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# Standing Committee on Citizenship and Immigration

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**Tuesday, April 8, 2008**

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**Chair**

**Mr. Norman Doyle**

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Tuesday, April 8, 2008

•(1305)

[English]

**The Chair (Mr. Norman Doyle (St. John's East, CPC)):** The committee will now come to order. We will start our meeting.

I want to welcome here today Stan Raper, who is national coordinator of the agricultural workers program in the United Food and Commercial Workers Union.

We want to welcome as well the Canadian Association of Professional Immigration Consultants. It's good to have you here. We have Philip Mooney, national president, and Alli Amlani, president of the Ontario chapter.

From the Chinese Canadian National Council, we have Victor Wong, executive director.

Welcome to all of you. We have an hour, from one o'clock until two o'clock. I believe you are familiar with how the committee operates. You are given about a seven-minute opening statement, and then we'll go to questions and comments.

Mr. Raper is first.

**Mr. Stan Raper (National Coordinator, Agricultural Workers Program, United Food and Commercial Workers Union):** Thank you for the opportunity to address the committee today. We have been before this committee in the past, and we appreciate the opportunity for you to hear our concerns again.

For the last roughly 10 years, the United Food and Commercial Workers Union has been in the forefront of advocating on behalf of temporary foreign workers, primarily in the agricultural sector. We currently have eight centres across the country, from B.C. to Quebec. The services we provide are free to seasonal agricultural workers and temporary foreign workers.

We do a number of different services on their behalf, which include English as a second language, French as a second language, health and safety training, and know your rights advocacy and training. For example, last year our eight centres received more than 30,000 phone calls from individual seasonal agricultural workers and temporary foreign workers.

We are primarily a trade union; therefore, one of our main initiatives is to unionize, organize, agricultural workers, foreign or domestic. We have currently a number of legal challenges before different provincial governments, in Quebec, Manitoba, and Ontario regarding the right to be able to unionize agricultural workers from Canada or foreign countries. In most cases, primarily in Quebec and

Ontario, those rights have been denied both to Canadian workers and to foreign workers.

We are challenging, using the Charter of Rights and Freedoms, in Quebec and Ontario. Our legal appeal in Ontario will begin on May 20 before the Ontario Superior Court, which follows on behalf of the Dunsmore decision that came out of the Supreme Court of Canada.

We will be using the B.C. health care Supreme Court decision as part of our argument, which clearly states that the freedom to associate under the Charter of Rights and Freedoms not only is a right, but also, attached to that, the right to bargain collectively needs to be applied to that right in the provinces.

The case we bring before Ontario will be the first following the B. C. health care workers decision. So we're expecting a positive result from that, which will force the provincial government to change the law in Ontario.

We were successful in another legal challenge in Ontario around the occupational health and safety rights of agricultural workers. For the last 27 years, every other worker in the province of Ontario was covered by the Occupational Health and Safety Act, but not agricultural workers. We prepared a Charter of Rights and Freedoms argument before the Ontario courts. The Liberal government declared it was going to move in support of agricultural workers to be covered under the act.

Currently, as of June 2006, that law is in effect. For the first time ever, agricultural workers—Canadian and foreign agricultural workers in Ontario—are covered under that act.

There's still a lot of work to do in that area, but we feel confident that the steps taken to date will continue to move in a positive direction.

Another statistic in our legal challenges is with regard to the Employment Insurance Act. Seasonal agricultural workers under the temporary foreign worker program are denied the premier benefit of the employment insurance program. Because they are non-residents, when they are laid off they are not entitled to collect the premier benefit.

However, we did start a legal challenge in that direction. The federal government fought us for three years on standing, saying we didn't formally represent seasonal agricultural workers. We argued that it was illegal to represent them; therefore, the best representation we could present was through our centres and the advocacy we did.

The Ontario court did recognize that and provided us standing. We withdrew, due to costs and other considerations, after the standing agreement was won.

At our centres in support of seasonal agricultural workers we have been able to secure parental benefits on behalf of seasonal agricultural workers through the unemployment insurance program. Most of the \$22 million that we have secured for seasonal agricultural workers in the last five years has been under the parental benefits program. That way, when seasonal agricultural workers have finished their contract, they can actually go back to Mexico, Jamaica, Thailand, or wherever, and take care of their newborn children and collect unemployment insurance in the sending country. That is one of the main reasons we withdrew our legal challenge.

In regard to lobbying, we have been very vocal and very forceful in our lobbying efforts, not only with provincial governments, municipal governments, and the federal government, but we've also done numerous presentations in Mexico, Jamaica, and Barbados, encouraging sending countries to lobby the federal Canadian government to make appropriate changes to the program and to actually start to advocate and lobby for appropriate changes to the program to secure basic human rights and labour rights when they're in Canada.

You can see from our speaking notes and other materials we've provided to the committee a number of documents, including *The Status of Migrant Farm Workers in Canada 2006-2007* and every... [Technical difficulty—Editor]

Recommendations and points we would like to highlight include an appeal process for repatriation of workers. Currently workers have been repatriated within 24 hours, unable to even document their complaints. It becomes a huge problem. They're usually put on the first plane. They include sick and injured workers and workers who are trying to advocate for their own rights. Talking about housing conditions or other things means employers can repatriate them for just about any reason under the sun.

As well, there are arguments around freedom of association, bargaining collectively at the provincial government levels, equal pay for foreign workers compared with Canadian agricultural workers, and housing conditions. Monitoring and enforcement has been passed down from the federal government to the provincial government to the municipal government, and now to the consulates, where little enforcement and monitoring, if any, is going on.

We advocate that there should be some residency. That they're employed in Canada year after year without having a path to status, some of them for as many as 27 or 28 years, is discriminatory and wrong.

The practice by employers of retaining documents is illegal. We're currently working on a human rights complaint in Quebec, and the commission will be issuing a statement within the next couple of weeks.

• (1310)

**The Chair:** Can I just interrupt you there?

**Mr. Stan Raper:** Sure.

**The Chair:** You've gone into about eight and a half minutes. In the interests of time management, and since I'm always getting a rough time from my own committee members here because they don't have time to interact with you afterwards, perhaps I'll just interrupt you there. Maybe you can make some of your points in the question and answer period.

**Mr. Stan Raper:** I would appreciate that. Thank you.

**The Chair:** Thank you, Mr. Raper. I'm sorry about that, but we have to manage time.

Mr. Mooney, you have seven minutes.

**Mr. Philip Mooney (National President, Canadian Association of Professional Immigration Consultants):** Thank you very much, Mr. Chair.

I represent CAPIC, the largest association of authorized immigration consultants in Canada. Every year our members help tens of thousands of individuals come to Canada, to study, to visit, to live or work. We also assist those inside Canada to exercise their rights before the federal tribunals, such as the IRB and IAD. At the end of most processes, we happily help them apply for Canadian citizenship.

In our presentation today, we'd like to offer our understanding of the sources of undocumented workers, to offer practical solutions that can be implemented immediately, and to sound a warning about the future.

What are the sources of undocumented workers? We need to understand the sources, because the remedies will be different in each case. We believe that undocumented workers come in four main streams.

First, we have individuals who have come to Canada and claimed refugee protection and, in the process, have exhausted their appeals. Rather than leave Canada, they go underground.

Second, we have individuals who enter Canada illegally, bypassing inspection at ports of entry, or who gain entry through the use of fraudulent documents.

Third, we have a growing group of individuals who are allowed to be in Canada but who cannot work. This group includes the children of individuals who have valid work permits; inland spousal applicants waiting for approval in principle; spouses of work permit holders, where the work permit itself does not allow them to work; and some individuals who are caught up in the long processing delays involved in the issuance of work permits.

Fourth, and probably the most typical, are individuals who have entered legally but who are now working after their status in Canada has expired, due to a variety of factors.

What are the solutions for each type of case, in our opinion? In the first case, namely, failed refugee claimants, the answer is very clear. They have had the benefit of being able to state their case many times and will not be forced to leave Canada until it has been determined that it is safe to return to their home country. We can endlessly debate how to change the refugee determination system and process, but we must respect the rules of the system while those discussions occur.

In the second case, that of illegal entries, these individuals have demonstrated that they do not respect Canadian laws, and they may even be a threat to our national security. The government must ensure that sufficient resources are available to deny entry to those who try and aggressively pursue those who get through. Even in the sad cases involving human smuggling, where the entrants are more victim than participant, these individuals also have access to Canada's refugee system and agency processes.

The third case, that of individuals who are in Canada legally but are barred from working, is rarely talked about, but it's a growing problem as more temporary foreign workers come to Canada with their families. Parents of a 16-year-old high school student are asking why their children can't work at McDonald's, especially given the recent evidence from high-profile events in major cities of gang activities and what happens to youth who have too much time on their hands. Further, those who work anyway are at severe risk of exploitation, as their parents' right to work in Canada could be at risk if the young worker complains about wages or working conditions.

For the in-Canada class applicants in the spousal class, the wait to be able to work has increased substantially in the last few years, and if their cases are referred to local offices, their cases can stretch to two to three years, adding substantial hardships for the families.

The obvious remedy would be to make all of these individuals eligible for work permits at the time of application for permanent residence or at the time of entry for work permit holders. We have proposed such remedies for several years now, and after discussions at the highest levels of HRSDC and CIC—some occurring as recently as last Friday—we have not been able to effect a change.

Finally, there is the issue of those undocumented workers who entered Canada legally but who stayed and worked illegally. We maintain that one of the principal causes of this is the lack of responsiveness of Canada's immigration system to the urgent needs of employers. The minister herself has confirmed this assessment in her recent justification of Bill C-50. Where there is an urgent and overwhelming demand, market forces will seek to meet that demand. Conversely, if there were no work, there would be no undocumented workers.

The solution in this last category is to have employers offer employment to those working for them without documents, using current procedures. Applications for work permits would then be sent to the home countries of the workers to enter at the back of the work permit queue—not the permanent resident queue—and if there were no security or health concerns, workers could obtain work permits without the need to leave Canada. Of course, individuals who had criminal records would not be allowed to stay or re-enter. Applicants would receive an automatic minister's approval to re-enter Canada.

• (1315)

In this first instance only, and save for the next 12 months, the length of overstay would not be a factor. After that date, the time limit for regularizing the status of such individuals would be set, perhaps at 12 months after their original status expired instead of the current three-month period. This would deal with the problem on an ongoing basis.

The other need is to reduce complexity and eliminate unnecessary bureaucratic complications by amending the regulation that requires that HRSDC approve all jobs. This would effectively exempt all occupations where the demand clearly exceeds the supply. This concept is already being proposed by HRSDC to deal with the situation in western Canada.

Finally, what about the future? As serious as this problem has been in recent years, in our opinion it's about to get much worse, according to the studies by the Bank of Canada, the Conference Board of Canada, and the science of demographics.

CIC has recently implemented a new program allowing employers to bring in unskilled workers for two years, following which the workers must return to their home countries for four months. It is not unreasonable to presume that some of those workers will seek a way to stay in Canada, rather than leave when their work permit expires or if they should suddenly lose their employment.

CIC steadfastly refuses to consider any program that would allow these workers to have a path to permanent residency, including refusing to include them in the new Canada experience class, which will be introduced later this year. Instead, they prefer to simply hand over the problem to the provinces.

We believe that Canada must have a single program with well-understood rules, rather than a patchwork of different programs. Failure to have one will inevitably make the problem of undocumented workers much worse in the years to come. To let you know where the hands of the clock are on this ticking time bomb, the first individuals who gained entry through this program will have their work permits expire in the next six months.

We would also like to bring one very serious concern to your attention. The Immigration Act has severe penalties for employers who hire illegal workers, even though, because this is Canada, the provisions are rarely enforced. However, if an employer actually assists a worker to gain the proper documents but then refuses to comply with the terms of the agreement—even such things as the rate of pay—the worker has no recourse whatsoever to any remedy except the civil court. We're seeing more and more cases of such abuse.

Finally, our members, being professionals in the business and involved on a day-to-day basis with all of these issues, would like to offer a helping hand to any other group concerned about the issues before this committee by way of volunteering their knowledge of the immigration system to advise and assist these groups to better serve the needs of their constituents.

In our experience, a lack of detailed understanding of the current system can cause possible remedies to be missed while groups focus on proposing impossible means to achieve unattainable results.

Thank you for your time.

• (1320)

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

Now it's to you, Mr. Amlani.

**Mr. Alli Amlani (President, Ontario Chapter, Canadian Association of Professional Immigration Consultants):** The purpose of my being here for CAPIC is to answer questions. Thank you.

**The Chair:** Thank you.

Mr. Wong.

**Mr. Victor Wong (Executive Director, Chinese Canadian National Council):** Good afternoon, and thank you, Mr. Chair.

The Chinese Canadian National Council is the community leader for Chinese Canadians in promoting a more just, respectful, and inclusive society. We are a national non-profit organization with 27 chapters across Canada, and our mandate is to promote the equality, rights, and full participation of our community members in all aspects of Canadian society.

As a national human rights organization, we believe that legislation and public policies must reflect the humanitarian and social justice values that are commonly shared by Canadians and that such policies should enhance the ability of everyone, including temporary foreign workers and others without permanent status, to make an important contribution to this country.

According to the 2006 census, there are more than 1.3 million Chinese Canadians, and we are the second largest racialized community in Canada.

Our community is diverse, with a rich though sometimes tragic history spanning our 150 years of continuous community in this country. Our community has been subjected to racist immigration legislation in the form of the Chinese head tax, the Newfoundland head tax, and the Chinese exclusion act. We have also been subjected to various exclusionary policies, programs, and practices at the local level. It is our direct experience with exclusionary immigration legislation that guides us in formulating some suggestions for your consideration.

Immigration should be central to a nation-building agenda. So far, our approach to immigration has been less than inspiring. We seem to be working around the edges to solve our problems. We need to be more visionary. There are three key words that could guide us in our strategic vision: nation, dignity, and choices.

We're currently moving down the wrong path. Immigration is not about filling labour market shortages with just-in-time labour. CIC is not a temp agency. We should be building a nation of active citizens. Temporary foreign workers and non-status residents deserve real choices that include a clear path to permanent status and citizenship.

There are about 120,000 temporary foreign workers in Canada, and this number is on the rise. Unfortunately, we have not provided support to this group of workers, who are vulnerable to exploitation by unscrupulous employers, landlords, and others. Last year, two temporary foreign workers from China died and four others were injured in an industrial accident in Alberta. Another group of temporary foreign workers from China complained about the excessive fees charged by a consultant hired by Maple Leaf Foods, based in Manitoba.

Temporary foreign workers are at risk through precarious work. They experience the impact of family separation, not unlike the Chinese who were separated from their loved ones during the Chinese exclusion act period. Their tenure in Canada is tied to the terms and conditions of their visa, and there will be an impact if they change their employer or get sick or injured and cannot work.

So our first recommendation is that the settlement programs that CIC funds should be available to temporary workers, international students, refugee claimants, and non-status residents.

Some temporary foreign workers experience barriers to permanent status and citizenship. The Canadian experience class only targets international students and higher-skilled workers. It excludes the lower-skilled workers. Are these people not worthy to become Canadians?

As Canada ramps up its reliance on temporary foreign workers to meet labour market shortages, we run the risk of turning our two departments, CIC and HRSDC, into one big temp agency. We should be nation-building instead.

• (1325)

So our second recommendation is that there should be a clear path to permanent status and citizenship for all temporary foreign workers.

With regard to non-status residents, there are anywhere from 50,000 to more than 200,000 residents without status in Canada. They include people who have overstayed their tourist visas and refused refugee claimants who have exhausted their legal avenues.

Not everyone stays in Canada. Actually, only those with the strongest desire choose to stay in Canada. They are left in a situation where they cannot get a driver's licence, credit card, OHIP card, or apply for a bank loan. They live at the margins of our society. The enforcement of removal orders is ad hoc, expensive, disruptive, and only serves to amplify the unfairness in the system. We need a comprehensive regularization program.

Former Conservative MP, the late Douglas Jung, was instrumental in convincing the Diefenbaker government to introduce the Chinese adjustment program, which allowed thousands of “paper sons” to regularize their status in Canada. In 1994, Liberal Minister Sergio Marchi introduced the deferred removal orders class, DROC, which allowed refused refugee claimants who had not been removed three years after they had exhausted their legal avenues the opportunity to make application for permanent status. This was the last comprehensive regularization program. Of course, there have been a couple of smaller-scale initiatives involving the Somalian and Algerian communities.

Our third recommendation is that we need a comprehensive regularization program, one that offers a clear path to legal status and citizenship. Such a program could be based on residency in Canada—for example, three years of residency. Non-status residents with less than three years residency should be able to apply for a work visa to acquire the three-year residency requirement.

Finally, we would recommend that removal letters still be issued, but that the CBSA refrain from initiating deportation actions, which involve arrest, detention, and forced removal from Canada. Applicants for this program would still undergo the usual medical, security, and criminal checks.

I'd like to make a couple of comments on Bill C-50. The proposed immigration changes in Bill C-50 will not adequately address the backlog unless the immigration targets are significantly increased. Over the last three years, Canada has received an average of 250,000 immigrants with the existing complement of staff resources.

There are disparities that exist in the visa offices. For example, an applicant from the U.S. might wait one year to have his application processed, while the same applicant from China, India, or Pakistan may have to wait three years or longer. Those disparities need to be addressed. The \$22 million in extra resources allocated in the last budget to address these disparities should be properly allocated to resource our visa offices. That said, we are within our target of accepting 250,000 immigrants every year. Therefore, the extra staffing resources will not reduce the backlog unless you significantly increase the target range in the 2008 immigration plan.

Our fourth recommendation is to suggest that the government increase the immigration target range from the existing 240,000 to 265,000 to a range of 300,000 to 330,000, which is 1% of the Canadian population, in order to address the backlog.

• (1330)

The other thing is that CIC has not issued a revised operational plan, nor has it provided a transparent update on the impact of the proposed changes in Bill C-50. If there's no increase in the immigration targets, then how will these changes impact on the numbers for the various categories—economic, family class, refugees, temporary foreign workers, and students?

**The Chair:** Maybe you could sum up—

**Mr. Victor Wong:** I'll just give my last recommendation.

The government has had more than three weeks to properly advise Canadians of the impact of these changes.

Our final recommendation is that the government should withdraw the amendments in Bill C-50, the amendments to IRPA, and it should instead issue a proper discussion paper and organize community hearings before drafting legislation.

Thank you.

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

I have four rounds of seven minutes each.

I'll go to you, Mr. Karygiannis.

**Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.):** Thank you.

Welcome to the great riding of Scarborough—Agincourt.

Mr. Wong, you brought some facts and figures, especially for the Chinese migrants. You also mentioned that we should take a look at and examine Bill C-50 very carefully.

I'm just wondering, sir, if you are familiar with the timeline for waits and the increase in that timeline, especially in Beijing and Hong Kong in the last two years.

**Mr. Victor Wong:** There are longer and longer waits in Beijing. I don't have it off the top of my head, but it's posted on the CIC website.

**Hon. Jim Karygiannis:** Let me share this with you. Since the Conservatives took office, the overall timelines in the Beijing office increased by 48%, while the amount of applications decreased by 41%. There was less intake, but in the first two years the wait times increased by 48%. Last year, in 2007, there was an additional increase of 20%. This is in Beijing alone, while the applications have dropped.

I was wondering if you'd like to comment on that.

**Mr. Victor Wong:** Obviously, the government needs to address this kind of resource issue. I don't know the administrative reason for the increase in the timeline. If it's an issue of resourcing, that's what the \$22 million was supposed to be used for.

**Hon. Jim Karygiannis:** But it certainly didn't address it, did it?

The amount of cases dropped by 41%.

**Mr. Victor Wong:** Yes, I know.

**Hon. Jim Karygiannis:** So you have a 41% decrease in the applications going in and you have a 48% increase in the length of time it takes.

Does that, to you, address the timelines? Do you include fairness? Does it tell you that the government knows what it's doing, especially in the office in Beijing?

**Mr. Victor Wong:** Obviously they need to do better, and we need to see how they're going to concretely address the backlog and these timelines.

**Hon. Jim Karygiannis:** Beijing is the worst offender.

•(1335)

**Mr. Victor Wong:** Well, I want to look forward this year, and to the next year and the year after that.

**Hon. Jim Karygiannis:** Sir, this year there's an additional 19.67%. Does that tell you that maybe the Government of Canada today, the Conservative government, is saying to the Chinese you need not apply?

**Mr. Victor Wong:** Well, I can't draw that conclusion because I don't have all of the facts and figures in front of me.

**The Chair:** Mr. Mooney wanted to make a comment.

**Mr. Philip Mooney:** Just to add a little clarity to the situation, the reason you can have less intake and longer processing times is that the government has prioritized the backlog. They've actually done what they're proposing to do, or think they need to do. If you understand the immigration system, when IRPA started, it was first in, first out, and you applied as a skilled worker. Subsequently, the government came and said, wait a minute, it's taking us too long to process spouses and children—

**Hon. Jim Karygiannis:** Mr. Mooney, I appreciate the lesson; however, one is not needed.

**The Chair:** Let Mr. Mooney finish his thought.

**Mr. Philip Mooney:** Then they said that individuals who were nominated by provinces had first priority. Then they said the same for the individuals who had arranged employment in Canada. All you have to do is look at the scope of applications in China to realize they have a much harder time accessing the Canadian labour market, as they have a greater proportion of regular skilled workers. If they had a whole lot of regular skilled workers who were being—

**Hon. Jim Karygiannis:** Does that mean that people applying out of China are less qualified to come to Canada?

**Mr. Philip Mooney:** No.

I'm not defending anything. I'm just saying that by processing priorities, by saying that we're going to give everybody first chance ahead of them on the list, and continually moving more and more people in front of them, it just means that processing times get longer and longer.

**Hon. Jim Karygiannis:** Mr. Mooney, you're an immigration practitioner, right?

**Mr. Philip Mooney:** Yes.

**Hon. Jim Karygiannis:** How long have you been practising?

**Mr. Philip Mooney:** Nine years.

**Hon. Jim Karygiannis:** I've been a member of Parliament for 20 years, and my intake on immigration is very heavy.

**Mr. Philip Mooney:** I understand.

**Hon. Jim Karygiannis:** So thank you for the lesson; it's not one that's needed.

**The Chair:** Order, please. I'm not going to tolerate that kind of aggressiveness toward our witnesses, please. If you're asking a question, please ask it to the witness and give the witness—

**An hon. member:** [*Inaudible—Editor*]

**The Chair:** Order while I'm speaking.

Please give the witness a chance to answer the question. The witnesses came here today with that in mind, so I think we need to respect their right to speak and to make their views known.

Mr. Karygiannis.

**Hon. Jim Karygiannis:** The processing times have increased by 48%; that's a given. This is under the old system, not under the proposed Bill C-50. The intake has decreased by 41%.

**Mr. Philip Mooney:** You understand, Jim—I'm sure you do, because you've been in the system long enough—how CIC reports processing times. They report the average processing time. If they only have 10 cases, the average is eight cases; if they have a million cases, the average is 800,000 cases. So really, they're not processing actual processing times; they're saying on average, the cases that we have been processing are taking this long.

It's like driving down the 401 looking in the rear-view mirror and trying to steer. It's okay if the lanes go straight and there's no traffic in front of you, but it sure as heck doesn't help you drive down the 401. That's exactly what it is.

All I'm saying is that what's going to happen, in our opinion and in our position on Bill C-50, is that those same people who have been waiting in line and have seen their processing times—we have clients in many visa posts—get longer and longer, not because there are more people who are the same as them, but because other people keep butting into the front of the line.... They keep being moved in front, and now we're going to have a whole class of CEC people moved in front of these people. Then we're going to have all these files the minister wants to bring out of the backlog, because they're needed, move in front of the same people. We're going to get processing times of 10 years and 15 years.

**Hon. Jim Karygiannis:** I appreciate that, but until now it's been first in, first out.

**Mr. Philip Mooney:** No, not in the last four years. It has not been first in, first out.

**Hon. Jim Karygiannis:** The minister says it's first in, first out. Is she misleading us?

**Mr. Philip Mooney:** If everybody is an orange, it's first orange in, first orange out, but they've brought the peaches in front of the oranges, the pears in front of the peaches, the apples...and they haven't even come to all the fruits yet.

**Hon. Jim Karygiannis:** Mr. Mooney, if you have evidence that they're manipulating the figures and moving things around, I certainly would like to receive it. What I am receiving on an everyday basis from the posts, as well as the case processing centres in Canada, is that it's first in, first out.

I don't know where you get your figures, sir. On a daily basis, I get 15 or 20 emails back: first in, first out. I see Mr. Amlani agrees with me. It's a 48% increase in Beijing and a 41% decrease in intake time.

**The Chair:** A brief response from either of you is in order. Go ahead and respond, and then I'll go to Mr. St-Cyr.



If you want to respond, Mr. Mooney, please feel free to.

**Mr. Philip Mooney:** Again, they're very public in what they say. Don't forget we deal with cases on an average basis. Every call I get from any client I've ever filed an application for says, "How come it's taking longer and longer?" I have to try to think of a reason. But if you think of the issue that says we're not allowing any more in and we have new people applying, then why are some people getting through so much faster than others?

CIC is very clear: if we get an arranged employment opinion for a client, they go from the back of the list to the front of the list. If the provinces say, "We want Jack", he goes even ahead of my clients. If they now want someone who, let's say, gets a job offer in Canada, they come here right away, and then their application is moved to the front of the line. This is procedure; it's in their operations manual.

It's a growing percentage, which is now up to somewhere in the order of 30% to 40%.

• (1340)

**The Chair:** Mr. St-Cyr, you have seven minutes, please.

[Translation]

**Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ):** Thank you, Mr. Chair.

Thank you all for being here.

I have a few brief questions. Mr. Wong, in your presentation, as I understand it, you invited us to remove the provisions relating to immigration from Bill C-50. Mr. Karygiannis then said that you had said this needed further study.

Do you think that we have enough information at this point to remove the provisions now or does this need further study?

[English]

**Mr. Victor Wong:** Thank you for your question.

I think what the government should do is withdraw the amendments to IRPA that are in Bill C-50. They should issue a proper, separate discussion paper—we did it in the past, we'd have a discussion paper on immigration—and then bring in the legislative changes that they propose.

[Translation]

**Mr. Thierry St-Cyr:** This week, probably tomorrow, we will have to vote on a motion to remove the immigration clauses from Bill C-50. Would you encourage us to vote to remove them and then do a more comprehensive study of the entire process?

[English]

**Mr. Victor Wong:** Yes.

[Translation]

**Mr. Thierry St-Cyr:** Mr. Mooney, what is the difference between your association and the Canadian Society of Immigration Consultants? What is the connection? Do you have the same membership?

[English]

**Mr. Philip Mooney:** Membership in CSIC is mandatory; they're the regulator. The best analogy I can give you is the law society and the bar association. Membership in CAPIC is not mandatory, but

we're the lobby group. We like to say that CSIC is our policeman and CAPIC is our family.

[Translation]

**Mr. Thierry St-Cyr:** I understand very well, because, for example, engineers have the same kinds of associations. If I understand correctly, all your members are also members of CSIC, but not all CSIC members are necessarily members of your organization.

[English]

**Mr. Philip Mooney:** Yes, that's correct.

[Translation]

**Mr. Thierry St-Cyr:** Thank you.

Mr. Raper, in your leaflets about unionizing, you explain that in Quebec, unionizing is forbidden if the agricultural operation closes down during the winter. I am amazed; this is the first time I have heard that.

Even if you oppose that measure, do you know the reasons why seasonal workers are denied the right to unionize?

[English]

**Mr. Stan Raper:** Under the labour relations act in Quebec, if there are not three or more full-time employees on an agricultural operation, they are not covered under the act; therefore, seasonal agricultural workers have no right to unionization in the province of Quebec. Seasonal agricultural workers aren't covered; greenhouse operations are.

We filed for three applications in Quebec in 2006. One was accepted by the labour board. That was a greenhouse. The two field crop operations were denied; we're currently in the labour board and the courts in Quebec, arguing that they're in breach of the Charter of Rights and Freedoms around association.

I'd also like to point out that in the package we gave you is an affidavit from a seasonal agricultural worker who has been basically told that he will not receive a visa this year. He is the leader of our unionizing operation at the field crop operation, and he's been denied his visa to come back to Canada this year.

• (1345)

[Translation]

**Mr. Thierry St-Cyr:** I read that, and it is very disturbing, very worrisome. I would like to get more details regarding employment insurance. You say you have been given leave to go to the Ontario Superior Court on the question of mandatory payment of employment insurance premiums.

What is the situation at present? What changes are you asking for, exactly?

[English]

**Mr. Stan Raper:** Basically we argued that all temporary foreign workers pay into the employment insurance program and therefore should be entitled to the premiums they should be eligible for.

Unemployment insurance has denied temporary foreign workers from other countries, the sending countries, because of their residency status. I would point out that under the unemployment insurance act, American citizens can receive unemployment insurance benefits because the act was altered 20 years ago to include U.S. citizens. They are able to collect the premium, even though they're non-residents.

[Translation]

**Mr. Thierry St-Cyr:** Are you asking for foreign workers to be entitled to benefits if they lose their jobs, or are you asking that premiums stop being collected because they are not entitled to employment insurance?

[English]

**Mr. Stan Raper:** No, we are advocating that these workers should continue to pay into a program that provides them the full benefit of what is entitled to them. We argue that the non-residency requirement is discriminatory against sending country workers, and also that these premiums could be prorated in regard to seasonal agricultural workers. But they are entitled to sick benefits and parental benefits; therefore, we have withdrawn our legal challenge, because the number of parental benefits has skyrocketed through our offices because of our work.

[Translation]

**Mr. Thierry St-Cyr:** The \$22 million in benefits that have been recovered, that you refer to, those are parental leave benefits. Is that right?

[English]

**Mr. Stan Raper:** It is that, and workers' compensation and other civil action suits that we have taken on behalf of injured, killed, or lamed seasonal agricultural workers throughout the country.

**The Chair:** Thank you.

Madam Chow, for seven minutes, please.

**Ms. Olivia Chow (Trinity—Spadina, NDP):** Mr. Wong, there has been a lot of discussion about wait times. There is a proposal in front of Parliament right now, about to be voted on tomorrow at 5:30, Bill C-50. Basically, there are already 900,000 people on the wait list. That bill does not actually deal with the 900,000 people who are on the wait list; it deals with whoever comes after the bill's introduction—February 27, I believe.

Do you think it would really reduce wait times, from what you've said? Without the funding, the \$22 million, the existing funding has basically dealt with the target of 250,000, so far. Unless the target is expanded to somewhere from 300,000 to 330,000, then really the wait times, especially for families, especially from Beijing, for example, will not decrease. In fact, they may increase.

Am I correct in that assumption? This is subject to a big debate as to whether it would increase or decrease.

**Mr. Victor Wong:** It is our position that unless you increase the target range, you will not substantively decrease the backlog, because we are already processing 250,000 applications every year with the existing staffing resources.

It would be good to get some allocation of resources to those visa offices where the wait times are too long. The wait times are too long

in some visa offices, so if they can get some visa officers there to address those disparities, it would be helpful. But overall, with your existing plan—I have the annual report of 2007—it has 240,000 to 265,000 in the targeted range for 2008. Unless you increase this range, you cannot address the backlog. The backlog will just stay, because you have the existing complement of staff bringing in 250,000 every year, and they've done that for the last three years.

• (1350)

**Ms. Olivia Chow:** Right.

On your fifth recommendation, you ran out of time. Can you describe how you came to that recommendation?

**Mr. Victor Wong:** There's a lack of transparency with what's happening with Bill C-50. The legislation was tabled late on a Friday afternoon. The government has had three weeks to advise Canadians of the impact of these changes. The minister talks about adjusting categories, and so on. Well, you can start with your 2008 plan. You have all these categories with different ranges and different numbers. How will Bill C-50 change this plan on a go-forward basis?

In the best scenario, that these changes are great, they will be easily implemented, and there will be a smooth transition, what will be the change? Who will be the winner? Who will be the loser?

I think we deserve an answer on that. The government hasn't provided those answers, so they've left themselves open to this current climate of mistrust from some of the community groups that are concerned about the possible impact of C-50.

**Ms. Olivia Chow:** Is it for that reason that you hope the bill will not pass on Wednesday at 5:30 or 6?

**Mr. Victor Wong:** Yes. We recommend that the government withdraw the amendments to Bill C-50, instead issue a proper discussion paper, and then organize community hearings before drafting legislation. This has been the process when we made changes to immigration law in the past. You don't stick it into a budget implementation bill and then pass it.

I would urge all parliamentarians to bring that back to their caucuses and hope that the government will withdraw those amendments.

**Ms. Olivia Chow:** In connection with the temporary foreign workers program, one of the problems with the point system is that it does not really give many points to people who don't have a degree and cannot speak fluent English. As a result, many of the employers have to go through the temporary foreign worker route.

It wasn't always like that, by the way. In the early 1990s and all through the 1980s there were A, B, C, and D categories, and people were coming in all categories. Now it's mostly stacked on the A and B categories, the people with degrees.

Until we actually fix the point system so that we can have all skill sets and not just those with degrees, whether it's construction workers or farm workers we need to be working here, we will forever have temporary foreign workers coming in and then having to leave, and some deciding not to leave and filing for refugee status and clogging up the entire system. It's not going to work very well.

I know we're not really talking about a point system, but it's hard not to talk about a point system. Do any of you have any recommendations on that front?

**Mr. Philip Mooney:** If I may, Mr. Chair, we've recommended that clearly the weaknesses in IRPA are exactly that. They've gone to something called the human capital model. The human capital model says that the better educated the people are who we bring in, the more likely they are to adjust to Canadian life.

That was a philosophy of the nineties. I know what a decadal philosophy is; I was a child of the sixties. Well, this was a philosophy of the nineties, and it unfortunately didn't take into account the fact that the world is made up of all kinds of people, and when you hit the demographic problem, it applies to all skills and not just high skills.

What we've proposed to both Immigration and the CEC, where we've had extensive consultations, is that they simply take work experience in lieu of either education or language, meaning that if someone comes to Canada with fluent English and a good job, they're a permanent resident right away. If someone comes with no English and a reasonable job, maybe it's three years, maybe it's five years, but they're given points for every year they legally stay in Canada, work in Canada, and contribute to Canada.

The way the current system is.... I have client chefs from southern India who start working at age eight. By age 30 they are the best south Indian cuisine chefs in the world. We bring them into Canada. They've never spoken a word of English. They create jobs for five Canadians for every chef, but it is impossible for those individuals to ever become Canadian permanent residents unless they're lucky enough to find a Canadian girl to marry.

• (1355)

**Ms. Olivia Chow:** That's another story.

**Mr. Philip Mooney:** The point system does not address what we'll call—I shudder at the words “human capital”, because that says people with low skills aren't human.

What we need is a “capital” model. Frankly, with regard to Bill C-50, we've had extensive consultations on the CEC. We had no consultations on Bill C-50, and I'm talking about the CBA, our association, and AQAADI in Quebec. Last week we asked the senior diplomats in CIC why there was no consultation; the answer was, because there wasn't.

**The Chair:** Mr. Wong, I'm going to allow you to have a brief comment, and then I'm going for seven minutes to Mr. Komarnicki.

**Mr. Victor Wong:** Canada was built by lower-skilled workers. My grandfather immigrated in 1912. He was a lower-skilled worker. He chose Canada. It took him 50 years to unite our family here due to the Chinese exclusion act.

I would ask members of Parliament to go back through their family trees. You're going to find that lower-skilled worker in your own family tree. They also chose Canada, most of them. Are they not deserving? I think they're deserving. You're deserving.

The Canadian experience class should be open to all temporary foreign workers, including those with lower-level skills.

Thank you.

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

Mr. Komarnicki.

**Mr. Ed Komarnicki (Souris—Moose Mountain, CPC):** Just to set the record straight, the vote is not going to be on Bill C-50 itself; it's with respect to the amendment to the bill. Obviously, the bill itself will go to committee, and there will be much discussion and much debate in the House. There have been a number of debates in the House, on Thursday and Friday of last week.

It's on the amendment to the bill, so it has a long way to go. It will go to committee as well, or to two committees, so there will be an opportunity to hear from people.

The other thing is to understand what this portion of the bill does. It will give the minister the ability to give instructions with respect to the issues you talk about. Of course, those instructions will have to be based on the broad principles the government has for policy and so on.

During the phase of determining what those instructions might be, there will be consultation with the provinces, consultation with the stakeholders—with various groups—before an instruction is issued. The instruction will not deal with individual cases; it will deal with general policy considerations that people will have input to.

What we're saying is, the way the system is right now is not working, and it can't continue on the path it has been on; there need to be some changes. It needs to be responsive, as many have said here, to the market forces, and what we have now lacks that responsiveness.

Certainly on the temporary worker side and of course the farm worker side, there needs to be a group that advocates on behalf of them. I know your group has done so. We need to look at that as an issue.

Of course, anyone who comes in properly or legally, as Mr. Mooney has said, brings a family with them, a wife or children. They need to have some ability to join the workforce. If you have a job and a family, you're likely to succeed and integrate into society. That's an area we need to look at very constructively, because if you bring somebody in, you want to have the family involved as well. So that's an area that needs looking at.

I think all of you have suggested that we need some path to permanent residency with what we have going in terms of the temporary foreign worker program. I think Mr. Wong mentioned there were 120,000 last year, and you're saying the Canadian experience class is maybe looking at that, but it needs to be broadened or changed.

**Mr. Philip Mooney:** Absolutely not.

**Mr. Ed Komarnicki:** Okay, but the fact is there needs to be some sort of legitimate path for that to happen. If you're taking in, let's say, 265,000 newcomers per year and you are taking another 120,000 in the temporary foreign worker group, if you want to call it that, and you have foreign students coming in to universities and we've given them the ability to work off-campus, and after they've been here a while they have the opportunity to make application for permanent residence, you now have not 260,000 but you are looking at a group, potentially, of 370,000 or 380,000 or 400,000 people for permanent residence.

I guess my question is, in addition to whatever we set for targets—and it could be 265,000, and you could argue that it should be higher or lower—if you're having the volume of other temporary workers coming in and you want to find a legitimate path, do you want to see them eventually become permanent residents in some sort of fashion that would add to that number?

Mr. Mooney, you can start, if you like. I guess you're on.

• (1400)

**Mr. Philip Mooney:** What I would say is that we're here to discuss undocumented workers. One of the causes of people staying in Canada is that the life here is so much better than that where they came from, wherever they came from and for whatever reasons. So you have to expect there's a demand to be able to stay in Canada.

If we don't provide them a legitimate way to meet that demand, they'll take an illegitimate way. It's fairly simple; I think we all agree with that. And they'll go to some extraordinary means to do it, especially if they have families here. I'll do anything for my family, and frankly, if it means breaking a few rules, as far as getting them to the hospital faster is concerned, I'll speed. If it means you're going to live and go to a hospital and have one that you might even get into, as opposed to starving to death, I'll be here.

We can't really state that a rule will keep men out, so we need a path to permanent residency to stop the undocumented part. What does an undocumented worker mean? It means that the worker and the employer are no longer good citizens of Canada. They're avoiding paying tax; they're avoiding all kinds of things. It starts winding up. So we really need to address the undocumented worker part.

I appreciate your comment on Bill C-50. If I could make a quick reply, it's to say that we have one problem with Bill C-50, and I believe it's because we're good Canadians.

We don't understand why anything has to be retroactive; why someone who applies, puts in an application, believes they've qualified, and at some point two years down the road—three years, four years down the road... At least they know, if they're waiting a long time, that their application will be processed.

What the bill does, absolutely, is give the minister the right to say no, we're not going to process your application; I'm going to hold it for another year and then I'm going to return it to you, and thanks very much.

**Mr. Ed Komarnicki:** But in fairness, the fact of the matter is that all those prior to February 2008 will be processed, one—

**Mr. Philip Mooney:** Absolutely, because the government lost a similar decision four years ago.

**Mr. Ed Komarnicki:** So you have them processed, and what you're doing now is saying, "We're going to realign the system so it's more responsive, it takes less time to come in, and those who do come in, come in faster and are able to integrate into our society."

You can disagree with the direction or not, but what it's attempting to do is that if you're going to have a fixed number, whatever that is, and if you're going to bring temporary foreign workers into that fold and that number is whatever it is....

I think last year we landed 429,000-plus people, the highest in a 100-year period of time, and if we're going to use the same process to bring them into permanent residence, that's a significant number. You should at least have the ability to—

**Mr. Philip Mooney:** I appreciate that. There are just other options that are not involved in taking away something you already get.

There are other options. There really are.

**Mr. Ed Komarnicki:** Right, but what we do know is that the status quo is not on.

**Mr. Philip Mooney:** No, absolutely. Problems are always there to be solved, not endured, and that's your job.

**Mr. Ed Komarnicki:** Exactly.

**Mr. Philip Mooney:** But there are different ways to solve those problems, and in this case, because there was no consultation except —

**Mr. Ed Komarnicki:** There will be.

**Mr. Philip Mooney:** We've been talking to the same ministry officials who proposed these things, for five years. Alli has been doing this for 30 years, talking to the same ministry officials, and this time, I think there's been an accident.

**Mr. Ed Komarnicki:** But at this point, we do have something that's very concrete that you can work on and discuss. We do have \$22 million a year that has been allocated to improving the system, including \$37 million going forward. These are constructive steps that are saying the status quo is not on, what's happening isn't sufficient, and we need to address it.

If you want to make input, there will be time for that when consultation begins with the provinces and with the stakeholders such as yourself.

Within the guidelines of what we're trying to do, we're saying we want to have input from you, but that's not what this is about. This is about giving the ability for change to happen, and it needs to happen fairly soon, because the budget will stand or it will fall, and that's in it, and the other parties have to decide whether they support it or not.

• (1405)

**The Chair:** Okay. I'm going to give Mr. Raper a chance. He's had his hand up for a while.

Go ahead, sir.

**Mr. Stan Raper:** I'd just like to make a couple of points in regard to the current stream and what's happening.

Employers drive the temporary foreign worker program. There are no quotas. As long as an employer applies, you can get as many as you want, as quickly as you want. So it's an employer-driven program.

What we're seeing from employers is the need for blue-collar workers, if I can call them that. So the temporary foreign worker program is expanding rapidly, with no quotas whatsoever.

The problem is that the points program doesn't recognize blue-collar workers. Therefore, they're out of the queue. They can't get into the queue. They don't qualify. So the federal government over the last couple of years has tried to develop little band-aid solutions around trying to fix that.

The PNP, the provincial nominee program, the economic class now that is being put in place, the high-skilled workers program, all those are, again, employer-driven programs. So employers are again seeking ways to address the problem, the broken system of the points program, through these three types of programs.

What we're saying is, recognize the problem. Employers need blue-collar workers. Change the points program so they can be identified and dealt with appropriately.

**Mr. Ed Komarnicki:** That's part of what we're about to do.

**The Chair:** Your time is up, Mr. Komarnicki.

We'll have a closing remark by Mr. Karygiannis, in whose riding we happen to be.

**Hon. Jim Karygiannis:** Thank you. I'm supposed to share my time with Andrew Telegdi, my colleague from Kitchener—Waterloo, because he didn't get a chance. However, it's nice to see that Mr. Komarnicki is finding religion and wants to move it into this committee. So, Mr. Komarnicki, I'll let you have a couple of words.

**Hon. Andrew Telegdi (Kitchener—Waterloo, Lib.):** Mr. Komarnicki? No, it's me. You mean Mr. Telegdi, not Mr. Komarnicki.

Mr. Karygiannis gets confused when he's in the great riding of Scarborough—Agincourt.

Let me just say, the system is broken, and when you look at it, in 2002, the bureaucrats—and let's not kid ourselves, it's not the ministers—

**The Chair:** Somehow the meeting got taken away from the chair, but anyway, go ahead.

We've gone overtime already and we have a panel, but go ahead, Mr. Telegdi.

**Hon. Andrew Telegdi:** It's the bureaucrats who drove the change in the points system that created a crisis. The system is not working. Now the bureaucrats say the system isn't working, so the way to fix this system is to give them total control. It's shameful what they're doing. They're saying, "Give us total control, and we're going to fix it." That's the problem.

In terms of the vote, for us to be able to debate Bill C-50, we're going to try to debate Bill C-50—

**The Chair:** No, we're not going there.

I'm going to stop this now. We were all gracious enough to give Mr. Karygiannis some extra time, because we happen to be in his riding, but that's as far as we go. We have a panel waiting.

Thank you, gentlemen, for being here today. Believe me, based upon your recommendations, we will be making recommendations.

Mr. Raper.

**Mr. Stan Raper:** I have just one point.

We heard from Mr. Solberg, the minister of HRSDC, last summer indicating he was going to commission a study for the federal government around temporary foreign workers. Has this committee seen that report or does it have any understanding of where that report is?

**The Chair:** No, I don't think we do. The parliamentary secretary can probably answer that for you after the meeting.

The meeting is suspended.

• (1405)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1410)

**The Chair:** I want to welcome to our proceedings today our second panel this afternoon. As an individual, we have Mario Bellissimo, certified specialist and barrister and solicitor; from the Canadian Auto Workers Union, we have Carol Phillips, assistant to the president, and Raj Dhaliwal, director of the human rights department; and we have Geraldine Sadoway of Parkdale Community Legal Services, and Abigail Martinez.

Thank you for being here today. I guess you're familiar with how the committee works, with seven minutes for your opening statements.

I'll start with you, Mr. Bellissimo.

**Mr. Mario Bellissimo (Certified Specialist, Barrister and Solicitor, As an Individual):** I'd like to thank the committee for the invitation and for the wonderful work it has undertaken on behalf of Canadians and future Canadians.

I provided a nine-page report, or speaking notes, which will be made available in a few days. The basis of the report is eight points, only a few of which I will have the opportunity to touch upon today.

One is, what is the definition of an undocumented worker? Two, is there a need for a program? Three, what are the public deterrence policy considerations? Four, what are the historical lessons? Having a two-tiered approach is number five, one being a permanent residency program and the second a temporary worker class program.

First I'd like to touch upon the definition of an undocumented or illegal worker. That definition is becoming more complex as time goes on. I've read with great interest the transcripts from many of these meetings, and I understand the familiarity with the term and the concept. I would add that we now have permanent residents who are losing status for various reasons and who are also going to fall into this category. The definition can lead to misconceptions, and it's a very complex one.

In terms of whether we need a program, I am guided by the words of Mr. Les Linklater, the director general of the immigration branch, who testified before this committee on February 25. He indicated that at the low end there are 80,000 to 120,000 workers who may find themselves—and other groups, I understand, are reporting as high as 500,000.... Mr. Robert MacDougall, the director general for the Canada Border Services Agency, indicated that currently there are 22,000 in the removal stream, 8% of whom are criminal or whose cases involve a criminal element, and their current budget on removals generally is \$23,000,433.

In 2005 I asked the committee to look at the Spain amnesty program and be guided by some of those terms. It's quite similar to what we may be undertaking here in Canada, and 900,000 persons were granted status under that program.

I need not highlight the acute socio-economic needs that have been spoken about by various members.

The other point that deserves mention is that we need to direct our finite resources concerning security and criminal sourcing to those who pose a security risk. It is a good public policy choice that we should consider.

What's important, in my respectful submission, is that any such program we embark on in this area must strike a balance, and not strike a balance just for stakeholders in the industry, but also for Canadians generally. There's a message we need to send, therefore: the first public deterrence policy consideration is that a responsive immigration system will be the greatest deterrent. A clear and transparent system will eliminate much of the abuse we are currently seeing.

There is considerable methodology surrounding what a skilled worker is. Many pay taxes; many are engaged; many openly work. To categorize them all as individuals who are not abiding by certain conditions is inaccurate.

Further, the life of an undocumented worker is not a lifestyle of choice. That is not to be lost on the committee. Many points of access—I know Miss Vilma Filici spoke about those today—that traditionally led to the entry of illegal workers have been closed by the requirements of visitor visas, better tracking, and enhanced technology. We need to develop a program for 2008, one that's not rooted in the problems and principles of the 1970s and 1980s.

As an historical lesson, there have been nine such amnesty programs. Obviously I do not have the time to get into them, but what is important and what we should learn historically is that when we launch a program of this nature without a fail-safe or secondary program to assist in its implementation, we end up with an even larger backlog. We need look no further than the administrative reviews of the backlog clearance program of 1986 and 1989.

I propose a two-tier system to address many of these concerns, drawing on historical lessons. One would be a permanent residency class. One of the criteria for it would be "any non-status person living in Canada for three years or more", similar to the 1994 program. Applicants would have 120 days to apply, which is similar to the 1973 program. Applicants who apply in writing within Canada must have identity documents, must be between the ages of 22 and 49, must pass the usual security, criminal, and medical checks, and must have applied—and this is where we go to deterrence factors—in the past for either a status document, be it a visitor visa extension even if it was refused, or for protected person status, or for an inland agency permanent residency document. Why? It's because deterrence is built on backward-looking criteria, not allowing applicants to now change their course once the program is introduced. It is important that we introduce such elements.

● (1415)

Also, they would be subject to either being currently employed or to a positive labour market opinion, and they must not have accessed social assistance, excluding disability; that's similar to the 1994 program.

All of these would be what we would call applicants who would be entitled to the permanent resident stream immediately, because they have proven.

A second tier, which would catch...and this is where we learn historically that one program must be buttressed by another—it would be a temporary worker's class. Here, it would be a one-year pilot project.

Again, any non-status person living in Canada for one year or more must apply in writing, again must survive identity, security, and criminal checks, and must be sponsored financially by a person or an organization.

Again, this involves Canadians. We're indicating that Canadians need these workers; that there is a need for workers. Well, we're going to need people to step forward to legitimize the program, so that it not be simply a stakeholder program. I think these are important measures.

And again, they must not have accessed social assistance.

There will be traditional opposition to these types of programs, with the unemployment rate ranging around 7%. But what's important, if we learned anything from the 1973 program, is that if it is properly advertised, meaningfully educating the public, it can be implemented effectively, so that it's not a program that looks to be rewarding poor conduct but rather a necessary and appropriate correction to market and immigration forces.

That is my opening statement.

Thank you.

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

Ms. Phillips, please.

**Ms. Carol Phillips (Assistant to the President, Canadian Auto Workers Union):** Thank you.

We too welcome the opportunity to make some remarks before the committee. We're going to be speaking specifically to the current temporary foreign workers program and also sharing with the committee an experience that we have ongoing in one of our workplaces.

We have about 255,000 members in almost 2,000 workplaces across Canada. As you well know, we've participated in public debates about the direction of immigration policy and the temporary foreign worker program for many years.

The emerging emphasis on temporary and migrant labour is bad labour market policy. That is the reason we have made presentations, but it's also bad immigration policy. The temporary foreign worker program, however, itself, has moved from the sidelines to the fast lane of labour market programs. It's no longer a phenomenon restricted to just western Canada; the program has crept into British Columbia, Ontario, and beyond.

We find the low-skill program showing up for the first time in CAW workplaces from hotels to fish processing plants. We're preparing, in fact, as a union, to survey our workplaces on the prevalence of the programs. They stay up to two years to wash dishes in hotels, serve food in coffee shops, care for the elderly, or work in a warehouse. This is rapidly becoming a major part of the government's immigration policy, it appears.

The low-skill pilot project is creating for us complex and difficult new tensions in a number of these workplaces, sometimes pitting worker against worker. In the hotel sector, in which as much as one-quarter of our union membership is now made up of temporary foreign workers in some Alberta and B.C. locations, we've seen tension on both sides. Resident workers have no guarantee of shift hours during slow months, but the temporary foreign workers have full-time hours, as required by the temporary foreign worker contract with the government. On the other hand, temporary foreign workers can't use their collective agreement right to bid on job postings

because they're locked into a job description on temporary foreign worker contracts.

At Presteve Foods in Windsor, a low-skill pilot is being used currently by a management team to undermine harmonious collective bargaining relations that have been there for almost 20 years. It is being blatantly used for union busting. Although it's a federal program, we've found, sadly, that the federal government is unable to step in and correct the situation, and it can't cancel the contract. We have letters from the director of the foreign worker program attesting to that.

The situation has now escalated. We are in a lockout situation at Presteve Foods and in a formal labour dispute with the employer. We don't know how many temporary foreign workers are in the workplace. They're displacing union jobs at \$12.80 an hour with temporary foreign worker jobs at \$8.75 an hour. The regular labour market opinion route was followed, but no one investigates an employer's claims. In this case, Presteve fraudulently claimed there was no union on the application and that \$8.75 was the prevalent wage in the workplace, so there is very little oversight for the regular route.

When a fraudulent application becomes clear, as it has in Presteve, HRSDC is powerless to act. Instead we're left as a union to hold demonstrations, to go to the media, and to go to arbitration. The employer ignores the decision recognizing the rights of foreign workers under the collective agreement. Higher rates of pay, seniority rights, etc., and the repayment of lost wages have all been ignored by this employer, in spite of the decision.

Due diligence investigations at the front end of the permit process would have demonstrated, among other things, the employer's failure to properly advertise in Windsor, a community that is suffering from one of the highest unemployment rates in this country.

● (1420)

There's a mixed message on the applicability of collective agreements to temporary foreign workers in the workplace that hopefully this committee will look at, and it appears that the federal government office responsible for this program in these kinds of situations is powerless to do anything about it. We have potentially dangerous pilot projects, and with only three to five days for processing, we risk losing any ability to assess the bone fides of employers' attempts to hire or train the existing workplace.

What we're saying is that rather than a labour shortage, in fact what we may have is a cheap labour shortage, and it's very troubling for the immigration policies.

Our goal is to find a balance between protecting and representing foreign guest workers and moving to a fairer immigration system. We're calling for a moratorium on the expansion of the deeply flawed temporary foreign worker program; broad consultations on long-term labour market planning with labour market partners; appropriate responses to genuine labour market shortages, including a sustainable training program; and a fairer immigration system, including a reformed immigration point system and more opportunities for family reunification and refugee applications.

On undocumented workers, the CAW supports the current campaign for status for undocumented workers and supports new immigration policies that provide meaningful opportunities and rights for working-class immigrants. Immigration bureaucrats will often say that if undocumented workers are granted status, the government will be condoning queue-jumpers, but the present immigration point system values elite skills and university degrees, and workers essential to our economy are not allowed to come as legal immigrants.

We'll continue to work alongside our community partners in demanding fair immigration policies that provide workers with security and real opportunities.

We're prepared to answer any other questions as well on the other issues before the committee.

Thank you.

• (1425)

**The Chair:** Thank you, Ms. Phillips.

Ms. Sadoway, please go ahead.

**Ms. Geraldine Sadoway (Parkdale Community Legal Services):** Thank you for inviting us.

Parkdale Community Legal Services has been involved in immigration issues for over 35 years in the city of Toronto, working with law students who come through our program. We work with immigrants, who are the most vulnerable members of the community. We have been involved in the process of the new Immigration Act as part of a major coalition of organizations involved in the new Immigration Act, and we're therefore going to be speaking today briefly about our concern about the amendments that have been proposed and attached to the budget bill.

However, at this point we want to address the issues that the committee is studying in its trip across Canada.

On the issue of Iraqi refugees, I would just briefly like to say that there's a terrible crisis with Iraqi refugees. We trust that the numbers our government decides to take to ease this crisis will not just replace other refugees who are already looking for a place to settle in Canada. We don't want to just see the same percentage level of refugees. If we are going to respond to the Iraqi refugee crisis, then we should be seeing the percentage of government-sponsored refugees increase.

Turning to the issue of undocumented workers, at Parkdale Community Legal Services we see many undocumented workers who are here in Canada. We see them as children who are not going to school; we see them as women who have been waiting for sponsorship or who are in situations of abuse and have left their sponsor; we see them as failed refugees who do not have an appeal, even though an appeal is part of the Immigration Act that was passed.

We know that the government has not yet implemented the Refugee Appeal Division. We work on many of the cases of those same refused refugees, some of whom have a very sincere and significant fear about what will happen to them if they return. We have a decision on life-and-death issues being made by one board member at a hearing, and if it doesn't go with you, then the judicial review procedure is not enough to correct the problem if mistakes happen in the system.

We have that situation of undocumented workers, and what do we have in place for it right now? We have something called the humanitarian and compassionate application. It costs \$550 to apply for regularization of status on humanitarian and compassionate grounds. That's why Parkdale Community Legal System appeared before this committee in 2005 and talked about the fees. You may have seen some of the postcards; more than 15,000 of these have already been signed and delivered to Parliament asking for a reduction or the possibility of waiver of the \$550 fee whenever there is a situation in which the person cannot pay it. Those are the most vulnerable situations; those are the cases I've been mentioning to you, of children, of women who have not been sponsored, of refused refugees sometimes suffering from severe trauma.

The \$550 fee is something that's been in place. This current government reduced the right of landing fee, which was \$975, to \$490. But the processing fee just to start your application, which applies even to a child refugee who is a principal applicant, continues to be \$550. We see the situation of the Children's Aid Society having to provide money to pay this fee. The fee continues to be a huge problem.

• (1430)

It's something everyone shakes their head about, but the bureaucrats continue to collect this money, and there is no possibility of getting rid of it. You cannot bring your application if you don't pay that fee, so the fee is a big problem.

The lack of a refugee appeal system is a big problem.

What we are going to address as well is what happens to the undocumented workers who are in this situation of not being able to apply—and we have a solution.



Some of my colleagues on the panel today have indicated that there have been past programs. One that I know about, because I was starting out in my law career at that time, was the anonymous application to adjust status through a third party. This is a way that you can check out the person. The person can come forward through a third party, give the facts of their case, get an approval, and then be processed for landing. If everything checks out, they become a permanent resident. This would be one of the ways to deal with the undocumented workers who are in our midst, who are part of our economy and are contributing to our economy, and who have a good reason to be here.

My colleague is Abigail Martinez. She is going to be speaking on the situation of temporary foreign workers.

**The Chair:** We generally only allow seven minutes per group, but we'll allow a few minutes for Abigail as well. It is generally only seven minutes per group, so I might have to interrupt you partway through, because some of our members need some time as well.

**Ms. Abigail Martinez (Osgoode Hall Law School, Parkdale Community Legal Services):** I'll just go through some of our concerns and mainly deal with participants in the live-in caregiver program. We've been doing public legal education seminars with participants in this program and want to bring to light some concerns that have been raised.

First, caregivers have unenforceable employment rights and are particularly vulnerable to abuse in the workplace. For example, many of them are forced to work overtime without pay or are forced to work without pay at all. Since enforcing their rights could potentially mean getting fired and being unable to complete the two-year employment requirement for permanent residence, caregivers are almost always willing to tolerate abuse from the employer. In light of their vulnerable position, we would recommend that the live-in requirement for caregivers be abolished.

Second, some employers are unwilling to provide documentation to prove that the caregiver has worked for them for two years.

Third, many caregivers are unable to complete the two-year requirement due to circumstances beyond their control—for example, severe illness or injuries—and some caregivers are also forced to accompany their employers outside the country. None of these periods will count toward their two-year requirement. Also, many caregivers are simply unable to complete the two-year requirement, due to prolonged periods of unemployment.

Many caregivers often learn that their family members are inadmissible to Canada for reasons that were not known at the time of accepting their employment contracts. This may be due to criminality or illness of a family member; for example, a caregiver may have a dependent child who has become ill during her absence and is now considered medically inadmissible to Canada for excessive-demand reasons.

Also, many caregivers find themselves inadmissible due to misrepresentation. Women are often told that they are more likely to be accepted into the program if they are single, so they state that they are single even though they have a family, but this then prevents them from including their spouses and dependent children in their landing application.

Last, many caregivers are placed with their employers through agencies that charge exorbitant fees, so in order to prevent exploitation of caregivers, we would recommend that there should be greater regulation of these fees.

• (1435)

**The Chair:** Thank you, Ms. Martinez.

We'll go to our panel for six minutes each.

Go ahead, Mr. Telegdi.

**Hon. Andrew Telegdi:** Thank you very much.

I've been on this committee for about ten years. We have issued many good reports which, for the most part, have been ignored by government. One of the simple conclusions I've come to over the years is the bureaucracy really has run the system, is running the system, has messed up the system, and now wants total control in terms of how they continue to mess up the system, lacking both transparency and accountability.

We have a vote coming up on Bill C-50, and it's a budget vote. If we defeat that budget, then we're into an election and we're not going to be talking about Bill C-50.

Right now the situation is that Bill C-50 will be talked about in the budget committee, but we have motions from everybody now to make sure that the citizenship and immigration committee talks about it. I think what we have to do is take the time in those discussions to make sure that Canadians across the country appreciate what's contained in Bill C-50, what the challenges are, and what the draconian proposed solutions will be.

What I'm putting out to you is this: would you want us to defeat Bill C-50 before we talk about the immigration stuff, the amendments, or should we talk about and study the implications on the immigration act? That's the question I'm putting out to you. I think we have to engage Canadians coast to coast to coast. They really have to wake up to what the implications of the amendments to the immigration act really are.

Can I start with you, Ms. Sadoway?

**Ms. Geraldine Sadoway:** Yes, I'd be happy to speak on that.

One of the provisions in Bill C-50 is that humanitarian applications made from outside Canada may not be dealt with.

I have with me today pictures—cards, actually—sent by a little girl to her father. Her father is an excluded family member because her mother did not include him when she was being selected as a refugee to Canada. I'd just like the members of the committee to look at these pictures. Can you pass those over?

The only way that this girl can be reunited with her father in Canada—this little girl, a seven-year-old from a refugee camp in Kenya and a refugee from Ethiopia—is if on humanitarian grounds her father is allowed to come by a visa officer after applying from outside Canada. There's no appeal. We would've liked the old system, through which there was an appeal when there was an excluded family member due to misrepresentation, and the whole story could come out.

This is just one example of the terrible tragedy that happens when a family is broken up. Yes, the mother made a mistake, and she did it. We have explained why she did this. She did this believing totally that she was doing the right thing to get herself and her child to Canada.

I'm just saying that I think the immigration changes in Bill C-50, which allow for this kind of exclusion and will potentially mean that the minister doesn't even have to answer the humanitarian application—

•(1440)

**Hon. Andrew Telegdi:** My question was whether you think we should debate the impacts on the immigration act before we vote against the bill.

**Ms. Geraldine Sadoway:** Yes, absolutely.

**Hon. Andrew Telegdi:** Okay.

Mr. Dhaliwal, would you comment?

**Mr. Raj Dhaliwal (Director, Human Rights Department, Canadian Auto Workers Union):** Thank you, Mr. Chair and members of the committee.

It should be debated—not only debated; it should be defeated. I can show you that many people in public are strongly opposed to this, although there are others who are trying to create confusion.

This is going back many years. I'm going to pick only one example. I'm one of those who immigrated to this country under the point system. There used to be a point system in the 1960s and early 1970s. Ten points, on suitability, were left in the hands of the immigration officer, and were put into practice in any way that person felt like looking at it. That was creating a lot of litigation.

What happened later on due to those problems was that legislation was clear on the point system. Although I'm not in support of the point system, at least we'd be following the proper procedures. Then, based on that...

I just want to say finally that the current system under the new Bill C-50 is basically giving more control to the bureaucrats, and that means immigration officers under the name of the minister will be discarding applications of many. Some of them may be the ones who may not be the right people in the minds of the immigration officers, and of course the minister too.

**Hon. Andrew Telegdi:** I agree with you, but I'm going to run out of time.

Mario, just quickly, yes or no: should the immigration thing be debated before Bill C-50, let's say, is defeated.

**Mr. Mario Bellissimo:** Yes. First of all, there needs to be some correction in the system. It has to be debated.

Just to give you a quick example, picking up on the point about overseas agencies, the Supreme Court of Canada maintained two provisions under the act, section 117 and paragraph (9)(d), and certain exclusionary provisions as constitutional because of the opportunity to have a section 25 relief. If you start playing with one part of the act, it's like a house of cards: other parts are going to fall, and we will find ourselves in a worse backlog than we have now.

**The Chair:** Thank you.

Mr. St-Cyr, please; you have six minutes.

[*Translation*]

**Mr. Thierry St-Cyr:** Thank you, Mr. Chair.

I didn't intend to talk about Bill C-50 because it isn't really one of the matters under discussion. But because the Liberals have talked about it and you answered the questions, I have to point out how pathetic what we have just heard was.

In terms of procedure, when we vote for a bill in the House, that is because we support it in principle. The Bloc Québécois does not agree with it in principle and will vote against it. Arguing that it should be debated is bad faith and hypocrisy. I think it is appalling that the House would be urged to move ahead with doing a study that will serve no purpose, because the Liberals clearly do not intend to reject or amend the provisions set out in Bill C-50.

This seems somewhat hypocritical to me. I don't understand this attitude, which amounts to shaming one's self. At least, I would not talk about it. I find this somewhat surprising. So no motion will be made, so that the Liberals can continue to put on a show when they have no intention of putting their words into action.

[*English*]

**The Chair:** There is a point of order. I'll hear a point of order, but I won't deduct it from the member's time.

Mr. Telegdi.

**Hon. Andrew Telegdi:** Mr. Chair, I work hard to try to be pretty non-partisan on this committee.

•(1445)

**The Chair:** Yes, indeed you do.

**Hon. Andrew Telegdi:** If anybody votes against his own party around this table, it's me.

Mr. St-Cyr, I would appreciate that you not make those personal comments about me. I would appreciate it.

If you'd check my seating plan, I'm sitting in the penalty box again, because I voted against the bill.

**The Chair:** It's not a point of order. I'm not hearing any more submissions on something that is not a point of order. You're eating into Mr. St-Cyr's time.

Mr. St-Cyr, please; I'm not deducting this.

[Translation]

**Mr. Thierry St-Cyr:** Thank you, Mr. Chair.

I am going to move on to another bill, and I would like to know what you think about it: the Bloc Québécois bill on the Refugee Appeal Division, which has been passed in the House. Once that bill receives Royal Assent, a Refugee Appeal Division can be created.

It is now being considered by the Senate. Unfortunately, because the Bloc Québécois has no senators, it rests largely in the hands of the Liberal majority in the Senate. We hope it will pass. If we believe the rumours, the senators would discuss the possibility of adding an additional 180 or 365 days before the bill came into force.

Do you think that after all these years of waiting for something that is a matter of fundamental justice, we should still be adding more time, or should the senators pass the bill as it stands, so that we can move ahead without any further delay?

[English]

**The Chair:** Mr. Dhaliwal.

**Mr. Raj Dhaliwal:** I just want to answer two things. First of all, once the Bloc Québécois proposes a bill, I'm sure that Quebecers are capable of handling that and addressing it, either now or through elections.

We came here to this committee to share our feelings with you, our views. What I am hearing here, sadly, is partisan politics. I heard the name of the Liberals mentioned three or four times, and I'm sure that pretty soon other party names are going to be mentioned. Please, I'm requesting one thing. We are here to talk about the issues and to weigh in on this important part. We say this is the way it should be voted on, and there's nothing hypocritical about that.

That's all I wanted to say. All I wanted to say is that we came to speak in front of the committee respectfully. That's all we are doing. We are not here to play. If you want to debate with each other, you should debate in Parliament. That's the place to do it, not here.

[Translation]

**Mr. Thierry St-Cyr:** I simply asked you for your opinion about the bill passed by the House of Commons that provides for the Refugee Appeal Division to be established immediately. There are people whose lives are in danger now because they can't appeal a decision made by a Board member. Some members have ruled against people in my riding. They rule against 98% of the people who appear before them.

I don't think that saying that it's urgent for a Refugee Appeal Division to be established amounts to partisan politics. Human lives are at stake right now. I am going to pressure the government and the Senate and do everything in my power for them to pass those laws. I don't think that work amounts to partisan politics, sir. I would like to know whether you think we should bring that law into force now or there should be amendments, the debate should be postponed and it should be dealt with later. That is my question.

[English]

**The Chair:** Go ahead, Ms. Sadoway.

**Ms. Geraldine Sadoway:** The Canadian Council for Refugees and many other groups have demanded that the government implement the bill. The RAD—the refugee appeal division—is part of our legislation; why hasn't it been implemented yet? That's why the Senate is doing this bill. I commend the Bloc for pushing forward with this, as well.

**The Chair:** I want to welcome Ms. Singh, who is here today as well. I don't know if you have any comments you want to make. Do you want to make a couple...?

**Ms. Sonia Singh (Parkdale Community Legal Services):** Mr. Chairman, could I take just one minute?

It's just an amendment to what was mentioned previously around temporary worker programs. I'm here representing the workers rights division of Parkdale Community Legal Services and the Workers' Action Centre, which works with many precarious low-wage workers, including many people here through temporary worker programs.

We are seeing a very alarming increase in complaints about their labour rights from people who are here through temporary worker programs. These kinds of violations range from employment standards violations such as failure to pay overtime or failure to pay basic wages to charging fees for securing work—which is illegal—and serious health and safety violations.

I want to give you one example of a case that we have supported recently. This was someone who arrived on a temporary worker visa to work in a restaurant. His employer had gone to the home country of this worker in order to contract the worker and had charged over \$3,000 for the processing of the visa. When the worker arrived, he immediately was put to work in the restaurant working 12-hour days. His passport was confiscated by the employer; he was put in an apartment with four other employees and told not to talk to the other employees. As a result of the very long hours and the very heavy pace of work, he had a workplace injury. He was pushed to keep working. Finally, out of desperation, he was forced to quit his job.

We have to look at the circumstances of this employee. He is now out of work, he has no status, and he has no social safety net. This is the vulnerability that we see temporary worker programs creating for many people.

This vulnerability happens because it's very difficult for workers to speak up about violations without jeopardizing their immigration status. That's directly related to the fact that temporary workers are denied full immigration status: their status is tied to one particular employer, and there is no fair appeal process.

We have a series of recommendations on how to address some of these violations. I would be happy to go through them.

• (1450)

**The Chair:** Thank you.

I hope you get a chance; we have about 10 or 12 minutes left.

Did you want to make a comment, Mario?

**Mr. Mario Bellissimo:** I have a quick comment.

In terms of the RAD, clearly any appellate mechanism or review mechanism would be a welcome addition, as long as it doesn't compromise any review mechanisms earlier on in the process.

I underscore and appreciate the passion on that issue, but I would also like to see that passion expressed toward the issue of undocumented workers. I think it was the Honourable Maurizio Bevilacqua who said before this committee that within 15 years we'll be looking to three workers to one senior. I can tell you that in my practice, just in the last year, I've had plumbers and carpenters, all earning in excess of \$70,000 Canadian and filing taxes, who were deported.

I don't know what your personal experience has been, but it's more difficult to get your kitchen renovated now than to get an MRI in Canada.

**The Chair:** That's a good point.

Go ahead, Madam Chow.

**Ms. Olivia Chow:** Those are good points.

All day we've heard the following recommendations. I just want to hear, yes or no, whether there's a consensus:

—Change the immigration point system so that people with lower skills, i.e., the plumbers, can come as landed immigrants, not as temporary foreign workers.

—Allow those temporary foreign workers who are here a chance to apply, even those with lower skills, for landed immigrant status, so that there is a sense that they can bring their families here eventually, to give them some hope if they want to stay.

—Make sure that the CIC settlement funding is extended to assist temporary foreign workers who are here.

—There should be a comprehensive regularization program for the undocumented workers.

—Increase the immigration target numbers to 330,000, as we just heard.

—Lastly, support my amendment in the House of Commons and defeat Bill C-50 so that we don't have to go backwards. We should go forward with these recommendations, not go backwards.

These are what I've heard so far all day—plus accept more Iraqi refugees into Canada.

Is this something there's a consensus on, that everybody here believes is the route we should take?

**Voices:** Yes.

**Ms. Olivia Chow:** Yes? That's pretty straightforward.

I just want to say one other thing. Thank you for bringing those heart-breaking, beautiful cards. It is really quite amazing.

Let me see whether I can clarify, then. Under H and C grounds for refugees, you would not be able to sponsor someone who has been excluded. In the past you could do so on H and C grounds, and now you cannot. That's a problem with Bill C-50.

The second one that I've heard, other than the wait times, is that if an employer wants to sponsor someone to bring them here to work, if it's turned down at visa, they have the right to appeal to the Federal Court. But not any more, because the regulations are now going to be changed, if Bill C-50 goes through, from saying the visa "shall" be given out if all criteria are met to the visa "may" be given out. So there's no appeal to the Federal Court.

Am I correct in those two assumptions? I see two lawyers here.

● (1455)

**Mr. Mario Bellissimo:** Yes, I think you are right. What the bill would allow is for any application to be disposed of or retained, but not necessarily to be decided, on the substantive merit of the application, which in effect would eliminate any appeal mechanism. That is a very dangerous way to go.

**The Chair:** Ms. Phillips, I believe, was next.

**Ms. Carol Phillips:** It's not specifically on this question, Chair, but—

**The Chair:** Okay, then; I think Sonia was right on that question.

**Ms. Sonia Singh:** This is just related to the previous question. I would add to the list of recommendations you outlined—and definitely I'm in agreement with all of those—that an additional recommendation is that there should be an end to the repatriation or unilateral deportations of workers who are here working under temporary workers programs and that there should be a fair appeal process set up for workers facing that situation.

Also, temporary workers are coming here under federal programs, yet are regulated under provincial employment standard laws. That's a huge mismatch of different kinds of standards across the provinces. We would recommend that temporary workers, like live-in caregivers and seasonal farm workers, be covered under federal standards and that those standards be updated to increase protection for precarious workers, including temporary workers, and also that the enforcement of those labour standards be drastically improved. We need to see proactive and targeted enforcement of labour standards.

Also, we need a system in which, if an employer is found to be in violation of workers' rights, they should not be issued new permits for temporary workers in the future. That is happening day after day in the current system.

**Ms. Olivia Chow:** And drop the fees while we're at it.

**The Chair:** We'll go to Ms. Phillips. She's been trying to get a word in, and Geraldine as well.

**Ms. Carol Phillips:** I would also add to the list that there in fact be a moratorium on temporary foreign worker program expansion at this time. There are too many issues with the program that need to be dealt with. I think in unionized workplaces there needs to be compulsory consultation with the union in the workplace.

Federal jurisdiction would cause a problem for us, if we had provincial jurisdiction affecting the collective agreement. We've run into a lot of problems and an increasing number of problems. It appears that it's being used as a union-busting tool, and we need time to consider that.

**The Chair:** Ms. Sadoway.

**Ms. Geraldine Sadoway:** On the point, which Ms. Chow made as well, about the changes proposed with the amendment in Bill C-50, as my friend Mr. Bellissimo mentioned, the Federal Court of Appeal found that our current act only complies with international human rights conventions with regard to the right of family members to be together because of that humanitarian and compassionate application program; that's the only way out. If we say that it is discretionary, that you don't have to have a decision on it, then you're saying no to that seven-year-old girl having a chance to reunify with her father.

**The Chair:** Okay.

And our last speaker is Mr. Komarnicki.

**Mr. Ed Komarnicki:** Thank you very much.

I have just a few questions to Geraldine Sadoway.

With respect to undocumented workers, I understand you to say that you'd like to see a legitimate pathway found for them to come into the system. Is that correct?

**Ms. Geraldine Sadoway:** Yes.

**Mr. Ed Komarnicki:** And the mechanism you see through which it would happen is a hearing body of some kind, is it?

**Ms. Geraldine Sadoway:** Well, we had a program that worked very well. It was very easy to operate. It was an administrative review program.

**Mr. Ed Komarnicki:** Just give me a—

**Ms. Geraldine Sadoway:** An anonymous, third-party application is made by the applicant—the third party fills out the application and just doesn't give the address. Basically, if that is approved—because the person qualifies—then the person comes forward, and it's all checked out, and they're landed.

• (1500)

**Mr. Ed Komarnicki:** Okay, so you see that as a mechanism—

**Ms. Geraldine Sadoway:** That is a mechanism that worked very well and brought many people forward who were afraid, because of their real fear of return.

**Mr. Ed Komarnicki:** Right. That's for the undocumented side. Now, speaking on the refugee side, of course, obviously there's a process—first a refugee hearing, and there may be a failure or a negative decision in that regard, which then puts you either into an undocumented situation, or you can go through the system with a variety of means. I suppose one of them is humanitarian and compassionate grounds. Is that correct?

**Ms. Geraldine Sadoway:** Yes, except that there's that fee.

**Mr. Ed Komarnicki:** Right. Well, let's not talk about the fee; that's another issue.

You have a humanitarian and compassionate grounds application, and in fact you can make that application more than once.

**Ms. Geraldine Sadoway:** Yes, you can if you have a lot of money.

**Mr. Ed Komarnicki:** You can make it two or three or four times, if the circumstances—

**Ms. Geraldine Sadoway:** That wouldn't really make sense, because—

**Mr. Ed Komarnicki:** But if you got married or you had a child or you had a relationship, those would be the kinds of factors that would be considered, would they not?

**Ms. Geraldine Sadoway:** Yes, if there are new circumstances certainly it would make sense to make it a second time.

**Mr. Ed Komarnicki:** Okay.

Now, just to clarify about the little girl you mentioned, I'm reading the proposed amendment in Bill C-50, or the portion relating to the Immigration and Refugee Protection Act, and it says, as I read it, that the minister may, on her own initiative,

or on request of a foreign national outside Canada, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligation of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations

I'm asking you: you could make a humanitarian and compassionate application, and it may be considered an appropriate case on those bases. Would you agree with me?

**Ms. Geraldine Sadoway:** No, because the proposed amendment says that the minister “may” consider. No one is saying the minister has to grant—

**Mr. Ed Komarnicki:** No, but she can consider it and grant it.

**Ms. Geraldine Sadoway:** But she “may” consider it.

**Mr. Ed Komarnicki:** Just answer the question. She can consider it and grant it, if she wishes.

**Ms. Geraldine Sadoway:** Yes, she could.

**Mr. Ed Komarnicki:** For those who are under her instruction in the department.

**Ms. Geraldine Sadoway:** But she could just say “I'm not dealing with any of those cases”—

**Mr. Ed Komarnicki:** True, but she—

**Ms. Geraldine Sadoway:** —and that would be legal, whereas the Federal Court, now, would have a chance to review that decision.

**Mr. Ed Komarnicki:** What I'm saying is just for the record: that application could be granted under the legislation—isn't that correct?

**Ms. Geraldine Sadoway:** But whether she even considered it would be completely discretionary.

**Mr. Ed Komarnicki:** Now, just on some other points, if you didn't have a positive decision for a refugee claim, you could go to humanitarian and compassionate grounds in Canada any number of times under the new bill, couldn't you?

**Ms. Geraldine Sadoway:** Only if you are still in Canada.

**Mr. Ed Komarnicki:** Right. I said in Canada, so let's...okay?

**Ms. Geraldine Sadoway:** Yes, if you were still in Canada, but you would be removed way before.... We deal with those cases. You don't really have "any number of times": you are removed from Canada.

**Mr. Ed Komarnicki:** Are applications made on more than one occasion?

**Ms. Geraldine Sadoway:** Usually if people are underground for a long period of time, it happens that a second application might be made, because circumstances are changed.

**Mr. Ed Komarnicki:** You could also have an application for a pre-removal risk assessment.

**Ms. Geraldine Sadoway:** A pre-removal risk assessment has a 3% success rate and does not even reconsider what was seen at the refugee hearing—

**Mr. Ed Komarnicki:** You could apply for leave to appeal to the Federal Court.

**Ms. Geraldine Sadoway:** Yes.

**Mr. Ed Komarnicki:** So you could have a hearing from the Federal Court?

**Ms. Geraldine Sadoway:** The Federal Court—

**Mr. Ed Komarnicki:** Just answer the question. Could you do that?

**Ms. Geraldine Sadoway:** Yes. I do those cases, and I know how many hours they take and how much it would cost, and they're basically not an appeal.

**Mr. Ed Komarnicki:** In addition, if you have a hearing, you're entitled to have the Federal Court have a look at it. Now, with the refugee appeal division coming into place, you actually have the opportunity, in addition to all of that, to appeal the decision of the first board.

**Ms. Geraldine Sadoway:** No other country in the world that has a respectable refugee determination system does not have an appeal on the merits—

**Mr. Ed Komarnicki:** My question was simple. In addition to all those others, could you appeal?

**Ms. Geraldine Sadoway:** The judicial review is not an appeal.

**Mr. Ed Komarnicki:** Could you appeal? Yes, you could.

**Ms. Geraldine Sadoway:** Yes.

**Mr. Ed Komarnicki:** Having said that, would you not agree that at some point you need an end to the process?

**Ms. Geraldine Sadoway:** Our Parliament passed the RAD. We agreed to a refugee appeal division in Parliament in 2001, and we do not have an appeal.

● (1505)

**Mr. Ed Komarnicki:** Yes, but the appeal is.... It's in the Senate, and when it receives royal assent, you will have—

**Ms. Geraldine Sadoway:** Why does it have to go to the Senate?

**Mr. Ed Komarnicki:** —another appeal mechanism available.

**Ms. Geraldine Sadoway:** I think it will make a huge difference if we do have an appeal.

**Mr. Ed Komarnicki:** Do you think there should be some change or reform to the system to ensure that somehow you have one process that's appealable, as opposed to a series of four or five different processes, which can take sometimes four, five, six, or even seven years?

**Ms. Geraldine Sadoway:** I think that if the resources are there, the process that we have can work properly and efficiently and fairly, and when we're talking about lives at stake, I don't think one or two years in a process is something that we can—

**Mr. Ed Komarnicki:** Do you think after eight years it's a bit long?

**Ms. Geraldine Sadoway:** Especially when the people—

**The Chair:** I want to give Mr. Bellissimo a chance to have a word on this, because he's been trying to respond.

**Mr. Mario Bellissimo:** I just want to back up what Geraldine is saying.

I agree with you that there needs to be an end to a process, but a process is defined by what you are engaging in at certain points. If you had a meaningful appeal at one point in the process, you wouldn't have four or five steps later to deal with pieces of the pie. That's one thing.

Second, if you're going to attack the agency, that's the safety valve of the system. The overseas agency—

**Mr. Ed Komarnicki:** Are you saying, then, that if you have a RAD implemented so that there is an appeal, you don't want the others?

**The Chair:** I would love to keep up the debate, but we do have a panel that we have to hear.

I want to thank all of you for your submissions here today. I apologize if some people got a little bit hot under the collar today, but sometimes that's the way it goes in a partisan forum, unfortunately.

We're making great progress, I believe, and you're helping us tremendously. We will be making recommendations based upon what you are telling us here today. Thank you.

We will break for a moment to let our next committee witnesses come to the table.

● (1505)

(Pause)

● (1510)

**The Chair:** The committee will now come to order. This will be our last panel for today.

We have Chris Ramsaroop, national organizer of Justicia for Migrant Workers.

From the Community Social Planning Council of Toronto, we have Navjeet Sidhu. He's a researcher. We have Zenia Castanos, intern. And we have André Lyn. Welcome.

Alberto Lalli is with the Industrial Accident Victims Group of Ontario. You have a cheering group at the back. And we have Consuelo Rubio, community legal worker, Centre for Spanish Speaking People, Industrial Accident Victims Group of Ontario.

Welcome here today.

We have about an hour. Try to ignore, as best you can, all the noise in the background. We have a committee room that's adjacent to a lot of activity, so we're getting a lot of competition.

I invite you to make opening comments. It will be seven minutes from a representative of the group.

You are first, Chris, and then we will go to Zenia.

Chris, go ahead.

**Mr. Chris Ramsaroop (National Organizer, Justicia for Migrant Workers):** Good afternoon.

I want to thank this committee for providing Justicia for Migrant Workers with the opportunity to present to you about the conditions of migrant agricultural workers in Canada.

Many members of Justicia have been organizing the fields of southern Ontario for more than seven years. In one sense, it is ironic that you are giving us the equivalent of one minute for each year we've been organizing workers but to also note the disparate discussion that has occurred among both policy-makers and governing officials to engage with workers employed under the most precarious conditions.

**The Chair:** Chris, could you slow down a bit for the translation people in the booth behind us?

**Mr. Chris Ramsaroop:** All right.

To put it simply, we are not interested in you, the elected officials, using this as an opportunity to expand indentureship and exploitation. Nor are we here to support the expansion of employer-driven programs, which by their very nature lead to the countless testimonials of abuse and injustice that have been reported to us hundreds, if not thousands, of times.

You are here today to question us about the conditions. I'm here to challenge you to listen to the demands of these migrant workers. Engage in discussions with these workers. Respect their demands for fairness and inclusion, which is something no governing party has afforded to these men and women in the over 40 years that this program has been in operation. To simply treat these workers, their families, and their communities as silent, expendable, and invisible foreign labourers denies their humanity—something that has manifested itself in deplorable living and working conditions across this nation.

Nandita Sharma, an academic at the University of Hawaii, eloquently argues that temporary programs and regulations such as the non-employment industrial authorization program render migrant workers socially and politically powerless here in Canada. Their

non-immigrant status is used to deny them the civil, political, and social rights normally associated with citizenship.

I'm now going to go through our demands. After our demands, I'll be highlighting three points associated with our demands, and then I'll conclude.

We have 15 points that we'd like to raise with you today.

First is respecting and implementing the recommendations of the Arthurs report. Some of you might remember the report on federal labour standards from about two years ago. Section 10 deals with vulnerable workers and goes into detail, at some point, on temporary workers.

Second is more transparent and accountable reporting mechanisms accounting for detailed information pertaining to workers' repatriation, deportation, medical repatriation, as well as information pertaining to death, injuries, and reasons for deportation.

Third is redefinition of the jurisdiction of migrant labourers under the provisions of the federal labour code. As migrant workers come to Canada under a federal labour program, they should be under similar jurisdiction.

Fourth is immediate regularization and status now, not only for current participants of the program, but for previous agricultural workers and their families. We also support broad-based status, as many of the other organizations have called for.

Fifth is an end to unilateral repatriation and deportation of migrant workers. This is the crux, I think, of the problem we're seeing: the fact that these workers are being unilaterally repatriated or deported back to their home country.

Sixth is enforcement of Canada's health care act. We hold that each province violates aspects of the act in the area of protection for migrant agricultural workers. Some of my colleagues have spoken before about this as well.

Seventh is the abolition of employer-driven programs. No worker should be indentured to one site of employment, or one employer, or one sector.

Eighth is revision of their social entitlements to ensure that migrant workers receive equal access and equitable access to employment insurance, the Canada Pension Plan, and other benefits, which I'm sure some of my colleagues will also speak about as well.

Ninth is termination of employer-sanctioned organizations such as FARMS, the Foreign Agricultural Resource Management Services. It is a conflict of interest for employers to run, govern, and administer a program where workers are voiceless.

Tenth is an increase to minimum wage—which we hope would also come under both the federal or any type of provincial jurisdiction.

Eleventh is greater enforcement of working and living conditions under which migrant workers are housed.

When persecution of bad employers occurs, every necessary step needs to be taken to ensure that workers' rights are protected and that they're neither deported nor face reprisal.

The last thing I want to raise is the fact that migrant agricultural workers here cannot access our educational institutions. Those barriers that deny them this access also have to be eliminated. They should be allowed access to education here.

I want to highlight three things: one, the fact that workers do not have the right to regularization; two, the repatriation process, which I talked about earlier; and three, health care.

From the provincial jurisdiction of HRSDC—the Ontario office of HRDC—we've been able to get the following statistics:

We know that during the period of 1996 to 2008, there were over 2,510 workers sent home for “breach of contract”; over 1,006 workers were sent home for medical reasons; and over 3,002 workers were sent home for “domestic reasons”. Because we do not have more information about this, we know that many of these workers are basically going home and not receiving adequate representation here to appeal their processes, or they're getting injured or sick on the job, and in many cases they're going home to die.

Because of the conditions on some of these farms, we know that close to 3,000 people have gone so-called AWOL. We have received various testimony saying that because of poor working conditions and because there is no access to health care, these workers are being forced to run from their farms to make sure they get adequate support or the health care they need.

●(1515)

You've heard my colleagues speak about the repatriation. The repatriation clause of these contracts acts as a form of coercion. It basically makes sure that workers are voiceless. We've heard so many different reasons that workers are being sent home: complaining about bad housing conditions and pesticides; trying to have a social life; breaking curfew. At the end of the day, so many injustices are being accorded to this unilateral form of repatriation.

The suggestion for you, once again, is to end these repatriations—end these unilaterally. Make sure workers have a chance to have representation, and make sure there's an appeal process for them.

I could answer a lot more around health care issues during the question and answer period, but we're seeing that because of the visa process and the fact that many workers have to leave by December 15, they're not being provided with access to a proper health care system. Once again, as in the cases of Alberto Garcia and so many other workers before that, they're going home and they're dying. That's basically the burden on each one of us here today, to make sure they have a just system. That's what we want to talk about, to basically put it on record.

I want to assure you that even if we are ignored today, we'll be back tomorrow and the day after, and we will continue to pressure this government and subsequent governments until our demands are met. Workers and their allies will collectively work toward full emancipation and liberation of these workers.

We understand your limitations and the bureaucracy of workers. As such, we'll help you in pushing this agenda for a just society through any means known to us, with direct action to challenge the legitimacy of your legal framework or by disrupting the very nature of the unequal relation between labour and capital.

**The Chair:** Okay, I have to—

**Mr. Chris Ramsaroop:** Many of the same promises—

●(1520)

**The Chair:** Order.

When I bring you to order, please pay attention. It's in the interests of the time of committee members. I don't want to cut you off, but I have to manage the time as best I can. I don't want to cut anyone off, but, please, you can't eat into your colleagues' time.

I'm sure you'll get a chance to make your points in the Q and A.

I will now call on Mr. Lyn to share his time with Ms. Castanos.

**Mr. André Lyn (Researcher, Community Social Planning Council of Toronto):** Thank you.

On behalf of my colleagues—Navjeet, who is sitting behind me, and Zenia, who will be co-presenting—I'd like to thank you for the opportunity to present the Community Social Planning Council of Toronto's position on undocumented workers. Our submission focuses primarily on policies affecting undocumented workers, a group that can more broadly be described as non-status immigrants.

We have been doing work with community groups and academics around undocumented workers. In May of 2008 we will be releasing a report documenting barriers to public education for children of non-status families in Toronto. Last year, in a partnership with the Davenport Perth Neighbourhood Centre, we released a multilingual guide listing services for non-status immigrants. Because of our work with community groups, academics, and non-status immigrants, we have become keenly aware of the need for a regularization program in Canada that will provide non-status immigrants with a direct path to landed status and citizenship as well as other crucial changes to Canadian immigration policy.

I will now turn it over to Zenia.

**Ms. Zenia Castanos (Intern, Community Social Planning Council of Toronto):** Thanks for inviting us here.

It is difficult to establish an accurate figure on the number of non-status immigrants residing in Canada. Based on anecdotal information provided by service providers, employers, and unions, estimates range from 20,000 to well over 300,000, with a majority of them living in Toronto.



Their length of residency in Canada without documentation is also known to range from a few months to over twenty years.

For many, the act of staying is in effect an act of survival and the need to seek refuge from deteriorating conditions in their own country through poverty, military conflict, hunger, or to escape domestic violence, physical and psychological abuse, or state persecution.

Non-status immigrants live in constant fear of arrest, detention, and deportation and are most likely to live in extreme poverty and under exploitative conditions. Their situation is further marginalized by their lack of access to social programs and services. The irony is that not only have non-status immigrants directly contributed to the Canadian economy, but through the taxes they pay, they help to fund the very programs they are ineligible to receive and the institutions that will not accept them.

Non-status people endure many hardships and sacrifice their rights and safety in Canada for fear that things would be much worse if they were to be sent back to their home country. For these reasons we believe that a full and inclusive regularization program is required to give all non-status people living in Canada the opportunity to acquire permanent residency. Without such a program in place, non-status people will continue to be vulnerable to abuse and exploitation.

While not explicitly recognized, regularization programs are a part of Canadian immigration policy. These programs have been favoured and adopted by governments and parties of all political stripes in response to the failures of immigration policies and the realities of residents without status.

This has occurred consistently over time. Since 1960, federal governments have introduced regularization programs that have granted over 230,000 non-status immigrants permanent residency status. One of the most successful regularization programs was the administrative review and the backlog clearance program that took place in the 1980s. This inclusive program resulted in approximately 160,000 applicants accepted. Any future regularization program that is created must be inclusive and accessible for all non-status people for it to make a true difference.

A regularization program also makes good economic sense. The financial and human resources required to apprehend, detain, and deport the thousands of non-status people currently living in Canada would cost much more in the long run than to establish an inclusive regularization program.

With many industries currently experiencing chronic labour shortages, the supply of available workers would help to alleviate this need.

Recognizing the critical role that non-status workers play, the Greater Toronto Home Builders' Association and the construction recruitment for external workers services submitted regularization proposals to the federal government in 2003.

Just last year Parliament showed its support for non-status immigrants by passing a motion calling for a moratorium on all deportations for non-status people until immigration policies are

revamped. However, the federal government, dismissing the will of Parliament, has failed to take any action on the motion.

In conjunction with regularization, we urge the federal government to act on this motion by introducing a moratorium on deportation until immigration policies are reformed.

In addition to a regularization program, other important related policy changes are needed. At present, the point system excludes many applicants despite the recognized need for their labour in Canada. Instead of revamping the point system to be more inclusive, the federal government in recent years has turned to an increased reliance on temporary migrant worker programs.

Between 2000 and 2006, the demand for temporary migrant workers has increased 110%, from 79,000 to 166,000. These programs give disproportionate powers to employers, offer workers little or no protection under Canadian labour laws, and for many provide no access to permanent residency.

We are also concerned with the impact of the proposed changes to the Immigration and Refugee Protection Act contained in the current federal budget, Bill C-50, and urge members of the committee to reject this recent move.

The backlog of immigration cases is best addressed, as it has often been in the past, through a transparent regularization program rather than the individual decisions of a single member of Parliament.

In closing, we thank the committee for hearing our submission. We urge you to take action on regularization, as so many of your predecessors have done in the past. It is time for a new regularization program in Canada.

Thank you.

• (1525)

**The Chair:** Thank you, Ms. Castanos and Mr. Lyn.

Now we'll go to the Industrial Accident Victims' Group of Ontario, Alberto Lalli. Mr. Lalli.

**Mr. Alberto Lalli (Community Legal Worker, Industrial Accident Victims Group of Ontario):** Thank you for the invitation to participate in these hearings. Unfortunately, we received the invitation last Thursday, so we didn't have an opportunity to present any briefs, but if the committee wishes we will be glad to comply if we have time.

With me is Consuelo Rubio. She is going to speak too. She is well known to migrant workers. Actually it was through her legal challenge that they are now receiving parental benefits through EI.

My community legal clinic specializes in worker compensation law, so my submission will refer to that particular area concerning migrant workers.

Our involvement began in about 2006 with Justicia. We started to visit different farms in southwestern Ontario during the summer, with the intention of explaining and giving workshops to workers about their rights under workers' compensation legislation. We visited different farms during the day when we were allowed—at night we were not. We went to malls, and improvised workshops in parking lots and church basements. So what we say will reflect that experience.

We also had a series of meetings with senior management at the Workplace Safety and Insurance Board to get some changes in policy that affect migrant workers. We had some meetings with the Mexican consulate, because we are Spanish-speaking, in order to get some sort of help from them specific to migrant workers.

You more or less know from other depositions what the situation is with migrant workers. We agree with all of them. We feel that the main recommendation is to allow them to apply to become Canadian citizens, because that alone will prevent many of the problems they are facing now.

We have a number of recommendations that I would like to read into the record, based on our experience with migrant workers. First is to stop the unilateral repatriation and deportation of migrant workers for medical reasons, as Chris mentioned, especially when those medical reasons stem from accidents or illnesses related to their work.

Injured migrant workers are entitled to benefits and services from the Workplace Safety and Insurance Board, and those benefits and services, in addition to financial assistance, include regular medical attention and necessary treatment for as long as the doctors feel that those workers cannot return to work. If the contract ends in December, many of these workers are sent back to Mexico, in this case, where they don't get medical attention. Medical attention is geared to income there, so if you don't have money, you don't get any. Here they have medical attention.

We feel it's the federal government's obligation, because these people are working here and get injured here, so the least we can do is to make every possible effort to cure them before we send them back. For that reason, allow for extension of contracts when migrant workers are injured at work. This would permit the board to continue providing benefits and services, including any appropriate rehabilitation they would give to any Canadian worker.

Furthermore, if the worker is left with a permanent impairment, because they are not here and cannot be assessed by doctors they either lose the money they deserve and would get here, or it's years before the board can do something about it.

Another recommendation is to create mechanisms to guarantee the return of migrant workers injured at work if they can perform light-duty labour. That's an important thing, because many workers get injured here, are sent back, and are never recalled. People who are injured here are not allowed any extra benefits that they would be allowed if they could return, because the board has a policy in legislation based on that.

• (1530)

Lastly, the federal government should ensure that migrant workers receive information in their own language regarding their rights and

responsibilities in a neutral, uncomplicated, and uncompromised manner. This task is currently left to foreign consulates, which, in addition to the country of entry, or perhaps because of it, provide information that is quite minimal and incomplete.

For example, this is the little pamphlet that the Mexican workers get from the embassy. There was nothing in 2006 indicating they could apply for workers' compensation benefits if they have an injury at work. We had a meeting with them, and the pamphlet for 2007 had a little thing saying that there is a WCB possibility. It is the responsibility of the federal government to inform the workers about their rights. This is not enough.

**The Chair:** Consuelo Rubio is next.

**Ms. Consuela Rubio (Community Legal Worker, Centre for Spanish Speaking People, Industrial Accident Victims Group of Ontario):** Thank you very much.

Good afternoon. Bonjour.

I'll be very quick, because I don't think I have a lot of time here.

I've worked for the Centre for Spanish Speaking People for the past 30 years. I want to express its opposition to the creation and expansion of any more guest worker or temporary worker programs. The reason is based on our experience working with the predecessor programs that are in place right now: the temporary farm workers; the seasonal farm workers program; and the domestic program, the live-in caregivers program.

Although those workers are in guest worker programs, in our experience that is something of a misnomer. They should be called ghost workers programs. The reason why I say that is because once those people come into Canada, they become legal non-entities. They don't appear anywhere. There are a number of exceptions in the labour laws of Ontario and other provinces, for instance, where farm workers are not covered. Even in those areas where they are, enforcement of those rights, and protection under the act, is practically impossible.

As an example, Alberto mentioned that I had represented the first farm worker to ever obtain employment insurance benefits in Canada, and that was parental and pregnancy benefits. Farm workers—even though they pay into the plan—are not entitled to regular benefits once they become unemployed and go home.

I am an obstinate person, and I think that is why we got the benefits. I don't think that's an understatement. In fact, the HRDC office—even though those workers were entitled to those benefits—still treated them as non-existent by the very nature of their temporary status in Canada.

Another example is that even though farm workers pay under our pension plan, they are not entitled to old age security. Even though many of them have been coming to Canada for over twenty years, they're not considered residents of Canada, but merely present. You see people who have devoted their working lives to Canada, and yet they go home and they get a meager retirement pension with no old age security for them.

With respect to the mandate of the committee, this is lateral, but I think it's important to point out injustices whenever you have an opportunity to do so.

I thank you for your time.

• (1535)

**The Chair:** Thank you.

These are very good presentations, I must say.

Mr. Telegdi, you have seven minutes.

**Hon. Andrew Telegdi:** You mentioned a couple of issues that the committee had made recommendations on, one of them being the moratorium on deportation of undocumented workers. The other one was having the immigration appeal division implemented. That's something this committee, over the years, has spent a lot of time talking about and has made motions on. Obviously, it got ignored by the powers that be—be the ministers at the time Liberal or Conservative.

One of the arguments used in the past about implementing the immigration appeal division was that the backlog was too high—once they dealt with the backlog, they would implement it.

A couple of years ago the backlog was under control and was at its lowest number. This past year, because of the failure of the minister to appoint a full complement of IRB members—missing something like one-third—the backlogs went to a record level, and they're growing.

We've created a crisis at the Immigration and Refugee Board. As much as the committee jumps up and down about it and makes noises, we manage to get ignored by the ministers. But I dare say that in most cases it's the bureaucracy, because the ministers really don't know how to run the department. They rely too heavily on the bureaucracy.

The changes proposed in Bill C-50 will give almost absolute control to the bureaucracy. When you give the minister power, let's not kid ourselves, it's not the minister who's going to do it, it's the bureaucrats. So we have the bureaucrats having created a crisis with undocumented workers by changing the point system and having the various ministers go along with it. Now we have the same situation applying to the backlog of refugees. Of course, Bill C-50 would ultimately finalize their control.

My question, my challenge to you is that you're really going to have to go forth in your community—and it has to happen across the country—and expose this plan around Bill C-50. We need to have big debates, and people need to be made aware. I don't want to see this turn into immigrant bashing, which is what I sense coming from this government. We have to have the debate across Canada.

Ultimately, if I had my way, we'd bring down the government over it. But first of all we need to have that debate.

My challenge to you is to make people in your community as aware as you possibly can. If we don't do that, like I said, we're giving de facto control to the bureaucracy.

Are there any comments?

• (1540)

**The Chair:** Whoever wishes to comment, just jump in.

**Mrs. Consuelo Rubio:** I have a quick comment with respect to the backlog.

I was surprised to hear that in the last year Canada issued, with incredible speed, over 130,000 work authorizations for temporary workers. Yet we're unable to process members of the family class with the same celerity.

My comment to the committee is that the government has its priorities wrong. Family reunification has been a pillar of our immigration policies throughout the years I've lived in Canada. As a person living in this country, I'm concerned about this shift.

**The Chair:** Very good.

Is there anyone else who wants to comment on Mr. Telegdi's question?

Mr. Ramsaroop.

**Mr. Chris Ramsaroop:** Thank you.

My challenge back to this committee is that excluded in this discussion are those temporary workers, right? We're talking about backlogs, but we also have to talk about repatriation and deportation of these migrant agricultural workers, live-in caregivers, and other temporary workers.

When we're hearing these cases and bringing them forward to you, we think it's imperative that you take a stand, that you basically take up our challenge of making sure that there's justice for these workers and that they're treated with the humanity and respect they deserve.

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

Mr. Lyn.

**Mr. André Lyn:** I have a quick question about the backlog. Why can't the motion that was passed about having the moratorium on deportations be effective at the same time they're clearing the backlog? What's the bureaucratic humbug in doing both simultaneously?

**Hon. Andrew Telegdi:** I'll give you a guess. What I found with the bureaucracy over the years is that the deputy ministers aren't out there to protect their ministers; the deputy ministers are out there to protect their previous bad decisions. We have that with the undocumented workers, because that obviously is the result of changing the point system in 2002 that they thought that was going to be the panacea to solving the backlog.

What they're proposing now, since they have proven themselves consistently to be very bad decision-makers, is that we give them more power, which doesn't get questioned, which doesn't become transparent, and they certainly don't become accountable.

I'm just throwing that reality out to you, having been on the committee for ten years and having watched various ministers come and go. It's not just the Conservative ministers. We had a slew of Liberal ministers who did not know what they were doing. And the committee pointed out to them very clearly that they were going down the wrong path, and they still went down the wrong path, and now we have a real mess.

**The Chair:** Okay.

Mr. St-Cyr.

You all have your translating units here.

**Mr. Robert Carrier (Alfred-Pellan, BQ):** Maybe they understand French.

**The Chair:** Maybe they understand French and they won't need any translation.

Mr. St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** Thank you, Mr. Chair. I will be splitting my time with my colleague Mr. Carrier.

My question is for the people from the Industrial Accident Victims Group of Ontario.

Mr. Lalli, you said in your presentation that the federal government had a responsibility to workers. A number of witnesses have told us that it was not easy to get the federal government and the province on the same page, that the two governments were playing ping-pong.

Because most powers relating to employment—labour standards, occupational safety and training, for example—, are provincial, would it not be more efficient to transfer all of the administration, the selection and the process to be followed by temporary foreign workers, to the provinces? Rather than sharing those powers, the provinces would take over full responsibility for them.

• (1545)

[English]

**Mr. Alberto Lalli:** Yes, I think it would be a good idea if the provincial governments received the proper funds to do so.

**The Chair:** Mr. Carriere, you have four and a half minutes.

[Translation]

**Mr. Robert Carrier:** Thank you.

I am going to continue on the same line as my colleague. We are here representing Quebec and we have the impression that there is relatively good compliance with labour standards there. We started our hearings in Vancouver, and we are gradually moving east, and we will get to Montreal on Thursday. The week after, we will be in Quebec City. We will be confirming this when we are there.

As Mr. Telegdi said earlier, I have not been on the Citizenship and Immigration Committee for 10 years. When I was first joined the committee, last fall, the Minister had just tabled her annual report. She said she had increased the number of temporary workers, particularly in Alberta, and this was what she was proudest of. I pointed out to her that there were other important problems in the area of immigration.

As members of Parliament, we have to deal with tragic immigration cases every day, some of which involve family reunification. Recently, at these hearings, I learned about the whole problem associated with the use of temporary workers. This is really not a good solution. We have been told about cases where there has been exploitation. The workers were not aware of their rights. The only people who have said that it would be good to increase the number of temporary workers were employers who need that workforce. This is supposedly to benefit the Canadian economy, except that we know very well that entrepreneurs are concerned with their own interests first.

Some people have said that treating people like this is practically shameful for our country. I really see that the solution is not to keep this kind of system, it is to improve our immigration system. We could maybe give preference to people who have been temporary workers for several years, process their applications, establish a special program to expedite it all.

All this government is proposing is to give the Minister discretion to make decisions for solving the backlog problem. Myself, I am very disappointed with what the government is doing. It has decided to include these provisions, which went through virtually unnoticed, in a bill about the budget, rather than submitting them to our committee so we could debate them. As a rule, we are the ones most capable of dealing with these issues.

Do you think that as responsible members of Parliament, each member of our committee, we should hold to our position, or let the government do what it wants despite the fact that it has a minority? Do you think we should let it do as it pleases, as if it had a majority, or that the problem is so serious that we should vote against that decision? This is where you get to state your opinion about this. If you follow Canadian politics, you know that the more time goes by, the harder it is for the opposition parties to reach a consensus so they can stand firm on positions.

[English]

**The Chair:** You have 40 seconds left, so go right ahead and answer the question.

**Mrs. Consuelo Rubio:** It is not very often than I'm asked for advice from opposition parties, but this is such a serious issue nationally and for Quebec that you shouldn't go along with it.

Having said that, I want to be totally non-partisan. I'm taking issue with something you said about Quebec labour standards being adhered to in the province of Quebec. Let me tell you that no matter where, in any province, farmer workers are treated like crap. I have to say it like that.

I refer you to a human rights case from your province where the legal case starts with one of your own human rights adjudicators saying "What I'm going to say, what I'm going to describe right now happened in the province of Quebec in 2005", because it reads like something from the U.S. south. It is about what happened with workers, mostly workers of colour.

I'm not here to blame or assign blame, but I'm saying that nobody has clean hands when it comes to the issue of temporary workers.

• (1550)

**The Chair:** Thank you.

Ms. Chow.

**Ms. Olivia Chow:** Perhaps you could finish describing that, because I know you ran out of time.

Right now the minister seems to be saying that she would like to honour the agreements with the provinces and territories regarding the provincial nominee program, or temporary foreign worker. In the case of Quebec it's the Canada-Quebec accord. What that does is it actually allows the provinces to bring in whatever numbers they want. If the employers put in the applications, they are most likely going to get the numbers they want. There isn't really any upper target number.

In Alberta alone, as we've heard, already 100,000 people have applied for temporary foreign workers. According to the Alberta Federation of Labour, it's 100,000 so far, and maybe 50,000 of them have already arrived here, I don't know.

There is a massive expansion of the need for temporary foreign workers, partially because a lot of the workers we need are not able to come to Canada through the permanent resident program because of the point system. They just don't have enough points to come.

So first, yes, fix the point system, but with these agreements should there be an upper limit? Should they be contained so that we would no longer expand this temporary foreign workers program?

If not, what's happening is that with Bill C-50, they're going to leap up in front of the line. They're going to come in, in a massive number, as quickly as possible, because the minister is going to give priority—you can tell from what she's saying already—to all the temporary foreign workers because the workplace has said they need them. As they say, you ain't seen nothing yet: there will be huge numbers of cases of this kind and some of the tragedies that you are describing.

I would invite your comments.

**Mr. Chris Ramsaroop:** I guess on a separate thing, from what I'm hearing there's some frustration in that a lot of us are focusing on the live-in caregiver and seasonal agricultural programs. That's kind of your litmus test, right? The history behind the experiences we're talking about hasn't been dealt with, and yet this government is talking about expanding these programs.

Our concern is that all of these injustices and abuses are happening throughout—the violation of the health care act by the provincial governments, the violation of labour standards by every provincial government—and yet people keep talking about expansion, expansion, without understanding what's currently happening.

So I think the first thing I would say to government and Parliament is that you have to clean up your act. You have to understand what is going on, and you have to address the human rights violations that we're currently talking about.

**Mr. Alberto Lalli:** One thing we have to look at is why this program is expanding. My own workers come to do a job that no Canadian wants to do because of the harsh conditions, because of the poor pay. What happens is that we are creating this huge....

How can we have unemployment if there are these hundreds of thousands of applications for people do jobs? It doesn't make sense.

There's something there that doesn't match. We shouldn't have any unemployment if there is so much work. But what happens is that nobody wants to work under those conditions except people for whom making \$1 a day in their own country is a lot of money.

The other thing is with regard to the control that farmers have over, in this particular case, farm workers. What we have is a feudal situation. We've seen conditions where the workers are herded from the moment they arrive at the airport. They're brought to the farm in the middle of the province and they stay there. They can't do anything else but stay there and work.

What other place would you find a Canadian worker who would allow themselves to be treated like that, whether there is a union or not? As Consuelo said, these people are like ghosts. They are there, and they are there to stay, so employers can do whatever they want.

That's the reason why we have hundreds of thousands of applications. It's great to have this very submissive, unrepresented group of workers at one's disposal. I mean, that's the cruelty of the program, and that's the reason why it works. That's what we have to change.

● (1555)

**The Chair:** Thank you.

Are you finished? You have a minute left.

**Mr. André Lyn:** I'd just like to add to that.

As Chris said, the temporary farm worker program and the live-in caregiver program are managed programs by the federal government. If we're seeing this level of abuse happening in these managed programs, then what is going to happen when we expand the temporary migrant worker program to the extent it is expanding and the rate it is expanding? We're not addressing the systemic and structural problems that exist. We're going to see much more of this kind of abuse happening. We're going to hear more of it.

What I think those of us who are in the field are asking for is to take some time out and just reflect and review the programs as they're happening now before we expand it. We're seeing coming out of StatsCan that their unemployment is going up. Well, that doesn't seem to gel if we have more temporary programs happening. Why is that happening? We have undocumented workers here who should be able to find jobs and they have to be working. They work under similar conditions as our temporary workers, and we need to address those issues.

We need to fix the system before we start to expand it, or else it's just going to spiral out of hand.

**The Chair:** So it's seven minutes for Mr. Komarnicki.

**Mr. Ed Komarnicki:** I will be brief, Mr. Chair.

Thank you for presenting.

I think we've heard from a number of parties. If I were to summarize it on the undocumented workers, you want to see some legitimate tasks created for them, with the temporary foreign workers, the migrant workers. You'd like to see some basic benefits and rights that transcend even the provincial labour standards provisions. I hear that, and I gather you would like to see some monitoring to see that those are being adhered to. There certainly needs to be some advocacy for that group. We've heard that as well. You're saying we should look at the whole picture, have a bit of a reflection on where we've gone, to take all of those points into consideration. I think pretty much I've heard what you're saying on that, for sure, and thank you very much for the time you took to present.

**The Chair:** Thank you.

Do you have a comment, Mr. Ramsaroop?

**Mr. Chris Ramsaroop:** Once again, with the temporary workers, with the live-in caregivers, the meat packers, the agricultural workers, we're also seeing about status. Whether the workers choose to or not, if they desire, they should have a right to apply for status here in Canada. You have many of these workers coming for 30 or 40 years, for eight months a year, and they never, ever, ever, under the current system, have a chance to apply for status here in Canada. We think it's imperative that steps are taken to provide for citizenship for these workers, if they choose.

**Mr. Ed Komarnicki:** That has been raised as well. There should be a path to permanent resident status.

**The Chair:** Consuelo.

**Mrs. Consuelo Rubio:** I just returned from Kelowna in British Columbia, where this year they're receiving 800 workers to pick cherries and apples. That work has traditionally been done by people from Quebec, all these years. Kelowna has a huge community centre for people who speak French. Yet the growers and the orchardists are moving to temporary workers because they consider the labour coming from Quebec unreliable. Unreliable means that if they're not treated properly, they move to another farm. I think that is the reason. This is not unreliable. People from Quebec have the choice, if the working conditions are oppressive, to go and work elsewhere, while farm workers from Mexico and the Caribbean don't have that luxury. They're tied to their employers; they're indentured labour, real indentured labour.

● (1600)

**The Chair:** Thank you very much for your submissions today. As I mentioned at the outset, we will be making recommendations based upon what you've told us today and what we've heard throughout our meetings. So thank you, and good luck.

I want to say to our committee members that the clerk informs me that we are expected to be on the bus by 4:30, or as quickly as we can, because there is a schedule that has to be met, I believe, and we would like you to be with us when we leave.

The meeting is adjourned.

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