information as it was given then, but also new information and other considerations. That makes a whole. But right now it is a fragmentation.

If I could just say, effectively the media has become an avenue of appeal. Members of Parliament have become another avenue of appeal. Most of them will say these decisions are being contracted out to our staff. Our staff are bearing the brunt of a lot of this inadequacy of an appeal.

The Chair: There is a minute left, Andrew.

Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.): I just want to say to the folks here, thank you very much for what you do.

The previous government was wrong and this government is wrong in not implementing the RAD.

The new IRPA would not have passed with a one-member panel if there was not an appeal. As far as I'm concerned and most members of this committee are concerned, it was done by stealth.

I hate to say this, but governments come and go. Unfortunately, the bureaucratic mindset stays the same.

I am going to get back to other items when I come to the second round, but I truly want to thank you all for what you do, because you put a human face on the system. You help people who have no hope. In many cases you succeed, but unfortunately you can't do enough sanctuaries.

•(1000)

The Chair: Thank you, Andrew.

We will now move to Madame Faille.

[Translation]

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): I would like to thank all the representatives of the various Churches here for their testimony before the committee.

The question of the Refugee Appeal Division is one that is very important to me. Having worked in co-operation with a number of volunteer groups on the issue of sanctuary in places of worship—I now have seven cases—I am aware of the weight that falls on the shoulders of volunteers. It is commendable work, and I thank you for doing it.

I must also agree with what Ms. Leddy was saying: that MPs also seem to be a form of recourse, and we do not control all the means at our disposal.

The media are also becoming a form of recourse, and we do not find this at all normal. The Appeal Division is therefore necessary, and I am pleased to have my colleague Nicole Demers, who has agreed to table the bill on the Appeal Division. I don't know if you know, but it was a random draw. I am 290th. The chances of me having my turn this session were thus very slim. However, I have a very generous colleague who, I think, shares my opinions. We decided to request the immediate application of certain sections of the Immigration and Refugee Protection Act. Thanks for the support with the Appeal Division.

We also have a correspondence with the Office of the United Nations High Commissioner for Refugees, which says it is disappointed that Canada is not establishing the Appeal Division and gives the reasons in favour of setting up an appeal division.

You have talked a lot about the issue of sanctuary in places of worship, and I would now like to ask you a few questions on the refugees' environment and the whole context of limitations on refugees' rights. The committee heard some unsettling testimonies a week ago, when it learned that pre-removal risk assessment officers were given only two weeks' training before conducting pre-removal risk assessments.

In your opinion, is two weeks' training sufficient to properly understand the potential environment of a person seeking protection and claiming refugee status?

Ms. Leddy, you have already come to speak to the committee to warn us about the coming into force of the Safe Third Country Agreement. Now that the law has been in effect for two years, do you have a particular opinion on the subject?

Thank you.

[English]

Ms. Mary Leddy: I guess I thank you for the question.

When I spoke to the committee about the safe third country, there were certain things that we predicted, and they have all come true. The numbers of refugees entering Canada have dropped dramatically, some say by 50%; I think it's more. Many people are prevented from even leaving their own country.

Again, this was done by stealth. I think if most Canadians had been told point blank, "We are shutting the door on 50% of our refugees", most would be upset. Most Canadians are quite decent when faced with that kind of thing.

The other thing we predicted was the number of desperate people who would then try to enter Canada illegally, and we have some anecdotal evidence of this through people who have arrived.

I'm going to give you a very concrete example. Yesterday we had a family arrive at our houses, a mother and father and a little boy from Colombia. Colombia is not on the list of countries that we will allow to enter. Colombia has a terrible problem. They will not be accepted by the United States, because the United States is saying that their government is in control.

Desperate, this mother and father and little boy waited in the bushes on the American border. As a train passed over a bridge—and there was a river hundreds of feet below—they hopped on the train. They clung to the side of the train with their little boy on their back, counted to 20, I think they said, and then they were told to drop off; then they hid in the bushes on the Canadian side.

That's what people are doing. And there are couriers making a lot of money. We have a history of what happens during times of prohibition: big business for crooks; thousands of dollars to deliver people across remote border entry points; thousands of dollars to pack tour buses through more visible places. But the ones that bother me the most are these people forced to hop onto trains or forced to go under trucks. It's happening.

I know that none of you here like that; we're better than this. People whose lives are in danger should be able to go to an officer representing us and say: "This is why I'm afraid"; and "This is why I need the protection of your government". Corruption has increased, and danger has increased, and my fear is that we do not know the ones who have died. We know of one person who drowned in the river. We know that in other countries, when officers come near a boat and there are illegals, they are pushed over. We don't know those stories.

• (1005)

The Chair: Thank you, Ms. Leddy, for that.

Now it's Mr. Siksay, please.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Mr. Chair.

It takes the breath away, because we were afraid of those kinds of stories when we heard about the safe third country agreement. We've been dreading, knowing that was going to happen, but we were all expecting it.

I want to thank you all for coming, and for your very articulate and moving statements this morning. I think it's really important for us all to understand how this is something that church congregations enter into only with great and careful consideration. Also, I hope we all have an appreciation of the huge commitment this involves.

I was only very peripherally involved with a sanctuary case, as a supporter of a congregation in Vancouver at Trinity United Church and St. Mark's Anglican Church. It was a single woman from El Salvador with five or six children, which presented huge challenges for that congregation, and it went on for quite some time. I know some of the challenges involved in this, at least peripherally.

I wanted to ask specifically about the situation of l'Église unie Saint-Pierre in Quebec City, the United Church congregation where Mohamed Cherfi was in sanctuary. I think it's the only case where officials entered a church in Canada and removed somebody who

had sought sanctuary. I wonder if Heather or others could tell us about that specific case and what happened there.

Ms. Heather Macdonald: Yes. We had a young man in our sanctuary. I think it was almost an act of collusion. I know I should be careful with that word, but he was dragged out without any negotiation with our church. The Quebec police came in on a charge that he had failed to advise a change of address. He was taken out of the building, and immediately handed over to the immigration authorities. All criminal charges were dropped.

He was deported to the States, where incidentally he was found to be a refugee. He is still in the process of applying to come back to Canada, and we are very much in support of his return.

• (1010)

Mr. Bill Siksay: To everyone's knowledge, is that the only time officials have gone into a church in Canada and removed someone in sanctuary?

Ms. Heather Macdonald: As far as I know, it is the only time.

The Chair: I think Mr. Allen would like to make a comment, Mr. Siksay.

Mr. Stephen Allen: As a footnote on the safe third country agreement, Amnesty International, the Canadian Council of Churches, and the Canadian Council for Refugees have launched a court action challenging that agreement on the basis that it violates our charter.

For example, in the case of Colombian applicants, Canada accepts 80% plus of those seeking asylum, seeking refugee status in this country. In the United States, it's far less than 40%.

Canada also takes into account persecution on the basis of gender. There are many things that Canada does very well internationally. South of the border, our neighbours have a far less generous approach to gender persecution. On that basis, a court challenge has just started. I think it's before the Federal Court of Appeal now, and we'll see what the outcome is for all the ethical and theological reasons you've heard this morning.

Mr. Bill Siksay: I want to come back to the question of police action. Has anybody ever been charged in Canada with assisting a refugee who sought sanctuary?

Ms. Heather Macdonald: Not that I know of. I know the United Church has nominated me.

Some hon. members: Oh, oh!

Ms. Heather Macdonald: No. I think I'd be the first to go, should it ever happen.

Mr. Bill Siksay: I know the document that the United Church has produced, Heather, and I think you worked on that.

Ms. Heather Macdonald: Yes.

Mr. Bill Siksay: It talks about the situation in the United States and in Britain, where there have been different circumstances. Can you tell us a bit about what's happened there?

Ms. Heather Macdonald: There were several priests charged in the U.S. in the early 1980s, and I believe in Britain. We have certainly warned all our ministers that if they enter into this action, this is something they need to figure could be possible.

It's going to sound bizarre, but it could affect their pension, because we have to go into our court procedures about the person not being in charge or being in jail. We know we could be fined severely. There's jail time. We've even thought of other infringements, such as it's become residential in a non-residential zone. We go into it knowing that, hoping it wouldn't happen. We think it would be political suicide for someone. Yes, we bear that; it's heavy on us. We hope it won't happen.

Mr. Bill Siksay: You mentioned the Raza family in Winnipeg and showed us the photograph of them.

Ms. Heather Macdonald: Do you mean the family we're giving daily school to, with the six children?

Mr. Bill Siksay: Yes. I just had a response back from the minister to a letter that I wrote on behalf of that family, and the minister uses the phrase "people hiding in churches". He uses that a number of times in the letter.

I wonder if you could respond. That language seems a little strong to me. Given what you or perhaps someone else said—that this was something done openly, and there's no attempt to be underhanded or anything like that—it seems to fly in the face of the term "hiding in churches". I wonder if you can respond to that.

Ms. Heather Macdonald: Yes. I would suggest the minister's use of that word is unfortunate, because from the day it happened we advised the immigration department and the minister. I have written at least three letters. Members have written. Our moderator—that is, the head of the United Church of Canada—has written; ministers across the country have written, as well as congregations and individuals. We are consistently ignored.

We think there are some options that could be pursued for this family. We'd be willing to work with the government, but the government does not want to engage, so we continue trying to figure out what to do. We feel we're just being totally stonewalled, that there isn't a concern to look to the needs of this family.

Mr. Bill Siksay: Are there many congregations or parishes that have done sanctuary more than once? Are there places where it happens frequently? It seems to me that I haven't heard of that. I don't know of it offhand. Given the kind of commitment it makes, I'm sure it's—

•(1015)

Mr. Pierre Gauthier: There's one church in Montreal that has done maybe three. It's the only church, to my knowledge, in Canada that has done it in the last 20 years or so.

Ms. Heather Macdonald: That would be Union United Church.

The Chair: Thank you.

Thank you, Mr. Siksay.

We'll go to Mr. Komarnicki.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Thank you very much for your excellent presentation and some of your compelling arguments as to why you feel sanctuary should be an

option. I'm glad to hear that it's a matter of last resort and a place of second sober thought.

Of course you are also concerned, as Mr. Allen said, about the integrity of the system, such as it is. My sense tells me that even if RAD were to be implemented, it would not, as you've mentioned, necessarily mean an end to sanctuary cases, because it would still be a case-by-case determination.

Can you tell me whether the various groups of churches have gotten together to try to establish—not within their own denominations, but on a cross-denomination basis—a type of protocol that you might adapt and follow, so that there is some objectivity to the claim, and whether there's perhaps some training aspect involved?

It's a principle, I suppose, that would be out there. I know it's a huge challenge, and it obviously puts a lot of demand on you and your resources. You would probably be involved whether or not RAD was there. Either of you may want to comment on that aspect.

The other aspect is that when you look at commentaries, the United Nations High Commissioner for Refugees has indicated that the Canadian policy and practice are often seen as setting an example for other countries; they're recognized as being a fair system, comparatively speaking. I think it was Ms. Leddy who mentioned that there's a myriad of options.

Maybe we need to look at whether there's a better way of doing it, but as I understand what happens, you can make a refugee claim; it's heard by someone, and you might not agree with their assessment of the evidence, but in the end they've made a decision; then there's a pre-removal risk assessment that somebody makes on some sort of objective basis, which you may or may not agree with; and then there's a potential for an application on humanitarian and compassionate grounds. Then somebody exercises their discretion, and a minister may or may not issue a certificate.

You have also, on top of that system, appeals to the Federal Court of Canada, notwithstanding that they're matters of law and somewhat restricted. Then there would be a RAD process as well.

If all of that were implemented, there is, as you say, a fragmented approach to the whole issue, but my sense is you're more interested in a second set of eyes looking at not just the law and the facts. Are you prepared to look at the whole system of options available and bring it down to a hearing on the facts, and then maybe a second look by someone on an expedited basis, as opposed to a court judge?

I just want to get your thoughts on those issues.

Ms. Mary Leddy: I think you're getting to the heart of the matter. Sometimes people oppose deficiency in justice, but as I see the present situation it is the inefficiency that is the injustice.

You mention all these different avenues, and it's true, but when they actually operate there's a time factor. For example, the Federal Court application has to be launched within 15 days of receiving a negative decision. A humanitarian application can be submitted. It's quite costly, and it can take up to two years even to be read. By that time the person is potentially gone.

It's that inefficiency that drives some people to sanctuary. There's another timeline around the PRA, and so they conflict, and in fact they can not be considered as a whole, because the amount of time is so variable.

I think what would be efficient is if there were a single appeal that folded all those things together. I really believe it would be less costly than what we have now, which is an office in Vegreville, an office in Scarborough dealing with humanitarian applications, a PRA office up at the airport, and then the whole Federal Court system, and then all the MPs who have to hire double the staff to deal with these.

This is not efficient, and it's that lack of efficiency that is injustice, I think.

• (1020)

Mr. Ed Komarnicki: Perhaps you can comment on the protocol as between denominations.

Maybe it wasn't to you, but I had talked about having a protocol amongst denominations whereby you get together and say that in these cases, under these objectives or circumstances, we might consider it.

Ms. Mary Leddy: I'll let the others speak, but I think we have a common understanding. Most of us use the United Church guidelines. We would never go through this unless we had gone to several responsible bodies and considered this case objectively.

Ms. Heather Macdonald: I can say that in Toronto, if there is a case on our doorstep, I always refer the individual in the congregation to an interfaith sanctuary coalition in Toronto. In Vancouver I refer them to Amnesty or to other groups. I've worked intensively with the Unitarians in the past. We don't do this alone; we can build from each other and get each other's expertise. It's nothing we want to do alone.

We don't keep on top of it all the time, because it's very difficult to know all the cases across the country. Right now I believe there are eight active cases, most of them Anglican, some Roman Catholic, some Baptist or United Church. We try as much as we can to be in consultation with each other and to have common protocol.

The Chair: Mr. Allen, go ahead.

Mr. Stephen Allen: In the case of our denomination, I think information, insights, and support from other parishes, congregations, and other denominations would be appreciated. But ultimately the decision to provide sanctuary or not to provide sanctuary would be made by the congregation, with the support of the presbytery. That's what our policy allows for.

The Chair: Thank you, Mr. Gauthier.

Everyone wants to get in on this one, Mr. Komarnicki, so I'll go to Mr. Gauthier, as well to Mr. Nagy.

We'll have to go to Mr. Telegdi.

Mr. Pierre Gauthier: Ms. Leddy pointed out the difficulties of the process in the system and its fragmentation. Our experience is that the removal process works very efficiently: within 12 to 14 months after a negative decision, you are removed from the country. However, the humanitarian and compassionate application takes up to three years to be reviewed; the waiting time to have your initial hearing is about two to three years also.

There's a lack of efficiency in the operation which traps people into not being able to afford to go to the Federal Court and thereby appeal. They're lucky if they get a sympathetic ear in the neighbourhood where they are. There aren't many churches with refugee committees that have a knowledge of the system and an experience of meeting these people and knowing how to listen to them, be sympathetic, and understand them with all of their difficulties of communication—because this is when they first arrive, and a lot of them are not fluent in French or English. It's not an easy task to accept.

The Chair: I'll have to ask for brief responses, because quite a number of people want to have a word, so a brief response from you, Mr. Walt and Mr. Nagy, and then Mr. Telegdi.

Mr. Gordon Walt: All I want to say is that as I understand it, the agency application does not delay the removal process at all. In our case, Mr. Nano would be delivered into the hands of the Ethiopian government by our officials and turn over his passport, and that wouldn't be a good scene.

The Chair: Thank you.

Mr. Nagy.

Mr. Phil Nagy: I want to tie this back to the offer that Minister Sgro made a couple of years ago. There is a danger that the churches would become a quasi-official part of the process, and that's the last thing we want. We do this reluctantly, and that should be clear.

The Chair: Thank you.

Mr. Telegdi.

Hon. Andrew Telegdi: Thank you, Mr. Chair.

I've been listening to Mr. Nagy's name being mispronounced quite a few times. It's Nagy. I just came back from the land of the Hungarians, so that is the proper pronunciation for the record.

Dealing with these cases is so very emotional and you have so much invested. I know, from my experiences, when you see an obviously bad decision, then you try to correct that particular case.

You really document well all the issues that are involved that should be changed within the refugee determination system. On political appointments who then get reappointed, we would never stand for our judges being reappointed every four years. It just doesn't make any sense. In cases where IRB members want to be reappointed, they feel that they must please the government of the day, if you will. That, to me, is totally wrong. It's not the way justice is supposed to work.

It's quite the misinformation that our system is just and fair, because you can't have a just and fair system if you don't have an appeal.

You mentioned that in 2004 there was a unanimous vote of the citizenship and immigration committee to implement the RAD. I hope when this issue comes up again, we will once again get a unanimous vote from this committee calling on the government to implement the RAD. We have heard evidence before this committee that if we had a fairer system, we could do it much faster and it would cut down on costs because we wouldn't have to have the appeal to the Federal Court, and this is something it does not want to do anyway.

I'm sure you have turned down many cases that came to you for sanctuary. It takes a tremendous amount of effort to do what you do. I really hope that your advocacy role also goes into the public arena more, because this mindset that we have a fair and just system really has to change. It's difficult when you're dealing with the cases themselves, but I think the churches could get it together and have a political action arm, if you will, one that is totally non-partisan but pushes issues that you all work toward and you all believe in.

I wonder if you have a comment on that.

• (1025)

The Chair: Mr. Gauthier.

Mr. Pierre Gauthier: I want to invite you all to the public advocacy meeting that we are holding at St. Joseph's on November 15, where we will have the pleasure of dramatizing one story and some aspects and have a forum where some people will be able to ask questions and give answers addressing the refugee dilemma, following Peter Showler's book, *Refugee Sandwich*.

Mr. Stephen Allen: Responding to your question, this feels like what Yogi Berra once said—"déjà vu all over again".

During the fall of 2004 and the winter of 2005, KAIROS, the Canadian Ecumenical Justice Initiatives, which brings together churches and their development agencies, launched a petition campaign. This came after the meeting church leaders had with the minister in the summer of 2004. The petition called for the implementation of the refugee appeal division.

Over 25,000 Canadians signed the petition. Refugees issues are not necessarily the number one issue in the minds and hearts of many Canadians. I found when I did workshops across the country—and I was learning about these issues—that people learn something about Canada's obligations under international law and under our own charter, and they learn something about who our neighbour is and who our neighbour might be. It was an epiphany for many of us in our denomination.

So 25,000 Canadians signed the petition. The petitions were submitted to the House of Commons in April and June of 2005; they were formally tabled. The response of the then minister was that the system, even without an appeal—and I'm quoting—"effectively provides protection to those who need it".

• (1030)

The Chair: Thank you.

Ms. Leddy, you had a comment. Then we'll go to Mr. Devolin.

Ms. Mary Leddy: In response to your question about the just and fair system, I believe we have a myth of innocence as Canadians. Justice Thomas Berger of British Columbia has documented how in times of social stress Canadians become more intolerant than most. During the Second World War, we interred Japanese Canadians; we had the worst record in the western world in terms of accepting Jewish refugees; we have invoked the War Measures Act; and we have treated Jehovah's Witnesses in Quebec terribly in times of social stress.

I think something similar is going on now. We appear to have a refugee determination system, but in fact the vast majority of determinations are made overseas, as officers and airline officials prevent people from even getting on a plane, never asking them why they are coming here. They are determining, over there in places that we can't see, who are refugees.

I'll just give you a very concrete example. During one of the genocides in Burundi, a family was trying to leave and went to the Canadian embassy. The officer there simply said: there's no problem here; I will not give you a visa. The same day the American embassy was closing, because of the danger that was sweeping through the capital. That's where the truth of what's going on is happening.

Ms. Heather Macdonald: Let me add that we are very good at interdiction policies, at keeping people away from our shores. We are now also getting very good at not allowing sponsorship into Canada. I'm told there's now a four- to five-year wait for any sponsorship I submit. I am told to cut my numbers in half.

I have congregations phoning every day asking whether there are visa officer-referred cases they could help. The answer is no. It is deeply frustrating to us that we can't reach out to the world as we feel we should.

The Chair: Thank you, Ms. MacDonald.

Mr. Devolin.

Mr. Barry Devolin (Haliburton—Kawartha Lakes—Brock, CPC): Thank you for being here today. This is a difficult subject, and I certainly appreciated the presentations that were made and, as has been said already, the very compelling stories.

One of the difficulties of being the sixth questioner is that you have to try to think up new questions when all your other questions were asked already.

As I listened to your presentations, I deciphered really that there are two issues here that are related. One is the issue of sanctuary, which predates Canada. I mean, it not only predates our current policies on refugees, but it predates the whole country. I respect the fact that churches feel that they have a right and a responsibility to deal with the notion of sanctuary and to extend it at certain times. I also appreciate the fact that you don't feel you have the right to negotiate it away somehow or to negotiate quotas of those who will be offered sanctuary. There's a fundamental incongruity there that I see.

The second issue really is public policy in terms of the refugee determination process that we have in Canada. I've only been on this committee for six months, and I am learning about the complexities of these issues and sometimes, quite frankly, the absurdities that result from applying processes that take years and years to answer questions that seem pretty obvious in the first place. I've said that the longer I'm in Ottawa, the more sense Monty Python makes.

The RAD was passed by Parliament. The RAD has not been introduced by the government. I do not ask this from a partisan point of view, but my question is this. As those who are practitioners in this area, why do you think that has happened? Why do you believe that the RAD has not been implemented, when it was passed by Parliament four years ago? I'd like to hear a quick response from anyone who's interested.

• (1035)

Ms. Heather Macdonald: Initially the excuse given was they wanted to address the huge numbers in the backlog. Then it became a matter of efficiency. It was actually talked about as being very efficient not having the RAD; we were managing the system better.

I think it's probably resource-related. It may be beyond that. There could be some ideology there, but I think it was a resource issue.

Ms. Mary Luddy: Some of you alluded to this, but I think this will become more clear the longer you're in Ottawa. With the RAD, I think what is intended is that those appeal judges or members would be appointed. They would not be members of the civil service. After 15 years, I see underlying many problems the conflict between whether the important decisions about people's lives are made by civilians appointed by a government who, no matter how lousy they are, are still accountable to the government, and a civil service that would like to control that process and seize it as their turf, their territory, and their right.

I generally sympathize with them, because I think they're terribly overworked, but I have certainly heard some of them say "The politicians are the renters; we own this place." And I think that's underneath this.

Mr. Barry Devolin: Do I have any time left for one quick question?

The Chair: You have one minute, then we go to Madame Faillie.

Mr. Barry Devolin: The other overlap I see is that today we're talking about refugees, but other days we talk about immigration and we all agree Canada needs more people. I keep saying that when I get old I want someone to pay taxes and look after me. My wife and I have replaced ourselves, but not every Canadian appears to be doing that.

I'll just make up this example to make my point. A Portuguese drywall applies to be a refugee in Canada and we go through this five-year process to determine whether or not he's actually a refugee. We decide he's not and send him home. In the meantime, we have this incredible shortage of drywallers in Canada. I appreciate that refugee policy is not based on the economic needs of Canada; it's based on the other end. What I sense is that the system in Canada, both on immigration and refugees, is constructed to keep people out. It's like a dam that holds back the river and we control the flow. The irony to me is that at a time when we actually need people, we have all these complex and expensive systems to figure out ways to keep them out.

I wonder if anyone can comment on that.

Mr. Gordon Walt: I would like to make a comment about that.

In our own case with Moti Nano, we recently decided to change his legal counsel—with his okay, of course. But standing back and just looking at this case, the amount of time and money that has been spent by the government and by him to deal with this process....

At the same time, our new legal counsel has advised us that he would be very well qualified as an immigrant. If he applied as an immigrant, he would be probably accepted; however, the rules are he can't apply to become an immigrant while he's in Canada.

If you stand back and give your head a shake, you ask what's going on here; this man could be a very productive, and was a very productive, member of our society. And yet we seem to be about preserving a system.

Ms. Heather Macdonald: Let me speak for the Raza family.

The Chair: There are so many people who wish to reply—

Ms. Heather Macdonald: They have been working since they arrived in Canada.

The Chair: —that my clock is totally off up here.

Ms. Heather Macdonald: The employer guarantees them a job. They are under a removal order. They are living in a church. There are Canadian-born children.

There is not even a queue in the immigration system that this family could apply to. They are the labour this country was built on. They don't meet the elite qualifications. They just want to build a future.

The Chair: Okay.

Ms. Mary Leddy: I think sometimes there is a stereotype around this. To speak of the house I live in right now, there are three doctors, a lawyer, and an engineer who specialized in AutoCAD. They all could have come as immigrants easily. They didn't have the time to apply.

It isn't as though all the refugees are Portuguese drywallers. We have also people who are immigrants as well.

● (1040)

The Chair: Okay.

Mr. Allen.

Mr. Stephen Allen: There's no doubt changes can be made to our immigration system, but I think we have a responsibility as churches and you as elected officials to ensure that Canadians understand that an immigrant is here for a particular reason, but a refugee fears persecution.

We can never stop saying that: there are two different categories of people who have very different issues. We should keep those issues quite separate.

Thank you.

The Chair: Okay.

Madame Faille, you may take maybe three or four minutes, so that we can go back and forth and see whether we can get everyone on for a second round.

[*Translation*]

Ms. Meili Faille: One of my concerns has to do with the decisions made by the members. At the beginning of my term of office, we had to examine a list of negative decisions made by members. When refugees came to meet me at my office because they had been given a negative decision, I asked which member had heard their case. I knew what the reasons for the negative decision were based on which member had heard their case.

For instance, the case of Mr. Belaoui, in Montreal, had been examined by a certain member named Laurier Thibault. During my entire time in office, he only accepted one refugee. His rate of refusal was therefore close to 100%.

Mr. Belaoui is Algerian. Mr. Thibault's decision was based on the fact that the Algerian government had promised to introduce programs for the blind. It was an electoral promise that wasn't necessarily kept. The person was therefore refused because the improvement of the situation in Algeria was probable.

Mr. Belaoui received the support of 40 organizations in Montreal. We wrote to the Minister's office, and the answer was similar to the one Bill received—that the department had not made an error, and that this person had been refused on reasonable grounds. This person has been in a church for a year now and has asked to be protected. A group of citizens in the region has undertaken to ensure that he is. I would like to add that this is another reason why the appointment of members should not be political appointments.

My colleague speaks of the economic aspect. Another study on the question of refugees has been conducted, showing that their profile is no different from that of immigrants. These people are not

necessarily welfare recipients. Not all of them are; no more than others.

Here, on the committee, we have two colleagues who have been refugees. There is one on either side. I don't want to play politics, but, given that I have very little time, I would like to make sure that we consider the fact that the contribution of refugees who come and ask for our protection is important. These people want to succeed here.

I would like to hear a few testimonies from you on the state of mind of these people when they arrive and the will they have to succeed.

[*English*]

The Chair: Okay, thank you.

Mr. Nagy.

Mr. Phil Nagy: Mr. Mia, as I said earlier, is an illiterate cook. He has four children, and all five of them are working full time. All four children are going to school, in two cases full time. Last month they bought a house. So it's not simply the refugee, but it's the family. As soon as one of the boys passes the TOEFL, he will be enrolling at Carleton to continue his studies in chemical engineering.

● (1045)

The Chair: Mr. Komarnicki, Mr. Siksay, and I guess we'll probably have to wrap up then.

Mr. Ed Komarnicki: To follow up a bit, I was heartened to hear that the person who ultimately makes a decision whether a congregation is going to get behind a refugee is not necessarily the person at the door, but there is a process in the congregation that obviously puts it on a level where there is respect for not only the place, but the process within the place. I think that's really an underpinning of the process.

Have you done a comparative study of how the system in Canada works, versus other countries, such as United States, and how we compare to them in our process? Ultimately I wonder if it doesn't boil down to the fact that if we did some of the improvements you suggest—in terms of the appointments to the IRB, bolstering up the inefficiencies, and making it efficient—in the end, are we still faced with the issue that someone's decision on the evidence may not equal your decision on the evidence? No matter what we do, although perhaps in a less constrained area, aren't we going to be faced with the fact that you still may decide you don't like how someone has interpreted the evidence, or how they made a decision—whether it's for pre-removal risk assessment, or on humanitarian and compassionate grounds, or for whatever reason?

Various people deal with these issues, but you look at that within your structure and say, "Well, you may decide that way, but we don't agree with that decision." Ultimately, are we not faced with that, no matter what we do?

The Chair: Anyone who may wish to reply, please feel free.

Mr. Ed Komarnicki: So there are two questions there: one regarding the comparative study; and the second asks, ultimately do we not have an issue no matter what happens in terms of sanctuary?

The Chair: Even if you had RAD—is that what you're saying?

Mr. Ed Komarnicki: If you had RAD, if you had any number of things fixed, are we still not facing the bottom line that you might not agree with the decision that's made or the evidence as interpreted by somebody else, vis-à-vis your institution, congregation, or denomination?

The Chair: Ms. Leddy.

Ms. Mary Leddy: Pardon me, but it's not a helpful way of framing the problem, and for this reason. I think most of us who are involved in this would like to be able to agree with the officer. It would be easier. That's one thing to say.

The other thing I would say as an academic and as somebody who's worked as a journalist is you can evaluate the evidence. And I think that I, the people I work with, and Amnesty International have the solid method for evaluating evidence: historical context, political context, and sources of information. I think we are often dealing with judges who have two weeks of training and with officers who don't have that much training.

I would give you as an example presenting extensive evidence from reputable sources, and having it refuted by an officer who refers to a web page—

Mr. Ed Komarnicki: Let's assume you have a competent officer beside you.

Ms. Mary Leddy: —and the web page says that this information should never be used in the judicial process. Now, that's not just a case of interpretation.

The Chair: Okay.

Mr. Ed Komarnicki: I wasn't so much concerned with that. But you will have a case where someone has gone through the process in some logical fashion but comes up with a decision that's different from what you might like to see.

Ms. Mary Leddy: Yes, I don't think it's just simple disagreement. We can look at that decision and say yes, that's a good decision; that's right. That's what we would prefer to do.

The Chair: Okay.

Maybe we'll allow Mr. Siksay three minutes or so. I think we'll have to cut it off there. So please go ahead.

Mr. Bill Siksay: Thanks, Chair.

I think the issue is confidence in the system. There are lots of people who are removed from Canada every day, but people don't protest those removals, because they have confidence that the system worked in those cases.

I wanted to come back to something that Monsieur Gauthier mentioned about language rights. I know that in the case of Maoua Diomande, the specific issue of language rights at her hearing was ultimately why she was allowed to stay in Canada. Monsieur Gauthier, I wonder if you could tell us specifically what the situation was there.

I also wanted to raise generally folks' experience around interpretation. I know we heard earlier this week from one of the security certificate detainees. He alleged that at one point in his questioning, the interpreter who was there with the police was a CSIS agent. I know that in other cases we've heard allegations that the secret police of other countries are active in Canada. I'm just wondering if there's been any evidence or any suggestion that this has been related to interpreters or the kinds of concerns you raised around interpretation.

• (1050)

Mr. Pierre Gauthier: On the language rights issue, she is a person who was educated in French in her country of origin. She speaks a couple of African languages as well, but French was her functional language. When she approached the system here, she was presented with an English-speaking lawyer. To be accommodating—because you're asking for help, and this is a lawyer provided by legal aid—you don't question. You try to be accommodating, but being accommodating sometimes is to your own detriment.

Her ability to understand the questions and to respond through an interpreter was.... It's fudgy. I was brought up in French and English, but not all of us have that benefit. It led to misunderstandings, led to errors in translation, which we were able to verify, because we looked at the transcripts. That kind of process jeopardizes people's ability to receive justice.

I'm not concerned only about the French and English. I look at some of the languages that are particular to very specific regions, and that's all some of these people can speak. Where do we get the translators?

Some of them are picked up, former immigrants who have very little training in translating and probably don't have the command of the English language that they need to understand our own societal systems, and they make mistakes, so whenever you're dealing with translations, you need to have a very broad perspective and go beyond the meaning of just one word when you're assessing a situation.

The Chair: Are there any wrap-up comments anyone wishes to make?

Mr. Phil Nagy: I have one brief comment on the issue of church involvement. We've had about ten people or families approach us in the last few years about sanctuary, and in the other nine cases we found other avenues for them to deal with their situations.

The Chair: Thank you.

Go ahead, Mr. Allen.

Mr. Stephen Allen: Will this committee be recommending that the appeal process be implemented?

The Chair: At the end of the day, of course, we will write a report, and the committee will sit and consider what you've told us. Until we meet, I don't believe that I can say on behalf of the committee whether we will make that recommendation, but I can tell you that most of the committee members from whom I've heard on this matter are very sympathetic to it.

Ms. Meili Faille: The private member's bill is coming up in December, so there will be an opportunity to speak about that.

The Chair: Yes.

Ms. Nicole Demers (Laval, BQ): A good opportunity for you guys to do that.

The Chair: I want to thank all of you on behalf of the committee for your presence here today and for sharing your experiences. Your

stories were very intriguing. Hopefully our committee can make some recommendations and incorporate some of your stories in our recommendations.

Thank you.

The meeting is adjourned.

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