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Standing Committee on Citizenship and Immigration

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Thursday, May 27, 2010

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Chair

Mr. David Tilson

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• (1820)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): It's the Standing Committee on Citizenship and Immigration, meeting number 20, Thursday, May 27, 2010, 6 p.m. to 9 p.m. Orders of the day are pursuant to the order of reference of Thursday, April 29, 2010, Bill C-11, An Act to amend the Immigration and Refugee Protection Act and the Federal Courts Act.

We have with us our witnesses today, our guests from the CanPak Chamber of Commerce. Shahid Hashmi is the chairman—good evening to you, sir—and Sohabe Hashmi is the administrative director—good evening to you, sir.

Thank you very much for coming to the committee via Toronto. We're going to give you up to 10 minutes to make a presentation to us. Then some of the committee members will have some questions for you. You can start right now. Thank you again.

Dr. Shahid Hashmi (Chairman, CanPak Chamber of Commerce): Thank you for inviting us. It is my pleasure to be here on behalf of the CanPak Chamber of Commerce. My name is Shahid Hashmi and I'm the chairman of the CanPak Chamber of Commerce. Tonight I am accompanied by the administrative director, Sohabe Hashmi. I must start by saying I'm thankful to the committee members for their efforts to ensure that the Immigration and Refugee Protection Act will be amended for the better.

Throughout my work in the community I have come across many refugee and immigration cases where I have been puzzled about why the system handles them in such a way. Our initial question is why it takes so long to reach decisions about refugee cases. While the decision is being made, it costs taxpayers an enormous amount of money.

According to the report of the Auditor General, the cost is \$100 million a year to the federal government and \$100 million a year to the provinces, for social assistance for refugees. With the current backlog, I suspect it to be much higher now.

The general answer I hear is that there is a backlog of cases and the system is unable to handle all the refugee cases. I would argue that the backlog is costing Canadian taxpayers more money than hiring qualified people to handle that backlog. This would create jobs for unemployed Canadians versus giving away unnecessary money to people who may not become assets to Canada or may be abusing the system.

I would also like to question why there are so many different decisions being made in the process. These decisions seem erratic

and based on the officials' whims rather than following the system. The level of qualifications and management by the authorities does not meet the requirements of this field, which has the responsibilities of a court judge and court system. Can you imagine if the Canada Revenue Agency or the courts made decisions in the ways mentioned in the Auditor General's report? It indicates the following:

Immigration officers rule on the eligibility of a claim without having obtained the required information. Moreover, the information gathered when the claim is received does not serve adequately at other stages in the process.

I feel this is an ongoing trend in the system, causing processing difficulties. It is costing a vast amount of money, denying people who need help, and letting people slip through the cracks. It is my educated guess that the processing of refugees is relying too much on opinion-based decision-making. If files are not looked at for months and even years, at the time when the information is being passed on to other authorities, the stages and processes will not be done efficiently. If information is reviewed after such a long period of time, it takes a lot of time to re-familiarize with particular cases. If the system of information exchange is not efficient, we create duplicate work, possibly different outcomes for the refugees, and unnecessary increases in processing times.

I would like to share with the committee a case on which Hameed Ahmed and Javed Zaheer worked closely with me. We're puzzled to this day. Although the outcome was good for the refugees, it was an example of the lack of good first decision-making in our system. Farouqe Rashida and Noorunissa Begum applied for refugee status in 2001 on the basis of the threatening domestic violence they faced in India. Their hearing was—

The Chair: Sir, I'm sorry, but can I interrupt you? What you're saying is being translated into French. We're having trouble because you're speaking kind of fast. Could I ask you to slow down just a little bit?

Dr. Shahid Hashmi: Okay. Do I go back, or should I continue?

The Chair: No. You don't need to start again; just go a little slower.

Thank you, sir.

Dr. Shahid Hashmi: Okay.

Farouqe Rashida and Noorunissa Begum applied for refugee status in 2001 on the basis of threatening domestic violence they faced in India. Their hearing was scheduled to be done on September 30, 2002. Their claim was rejected on November 11, 2002. They were to appeal within 30 days of the decision, but because of the delay of arranging evidence and documentation, they appealed on the 31st day. Therefore, the appeal was denied because of the late date. At this point, their refugee case was closed, and they were distressed about returning back to India because of their safety.

In February 2003 they applied on a humanitarian basis. Two years later, in 2005, they were asked for updated information on their particulars. At this point, no decision was made. All of a sudden, two years later, in 2007, they received a letter from the pre-risk removal authority, PRRA, requesting an appointment. When they came to the appointment, they were told that their case was rejected and they were to leave Canada and return to India. They were told they could appeal the decision and they were given an application.

In the meantime, Hameed Ahmed contacted the CIC Scarborough office to find out about the application to remain on a humanitarian basis, but received no response from the CIC.

They then submitted the PRRA application, and later they received a letter from the same officer who previously denied their claim, saying he would be making the decision on the PRRA application and the humanitarian application. He rejected the application for both Rashida and Noorunissa. He decided there was no life risk. How could he consider that by himself?

Soon after the rejection they were issued a deportation order for August 14, 2007, along with a flight with the Russian airline. PRRA sent their Indian passports to the Indian embassy to be renewed, as they had expired. During this time, with the help of their brother and uncle, Hameed Ahmed, they appealed the PRRA decision to the Federal Court, but since they could not afford legal counsel, their case was weak and the judge rejected their appeal. They also separately applied for the humanitarian application that was initially rejected.

Several years later in this process, near the end, after many rejections and difficulties, they were granted legal aid and managed to find a good lawyer named Jack Martin. Hameed Ahmed had to supplement the legal aid with \$1,000 from his pocket, in addition to various other costs.

While all this was happening, they were to be deported, but they remained in the system only because of the delay from the Indian embassy to renew their Indian passports. This mishap in the system allowed them adequate time and legal counsel to appeal the rejections on humanitarian grounds. This time the legal aid allowed Jack Martin, Hameed Ahmed, Javed Zaheer, and myself to help Rashida and Noorunissa. With their help in this matter, Rashida and Noorunissa received a letter from the Federal Court stating that if they withdrew their humanitarian appeal, their application would be reconsidered. As a result, they withdrew the appeal and the deportation was cancelled. A couple of months after receiving a letter of reconsideration, and with the work of Jack Martin, Rashida and Noorunissa were granted immigration.

If you notice the erratic nature of this case...we are very curious about the inner workings and on what basis the administrative decisions were made throughout this case. Why is it that in a few months a clear decision could be made, but not in the years before? One thing for sure is that unqualified people helping claimants and refugees need access to legal counsel. With the help of legal counsel, many cases can be sped up.

• (1825)

Mr. Sohabe Hashmi (Administrative Director, CanPak Chamber of Commerce): Good evening. My name is Sohabe Hashmi. I would like to describe a case that relates to the importance of providing claimants with appropriate legal counsel. I would like to bring to this committee's attention an extract from a report from the Canadian Council for Refugees:

Marie arrived in Canada with little formal education, unable to speak English or French. At her refugee hearing, she was confused by the questions and gave unsatisfactory answers. She was found not credible and her claim was denied. The full story only came out after the hearing. Marie had been gang-raped for three days in police detention in the Democratic Republic of Congo. The experience left her traumatized and terrified of people in authority. Her feelings of shame made her reluctant to discuss her experience of sexual violence. Marie was able to talk freely only after her lawyer had spent many hours gaining her trust. She had also by then begun counselling and had the support of a friend. Marie has applied for humanitarian and compassionate consideration and is waiting for a decision.

I would like to move to the subject that I'm bothered about in Bill C-11, which is the idea of the so-called safe country and unsafe country. By denying failed refugee claimants the ability for pre-removal risk assessment or humanitarian relief, we would be subjecting many refugees to potential danger, death, and other risks. Sweeping a problem under the rug for convenience is not the Canadian way. As Canadians we should never look for the easy way out. If Rashida or Noorunissa were sent back to India, they would have been subjected to possibly deadly violence, but definitely violence.

A so-called safe country may be safe indeed for the average Joe or Jane, but for the refugee claimant it isn't safe at all. Otherwise, they would not be applying as a refugee.

• (1830)

The Chair: If you could conclude, we would appreciate it.

Mr. Sohabe Hashmi: Thank you. I'll try.

The Chair: Do your best.

Mr. Sohabe Hashmi: A safe country is safe for some people but not for others. A young woman by the name of Grise came from Mexico, which might be considered a democratic and safe country. But when she was denied and returned, she was shot in the head and kidnapped by the people she was fleeing. So I don't agree with the safe country aspect of Bill C-11.

I'll conclude with this. I would like to ask the committee if they have considered the many audits related to the refugee claimant process. They will help uncover inadequacies; mismanagement; failure and success; the academic information on this subject, particularly the recommendations of Professor Peter Showler; the valuable information and criticism from refugee councils and NGOs; and the failures of the U.K. refugee system, on which it seems you're trying to base the concept of safe and unsafe countries.

I conclude with that.

Thank you.

The Chair: Monsieur Coderre is going to ask some questions now.

Hon. Denis Coderre (Bourassa, Lib.): Thank you, gentlemen.

I'm trying to understand. You spoke about some personal or specific cases. You said that, like me, you don't believe in designated countries, because every case is specific. I'd like to know about your Chamber of Commerce. What's your mission? Are you providing legal advice? Are you helping? What's your role?

Dr. Shahid Hashmi: We don't do the legal advice, but we do the community help. When people come in and they don't have any information, we try to help them, to lead them to the legal help.

Hon. Denis Coderre: There are many things in the bill. There is an appeal process in place. Like you, we believe that we should accelerate some of the process. It can cause social problems, collateral damage. I hear you well when you speak about efficiencies. But what do you think of the principles in Bill C-11? What about the appeal process, the time allotted to prepare a case? Can I have your point of view on that?

Mr. Sohabe Hashmi: I believe the bill should focus more on a good first decision. The right to appeal should not be taken from people who are deemed to be from a safe country. I don't have answers on the entire bill, but I was really distraught about that. I can elaborate if you want.

Hon. Denis Coderre: Yes, please go on.

Mr. Sohabe Hashmi: Where it seems to me we're basing this on the U.K. system, there is a problem. I have a lot of information.

One thing I found appalling in Bill C-11 was that there would be no opportunity to consider the best interests of refugee claimant children, which is required by the Convention on the Rights of the Child. There was a case where the IRB found three Mexican children who were orphaned because their parents were killed, and under the definition of refugee they were denied. If they were not given humanitarian or compassionate application or appeal, they would be returned to the scene of their parents.

It's very important to allow a better appeal process, with people who have good knowledge, qualified people, so we don't have to go through numerous appeals. In the case we described right now, they went through several appeals. Why not have a good decision in the beginning?

There are lots of criticisms.

Hon. Denis Coderre: So the bottom line is that you want the process to be accelerated. You believe in appeal, but the fact is, because it's not in our own interest and it's not a Canadian value to say that by providing a designated safe country, we will put aside the fact that every case should be specific.... Do I hear you well?

• (1835)

Mr. Sohabe Hashmi: I agree, but speeding it up has to be on a case-by-case basis. If we do things more efficiently and if we make better first decisions, we can reduce quite a bit of time. Seven years to due process that case...if they made a decision in three or four months at the end, why couldn't that decision have been made at the beginning?

Dr. Shahid Hashmi: It's not speeding it up. Sometimes I have a case where they need time because a country won't issue a divorce certificate and the lady was supposed to go back. It's country to country and document to document, and each person has an unusual case. It's not just speeding it up; it's being more efficient and trying to handle their case in a more systematic and efficient way.

If we start dealing the way we're dealing with refugee cases at the board, most likely a lot of people will be in jail and they will be given the wrong decision. That is the problem here. I have known many cases where we find that; it is very unfair. I know of another case going on right now where the person was a refugee, but he got married. After getting married and having a kid...why is he waiting for three years to get immigration?

The problem is the process and efficiency. Sometimes you might need more time because refugees need more time to get their documents.

Hon. Denis Coderre: You talked about opinions and the need to be efficient. What do you mean by being more efficient? Do you feel there are not enough skills? Is there a lack of competence?

Dr. Shahid Hashmi: Lack of confidence.... I mentioned in my report that one officer made a bold decision on a humanitarian basis and the refugee was declined. That officer may not have had enough knowledge or qualifications. I think in those cases that decision comes from the judge. That's what I've seen in the last 35 years. Lots of decisions are made....

Hon. Denis Coderre: Mr. Hashmi, let's say you have the first instance on the front line, and the person will say whether you are a refugee in good standing or not. If it's not, you go through the IRB. The IRB will be the appeal board, but after that, that's it.

You want to make sure that the people we are picking to be those individuals to deal with those cases will provide the proper knowledge. Do you feel we don't have that right now?

Mr. Sohabe Hashmi: I feel that way, and I have some audits that I can provide at a later date. The people who are handling these cases need to be trained and qualified. These are like court cases, akin to a murder charge or something very serious. One audit I have—I don't have it handy—shows that people are not properly trained or qualified, and there's a high turnover of officials.

The Chair: Gentlemen, Monsieur St-Cyr from the Bloc Québécois is going to ask you some questions now.

[Translation]

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): Good evening, gentlemen.

You talked about the importance of having good decision-makers making good decisions from the beginning. Obviously, that goes without saying. That is what everyone would like, regardless of political stripe. No one disputes the fact that good decision-makers are needed.

The question I have for you is the following. As parliamentarians, it is our job to study bills. What specific measures do you recommend we adopt to ensure that the right people are making the right decisions at the first level?

[English]

Mr. Sohab Hashmi: I have some recommendations from the Canadian Council for Refugees. I'm not affiliated with them, but they have very good recommendations. I'm not sure if the committee has heard them, but I'll bring them forward.

The recommendations are: having IRB members appointed through a merit-based selection system that is not restricted to civil servants; eliminating the designation of safe countries of origin; allowing claimants more time to prepare for the hearing; and eliminating the bar on claimants making humanitarian and compassionate applications.

Here are some recommendations that I like: accept that refugee determination is difficult, as it is rarely obvious who is a refugee; assess each case on an individual merit basis; invest in high-quality initial decisions and get it right the first time; keep it non-political and have an independent body make all the decisions; keep things simple; put the necessary resources in place to avoid backlogs; and remember that human lives are at stake.

We're on show to the world. We're always leaders on these things. I don't want to be made fun of, for lack of a better word.

● (1840)

[Translation]

Mr. Thierry St-Cyr: You echoed the recommendation of the Canadian Council for Refugees, which is to allow members and officers to be hired from outside the traditional public service and from the general public. The example that is often cited is that of the chief electoral officer, who can look both inside and outside the public service to hire returning officers.

Do you think that would be a good model for the committee? Should it follow that model for the appointment of first-level civil servants?

[English]

Mr. Sohab Hashmi: Sorry, which case is that?

[Translation]

Mr. Thierry St-Cyr: You gave us an example for the appointment of first-level civil servants, in other words, the first level before the appeal. Some groups have suggested to the committee that we follow the model of the chief electoral officer, whereby he can hire staff from both within and outside the public service.

Do you think the committee should look to that model?

[English]

Dr. Shahid Hashmi: It could be either way. It doesn't really matter. As long as you're hiring or recruiting qualified people, that's the whole key, whether it's within a public service office or from the outside.

Mr. Sohab Hashmi: People who are recruited should be qualified. They should be appropriately compensated so that they

don't leave their positions. When they're working there, even if they've been appointed by government officials, they should definitely keep in mind that it's on a non-partisan basis. If they have certain beliefs because of their political values, they have to be set aside.

Dr. Shahid Hashmi: The whole thing is that you should put the political party on the side when you're making a decision for the immigrant and for the refugee.

[Translation]

Mr. Thierry St-Cyr: You also talked about giving people the opportunity to adequately gather evidence before the hearing. The committee has also had a lot of discussions around the issue of time frames. Some people worry that by trying to move things along, it would create situations where, at the end of the day, meetings have to be adjourned, owing to a lack of evidence or documents, or even that it would have the opposite effect, that is, making the process slower and more cumbersome.

Are you one of those people who think that having an initial time frame that is too short could have the opposite effect?

[English]

Dr. Shahid Hashmi: The time period depends on each individual case. You really can't determine for all the cases at the same time. Some countries may provide you with the documentation fast and some countries take a long time. In one case I even had to get help from the MP to get a divorce certificate from Pakistan. It was really hell to get that divorce certificate, and they were going to deport. It was thanks to the MP. I don't know if I'm supposed to give the name or not, because I don't want to bring politics over here. I'm really thankful for that, but it took almost two and a half years to get that divorce certificate.

I can be more open over there. If those called *maulvis*—those priests or those religious people—were not bribed, she was not going to get that certificate. It depends, country to country, whether I can release anything in time.

Mr. Sohab Hashmi: In the beginning there should be adequate time, depending upon their circumstances and what documents are required. That should be considered, but a qualified person should be making that consideration. It took them an extra day to get some of their documents. On the 31st day Rashida and Noorunissa were denied because they were late by one day. Special consideration could have been given there, and maybe this process would have been shortened by two years.

● (1845)

Dr. Shahid Hashmi: They were granted immigration in the end, so sometimes we really don't understand the system.

Mr. Sohab Hashmi: I wish I could give you more policy-sound recommendations. I'm not a policy-maker. I'm not a politician or a lawyer or an immigration specialist. I'm just speaking as a Canadian who has a little bit of experience.

The Chair: You're doing a fine job, sir. Thank you very much.

Ms. Olivia Chow from the New Democratic Party is going to ask you some questions.

Ms. Olivia Chow (Trinity—Spadina, NDP): As you may know, both the New Democrats and the Bloc are very much against the destination of safe countries. Can you imagine the trauma of that young woman from Congo, if she comes from a “safe” country? Perhaps Mexico could be declared a safe country. Any number of countries could be so declared. Ghana is on a safe country list in England. After what she experienced, she may have been so traumatized that she messed up her hearings.

In this case, with this Bill C-11, a safe country means that she will not have a chance to make an appeal. That would be grossly unfair, to my mind.

Have you talked to some of your members of Parliament in Vancouver? I believe that is where you are from.

Mr. Sohab Hashmi: I'm from Toronto.

Ms. Olivia Chow: You are from Toronto. There are lots of members of Parliament from Toronto who are Liberals. Perhaps you can persuade some of them that this is not a good direction to go and that having a safe country destination is not the right direction, because next Tuesday we are going to start doing clause-by-clause recommendations. By Thursday night we'll be finished, and the week after that we'll be back in front of the House of Commons with Bill C-11.

Have you any comments on this part of the bill?

Mr. Sohab Hashmi: Sure. As I said, I'm here on a non-partisan basis. I have no problem with sending out a little package. I'm surprised that these people were not invited. I'm not sure if they were invited in the past. They have much more knowledge on these things. I mean people such as Peter Showler, the counsel.

I have some information that I compiled. I can send it out, along with my write-up.

The Chair: Sir, they've already been here.

Ms. Olivia Chow: Peter Showler, the Canadian Bar Association, Amnesty International, UNHCR, and the Canadian Council for Refugees have all been in front of this committee.

I'm actually not the chair. I shouldn't defend this, but actually every single one of the organizations has said that this safe country destination, especially when it comes to not having an appeal, is the wrong way to go. So I do hope you will do everything you can to perhaps change some minds. That would be really helpful on that front.

Have you had any conversations with other people or with your members? I'm sure you have lots of members in the CanPak Chamber of Commerce. Perhaps some of your members can approach their MPs to help them to understand why this is not a good route to go.

The Chair: On a point of order, Mr. Dykstra.

Mr. Rick Dykstra (St. Catharines, CPC): I understand that Ms. Chow has her perspectives on the bill, and she has, I'm sure, a number of amendments that she's going to move. I didn't realize, on this point of order I'm making, that MPs would actually give advice to witnesses. I thought we were here to listen to witnesses advise us.

Ms. Olivia Chow: I'll refrain from giving advice.

Dr. Shahid Hashmi: I wouldn't say that's advice. I don't think that's advice. I think that's a concern she has. I don't think that's advice; that's a concern, and we have many who have that concern.

Mr. Rick Dykstra: Thank you for clarifying that for me, sir.

Dr. Shahid Hashmi: It's my concern—

Mr. Rick Dykstra: Thank you, sir, for clearing that—

Ms. Olivia Chow: It's not often that I hear the Conservatives defending the Liberals. I should mark down the time. It's ten to seven. It's a spirit of cooperation.

The Chair: We're getting out of hand here.

Mr. Dykstra, it's Ms. Chow's dime as long as she's talking about the bill in some way.

Mr. Rick Dykstra: Would you rule on my behalf?

The Chair: I just did rule on your behalf, and she's entitled to talk. She can make a statement. She can blather on as long as it's relevant to the bill.

Your time is fast approaching.

Ms. Olivia Chow: On the humanitarian and compassionate grounds, do you agree that, like the lady you talked about from the Congo, if she gets confused or not sure whether she's a refugee or whether it should be on humanitarian grounds...is this an area wherein she should have a choice? If she goes into one stream, she should be able to switch to another stream. She may make a mistake and go in one area and discover that she really should be declaring through another stream. Is this an area that you support?

● (1850)

Mr. Sohab Hashmi: I haven't looked into that detail. I do understand that people may make erratic decisions when they don't know which way to go. It's more something that a lawyer or somebody should advise them on at that time, or some sort of legal counsel should tell them that their case is more on a humanitarian basis or a refugee basis. To me it's very similar. Refugees are seeking protection in one way or another.

To comment on before, with all these people who have come here, I'm very surprised that the committee has not indulged in their work. We should look more to the public and the people who are working in this area and ask them how we will be able to amend this bill in such a way that it can work for Canada, instead of looking at other countries or making up safe countries—

Ms. Olivia Chow: Thank you very much.

The Chair: On a point of order, Mrs. Wong.

Mrs. Alice Wong (Richmond, CPC): I appreciate the comments given, but the reason why we invited these witnesses is to show that we do our due diligence and really work hard in making sure that the bill will be a good one.

The Chair: Okay. These are Canadians and they can say what they like.

Go for it. We're back on the air, sir. You can say what you wish, or maybe you've finished?

Dr. Shahid Hashmi: There are no more questions?

Mr. Sohabe Hashmi: If there are no more questions, I'm finished. I will be sending this information out. If you want to write down by e-mail address, it is sohabe@canpakcoc.com. If you want to send me an e-mail, I can send you out this brief package that I have.

Thank you for your time.

The Chair: We have one more question of you, sir. Here it comes. It's from the Conservative Party and it's Mrs. Nina Grewal. She's going to ask you some questions.

Mrs. Nina Grewal (Fleetwood—Port Kells, CPC): Thank you, gentlemen, for your time and your presentations. We really appreciate your time. I have about three questions. They're very short ones.

Do you think the delays and multiple recourses in our current system can be a draw for individuals who are not genuine refugees? Could you answer that?

Dr. Shahid Hashmi: How do you determine if they're genuine refugees or not?

Mrs. Nina Grewal: No, I'm asking you a question. If you haven't understood the question, I can put the question back again.

Do you think the delays and the multiple recourses that are taken in our current system draw individuals from outside who are not genuine refugees? Do you think that's a big problem?

Mr. Sohabe Hashmi: Yes, I do think it's a problem in that it does draw people who can possibly abuse the system. But we cannot make that kind of judgment without going through this due process of identifying whether the case is genuine or not.

Take murder, for example. Imagine if we did that. I have a great example here. Put it into this context. If you live in a part of Toronto where crime rates are very low...and since you live in Toronto, where there's an active police force, the police will not do a thorough investigation on a crime committed against you because that area is considered generally safe.

We cannot do this on an assumption basis. It's very important for us to find out who is and who isn't.... A good system should be in place, but that system should not hinder genuine cases.

• (1855)

Mrs. Nina Grewal: Do you think that a failed claimant should be removed quickly once he or she has gone through the various levels of appeals? If not, why not?

Mr. Sohabe Hashmi: They should be removed because they're costing taxpayer dollars. But the way the system is currently set up, I feel kind of scared saying they should be removed, because many people are being removed who should not have been removed in the first place. They're going back to their countries and getting shot. Very traumatic things are happening. What's the point of a refugee system if that's going to happen?

Mrs. Nina Grewal: The rest of my time I'll pass on to Mr. Dykstra.

Mr. Rick Dykstra: Thank you.

To both of you, you've read off a number of recommendations from other organizations that have already made presentations to

committee. You've indicated that you think there are some flaws in the bill as presented, but you've presented no alternatives yourselves. You indicated, Sohabe, that you didn't have the time to prepare and you don't have any recommendations to give us in terms of working through the process—

Mr. Sohabe Hashmi: I didn't indicate that—

Mr. Rick Dykstra: I'm just asking you now if you could list out for me three or four specific recommendations that you think would assist us in making this bill stronger.

Mr. Sohabe Hashmi: I didn't indicate that I didn't have time to prepare. I didn't go into every aspect of the bill. As I said, I'm here as a Canadian. I'm not here as a politician. I'm not here as a policy maker.

One thing I would like to see in here—I don't know if other organizations are proposing this or not; if they are, good.... I'm strongly proposing a more efficient system. It seems to me that the files are being passed around in the offices. These are things that you guys have to look into, to find out if there is efficiency. Why is it taking so long?

Dr. Shahid Hashmi: Recommendation one is to deal with files efficiently, by qualified people and not politically.

Mr. Rick Dykstra: The chairman of the Immigration and Review Board was a witness at this committee. His organization is coming back again next week to respond to further questions. He indicated that, based on the new legislation, he would indeed be able to fulfill the exact requirement and submission that you've just made. So that would in fact be done through this bill. So you would support that?

Dr. Shahid Hashmi: We would definitely support efficiency and qualification, if Bill C-11 will stop inefficiency.

The second recommendation is that you cannot deal with time by days. It has to be case by case.

Mr. Rick Dykstra: I don't understand what you mean by that.

Dr. Shahid Hashmi: Each person is unique; each refugee is unique.

Mr. Rick Dykstra: None of us would argue with that.

Dr. Shahid Hashmi: You may need various amounts of time to deal with their cases.

Mr. Rick Dykstra: None of us would disagree with you that each application is unique, but Sohabe just said that we need to make the system more efficient; we need to make it fairer. We can't have a system that doesn't have some general rules and regulations within it, some legislation that actually allows us to move the process quicker. Well, maybe you think this. I certainly don't.

We have a backlog of 60,000 individuals right now. I would suggest—and you would agree with me—that the system is not being fair to any of those individuals, because they have to sit on a waiting list. The whole concept and principle behind this bill is to ensure fairness and efficiency. If there are pieces within this bill, and each of the parties is going to forward some amendments to this bill...

What do you think we should do to meet the objective that you indicated of being more efficient, to be able to serve people in a more direct way?

Dr. Shahid Hashmi: You misunderstood me when I said more time was needed.

Yes, you must have a system. I'll give you an example. If it were filed just one day after... We just mentioned that one of the cases was filed late. You definitely have to have a system and a procedure, otherwise it will be a never-ending thing. But, for example, there was a file that was one day late and it was rejected. It took five years of taxpayers' money to keep those two refugees in this country, and it was going on and on and on. I don't think that was fair.

The other recommendation is to hire more qualified people, and then you won't have a backlog. The backlog is costing the taxpayers more money. We need to hire more people if we have a backlog. The \$100 million that the federal government is spending and the \$100 million the provincial government is spending on welfare for refugees is way less than what they are spending on employees. If you spent it on hiring more, Canadians would have more jobs, and at the same time the decisions would be made much faster. I'm sure if you had one officer handling one case—though in some cases you would have to change that—it would probably be more appropriate, more efficient, and more fair.

• (1900)

The Chair: Excuse me, sir. Unfortunately, we've run out of time. Our time has come.

I want to thank the members of the CanPak Chamber of Commerce for your contribution to the committee.

Thank you kindly, sirs.

Dr. Shahid Hashmi: Thank you very much for giving us a chance to come before the committee.

Mr. Sohabe Hashmi: Thank you very much.

The Chair: Thank you.

This meeting is suspended.

• _____ (Pause) _____

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• (1905)

The Chair: We can start. I call the meeting to order.

We're reconvening this meeting. We have three groups, one of which isn't here yet, from Calgary by video conference, but we do have before us in Ottawa the Montreal City Mission, with Sylvain Thibault. Good evening to you, sir. With him is Kemoko Kamara. Mr. Thibault is the coordinator of the project refugee program and Kemoko Kamara is a volunteer.

Then we have by video conference from Toronto, Ms. Mary Jo Leddy.

Ms. Leddy, I'll ask you to introduce the groups you're representing. It says here Romero House, but I gather you're saying there's another group. We have Gustavo Gutierrez and we have Gift Ogi.

I'll let you proceed, Ms. Leddy. The three of you have up to seven minutes to make a presentation, and then the committee members will probably have some questions for you.

You may start.

Ms. Mary Jo Leddy (Member of the Ontario Sanctuary Coalition, Founder of the Romero House for Refugees, As an Individual): Thank you, Mr. Chairman. *Merci beaucoup.*

My name is Mary Jo Leddy and I have lived and worked with refugees for more than 20 years at a place called Romero House, which is a welcome centre for refugees. I also teach theology at the University of Toronto and am a member of the Order of Canada.

I have attended hundreds of refugee hearings and hundreds and hundreds of interviews with immigration officers. I believe that at Romero House we now have a collective wisdom about the immigration system, about its problems and about how it could and should work. It's an accumulated wisdom, and we don't have time to deal with all of it at this time.

During these 20 years I've also been an active member of the Ontario Sanctuary Coalition, which is a member of the national sanctuary movement, with members of churches all over the country. Over the years, various churches have offered sanctuary to refugees who were in danger of being deported back to places where their lives would be at risk.

Given the limits of this presentation, I would like to focus simply on three points, and I will be brief. The first is that Bill C-11, as proposed, will provoke a massive increase in sanctuary cases in churches.

Second, having a faster decision-making process and a fairer one is imperative.

Third, we'd like to speak about the unforeseen consequences of the designated country list.

First, on sanctuary, we predict that because of all the reasons we have stated in the sanctuary report, Bill C-11, unless it is amended, will result in a massive increase in requests for sanctuary. Not all of these requests will be granted, but some will—many more than is the case now. Our experience is that very ordinary groups, when faced with a real person whose life is in danger, will offer sanctuary.

I'm here to say, make no mistake, unless this bill is amended, the incidents of sanctuary in churches will increase. And I'm here to say, for the sanctuary movement, we would much prefer that this bill be amended.

On the second point, faster and fairer, it often seems that this is only a concern of the government, but it is the concern of every refugee to have a faster determination process and a fairer one. On a daily basis, they know the cost of the slow and cumbersome and unworkable process we have now.

I want to invite Gift Ogi, who's a member of Romero House, to say this in her own words.

•(1910)

Ms. Gift Ogi (Romero House): My name is Gift Ogi. I'm from Nigeria. I have been in Canada for two years now. I moved to the shelter. When I was in the shelter I met a lady who introduced me to a lawyer. I found out I wasn't getting good results from him, so I had to move to Romero House. When staying at Romero House, I spoke with them because I needed a lawyer and they helped me out. I got a new lawyer. The new lawyer I appreciate so much. She's really doing a good job.

One thing I'm concerned about is that I left my country because my husband was abusing me and my first son. It's so painful that I left my two children back home. I don't really know what their situation is. They haven't been in school since I left. I would really like the government to help, and to see what they can do to help people like us. We need help quickly to bring our children here and give them a better life.

I feel so much pain because my children are there and I don't know how they are doing. I want to love them; I want to care for them. I want Canada to give them the best education a mother expects for them. It would be so much appreciated if something could be done.

Thank you very much.

Ms. Mary Jo Leddy: Thank you, Gift.

Our third point is about the designated countries list.

The crucial question here, as I'm sure you know by now, is who designates a country as safe and why. The bill as presented would place this power in the hands of the minister and officials of the government. This would politicize the refugee determination process even further and ultimately discredit it more. Canadians have often mocked the political patronage appointments to the IRB. This use of the designated country list would only further jeopardize the independence of the refugee determination process.

Until this process is completely separate from political interest it will not be credible—not to the refugees and not to the citizens of this country.

The political interests involved in the designated country list are many. Today we heard about the efforts of President Calderon of Mexico to convince the Canadian government that Mexico is safe. Tomorrow it will be another country.

The Chair: Ms. Leddy, excuse me, you have up to one minute left.

Ms. Mary Jo Leddy: Okay.

I'm going to turn this over to Gustavo Gutierrez, a refugee from a country—Mexico—presumed to be safe by the minister and officials at the IRB.

Mr. Gustavo Gutierrez (Refugee Claimant, Romero House): My name is Gustavo Gutierrez. I come from Mexico. I have a bachelor's degree in psychology and recognized training from the FBI, the New Mexico police department, and the El Paso police department.

I was in Juarez city working as a homicide detective. Now it is known as murder city. I was promoted in the new criminal justice

system in the state of Chihuahua. My picture was on billboards in the state of Chihuahua. I tried to work hard to make changes in the criminal justice system. I came here because I received threats. Thirty-six of my police were killed when I fled from another place in Mexico. Then I finally came to Canada.

•(1915)

The Chair: Sir, could you finish? I'd appreciate that.

Mr. Gustavo Gutierrez: Okay.

When I had my first hearing I was denied. I brought a lot of evidence of my work, the threats I received, and all the information I had, but I felt that nobody saw that. Nobody checked the case. We have to have our cases seen as particular cases.

I was being treated like I was just another Mexican, like I could go back and my life would not be at risk because Mexico is a tourist place; it's a place we trade with. But it's not true. We have to see that point.

The Chair: Thank you very much, sir.

We're going to move on to our next guest, who represents the Montreal City Mission.

Gentlemen, you have up to seven minutes between you. Thank you for coming.

[*Translation*]

Mr. Sylvain Thibault (Coordinator, Projet Refuge Program, Montreal City Mission): I am pleased to be making our presentation alongside a representative from Romero House, one of our partners in Toronto.

Mr. Chair, honourable members of the committee, ladies and gentlemen, we are here today representing the Montreal City Mission, which is now celebrating its 100th year of assisting refugees from all walks of life.

We want to thank you for the opportunity to share with you our opinion on Bill C-11 today. I head the Project Refuge program, a specialized residence for men and unaccompanied minors in need of international protection.

Our mandate is to provide specialized psychosocial services to the most vulnerable asylum seekers. So I see first-hand the immense vulnerability of individuals who have lost all their points of reference after suffering repeated persecution.

The clients we serve often bear deep psychological scars. And those painful scars influence their thoughts and actions, as well as their ability to recollect the events tied to their persecution.

When clients come to us, workers put mechanisms in place to help foster strength and resilience. Those mechanisms will allow the person to recount their situation in a climate of trust, without being afraid of further traumatization. Given our first-hand experience with these clients, we are especially concerned about certain aspects of Bill C-11, more specifically, the information-gathering interview within eight days of the asylum claim being received, an interview which is conducted by an IRB official.

We are very concerned about the ability of our residents to attend the interview under the best psychological and physical conditions possible. You and I both know that any statement made at any level in a refugee claim case can have a dramatic impact. In some cases, someone could be sent back to their country of origin to endure further persecution, torture or even death, if their claim is denied.

It is our belief that vulnerable individuals need more time to regain their strength so as to be able to more clearly articulate what they endured in their home country. For many of them, the persecution has to do with a particular aspect of themselves or even an alleged aspect. That kind of persecution leaves a permanent psychological mark, as you would no doubt agree.

The first few days after arrival are very hard for most individuals. We even see people who are incapable of giving coherent answers to the simplest questions. The goal of organized violence is to put people in a constant state of fear and to destroy their trust in others. And that inevitably leads to a fear of authority figures. Many of them experience mood swings and intense fits of anger as a direct result of the violence they endured. Some even have suicidal thoughts in the first few days or weeks.

Cut off from their social and spiritual networks, and finding themselves in a climate of hostility, where they are forced to recount what they have experienced, some of these individuals will ease their pain by going into denial and disassociating themselves from reality. They are referred for medical care and receive medication, as well as all the side effects that go along with that.

I am here with Kemoko, who agreed to represent our residents. In the past 20 years, more than a thousand people have come through our doors. I asked him if he would have been ready for an information-gathering interview with an immigration official eight days after arriving. I will let Kemoko answer that.

• (1920)

Mr. Kemoko Kamara (Volunteer, Montreal City Mission): Mr. Chair, honourable members of the committee, ladies and gentlemen, good evening.

I do not have much time, but I will do my best. I am very honoured, as a refugee, to appear before you today to speak to the importance of the motion on the initial interview that seeks to replace the 28-day period with an 8-day period.

Based on my personal experience, I will describe the barriers that would have prevented me from being ready for that interview. I came to Canada with physical and psychological wounds, as you can see, as a result of violence in my home country.

First and foremost, I needed psychological support to learn how to accept things I could not change and be able to speak about my experiences. In that sense, it would have been nearly impossible for me to have been forced to talk about what I experienced immediately after arriving in Canada.

The legitimate legal obligation to recount my story aside, remembering and recounting what I experienced is not something I enjoy doing. These new legal realities are basically a burden. They were for me and only added to the existing burdens of my daily life. I needed to build a certain amount of confidence in myself and others.

Furthermore, Canada was a new land to me, a new place to learn and understand. When I arrived, I experienced intense culture shock, characterized by what I saw, what I heard and what surrounded me. Almost immediately, I wanted to learn how my new neighbours thought and to fit in. That desire became a sort of healing balm in helping me recover from my violent past.

Depriving me of the opportunity to heal my psychological wounds by forcing me to focus on an interview within eight days of arriving would not have helped my recovery.

[English]

The Chair: Mr. Kamara, you have one minute left.

[Translation]

Mr. Kemoko Kamara: Thank you.

Being immersed in a new reality was worrisome enough, without having to worry about something else. In addition, because of how I looked, when I got here, wherever I went, including the hospital, I was told that I needed medication. People thought I had emotional problems. I was given medications that put me in a terrible state. I had to stop taking most of them.

The eight-day time frame would have been a problem for me. Even now, I am not ready. I am in the process of learning how Canada's immigration system works and integrating into society. Maison Haidar provided support to not only me, but also my lawyer.

Ladies and gentlemen, there are many things I could tell you to make you understand that eight days is really not enough. I am just one person, but a lot of refugees will tell you that eight days is not enough for us.

[English]

The Chair: Sir, I expect the members of the committee will ask you some questions. You'll have some more time to speak.

We have a third witness, who is from Calgary, the Calgary Catholic Immigration Society. It says here Antoinette Godbout.

Is that you? You don't look like Antoinette.

Mr. Rob Bray (Manager, Family and Children Services, Special Projects, Calgary Catholic Immigration Society): No, I'm standing in for her. She had an emergency in her family.

The Chair: All right. She's the refugee sponsorship coordinator. Perhaps, sir, you could identify yourself to the committee.

Mr. Rob Bray: My name is Rob Bray. I actually appeared before this committee before, a couple of years ago. I'm the manager of family and children services at the Calgary Catholic Immigration Society, which is one of the largest immigrant-serving agencies in Canada. I've been working in the field of immigrant and refugee settlement for 24 years now.

The Chair: Okay. Well, I want to thank you for coming. We're going to give you up to seven minutes to make a presentation to the committee, sir. You don't have to take the full seven minutes.

Mr. Rob Bray: I'm not going to. I don't really have a lot to say. To be more accurate, I have a great deal to say, but you've already heard it before, because you've had submissions from UNHCR, the Canadian Council for Refugees, and Amnesty International. I pretty much would echo all of that, so I'm not going to go into that in a lot of detail.

I wanted to begin with something that's a little bit off topic, and that's just to say how delighted we are that Immigration has decided to increase the number of both privately sponsored refugees and government-sponsored refugees. Antoinette asked me to pass that particular message on.

In terms of this particular bill, you've heard all the various issues in it. From my point of view, it's a mixed bag. There's some really good stuff in it and there's some stuff I may have some problems with.

In terms of the refugee claimant processing times, those are really good. Considering the situation now, with people having their life on hold for 18 months or longer, it's really nice to see that go through.

I'm a little bit less worried about the eight-day initial interview. I'm more worried about the two months for an IRB hearing. I have cases right now. I have a Tamil guy who needs to get some ID documents, and he doesn't even know if his family is alive, let alone if he can get in contact with them. I have another guy from the Congo in a similar kind of situation. I suspect we may have the situation that the two months keeps getting extended and extended anyway. I don't know if we really need to make it a hard limit. If we do, maybe we need to make it a little bit longer.

The other issue I have is with the speed-up. The problem right now, generally, with all areas of immigration, not just refugee determination but government processing, private processing, and general immigration issues, is that the overall system is under-resourced. If we're going to be able to meet the kinds of goals being set out in this bill, we're going to have spend a lot of money. We're going to have to hire an awful lot more officers and IRB members and clerks and everything else. You can't really set the goals unless you're willing to put the resources into it. To date—and this is nothing new, it's been like this for 20 years—a lot of the problems in the system are not because of structural issues in the system but simply because the system is really under-resourced.

The other major issue I have is with the safe country list. My issue with that is not so much that there are safe countries or there aren't safe countries. The problem I have with a safe country list is that it's going to become politicized and become part of the diplomatic relations Canada has. The act of taking a country off the list or putting a country onto the list is going to involve an awful lot more than just simple refugee realities. I think it's going to be a process we're going to get ourselves into deep trouble with.

One of the really good things about this bill, which I really celebrate, is the introduction of the refugee appeal division, and not just that it's coming in, but that it's coming in strengthened. I think that is a really good move. I think it's really important, and I'm really happy to see that.

The last point I want to make is about the limits being imposed around humanitarian and compassionate appeals and pre-removal

risk assessments. I have some problems with those. In any case, I'm not a lawyer, but from what I know of the Singh decision and the case law, I would think the first time those are brought up in court they're not going to be tolerated.

As I said, it's a mixed bag. There's some really good stuff in there. Anything we can do to speed up the system would be really good. I think one of the things we have to remember is that currently 40% to 50% of the people making refugee claims are in fact refugees. These are people who are going to become Canadians, and if we're putting them through this limbo or this hell for 18 months or longer before that happens, we're not exactly getting them off to a good start in Canada. I work in Family and Children Services, and I'm pretty concerned, particularly about some of the children of refugee claimants. Their entitlements are very limited.

Incidentally, I should point out that here in Calgary, for years there were tiny numbers of refugee claims. Starting two years ago, and then especially last year and right now, the numbers have gone way up. My agency is pretty much the only agency that's serving refugee claimants here in Calgary, which is why I'm here.

Anyway, that's really all I have to say. I didn't have a prepared statement because I was asked to come here only this morning.

Do you have any questions?

• (1925)

The Chair: There may be, sir, but for coming in at the last minute, you've done very well.

Mr. Rob Bray: Well, thank you.

The Chair: Thank you.

We're going to have Mr. Coderre from the Liberal Party ask you some questions. They could be to all of you.

[*Translation*]

Hon. Denis Coderre: There will be questions for everyone. I am going to share my time with my colleague, Alexandra Mendes.

I would like to say, by the way, that I think the whole issue of designated countries is a growing problem that needs to be addressed. I am on the side of those who believe that every case is unique and that generalizing would give rise to other problems. In any case, we will discuss it when we do the clause-by-clause study.

I want to start by thanking the representatives from the Montreal City Mission. You came here to speak to us about a very specific and important issue. We have to move more quickly, but that does not mean rushing things along so much that we miss the boat. I want to talk in more specific terms. I can appreciate that, in cases such as Mr. Kamara's, a period of eight days is really not long enough, because the claimant needs rehabilitation in order to be able to put the pieces together, adequate support, and proof that they are no longer in danger and will be taken care of. That is why I said each case is unique, and we cannot make generalizations.

We are talking about eight days. Let's suppose we make the period longer, two or three weeks. Without referring to Mr. Kamara's case, do you see that as an acceptable amendment, Mr. Thibault? You prepared the appeal to the Immigration and Refugee Board. Two months is too short. Something needs to be done—I do not know, perhaps it should be 90 days. By the same token, if we want to help the person, we need to welcome them quickly.

What do you think the range should be? If we said 15 days instead of 8, would that be satisfactory?

• (1930)

Mr. Sylvain Thibault: In my view, with the bill, we are talking about two extremes. The average is currently 18 months, which is incredibly long. I see the toll those 18 months take on the people we follow and who stay in contact with us. The impact is quite dramatic. Some people become deeply depressed because they do not have access to family reunification, among other things. Nor do they have access to the full range of services, and that goes on for 18 months. I know someone who came here at 17 and who is now 21. He was an unaccompanied minor. To this day, he has still not appeared before a board member. In my opinion, that is unacceptable.

I also think holding an initial information-gathering interview within eight days is unacceptable. I work in a specialized residence for vulnerable asylum seekers. Not everyone has access to our services, not everyone is referred to the Project Refuge program. Our clients have been assessed by a local community service centre in Montreal, through PRAIDA, a program which refers them to us because it has been determined that they may be more vulnerable than most asylum seekers.

Establishing an eight-day rule will, in my opinion, hurt the group of people I am in charge of helping.

Hon. Denis Coderre: It is in the regulations, not the act. That means there is some room for flexibility. Therefore, we could say that we are going to increase the average in all cases, but since you deal with a specific reality, we could make a specific regulation. For example, we could determine that a doctor or professional could tell us when a person's case is important and nothing can really be done. We need to establish some parameters and a certain degree of flexibility. That approach would respect the fact that every case is unique. It would give the refugee a chance instead of telling them that if they do not show up, they are out of luck.

Would that be acceptable, do you think?

Mr. Sylvain Thibault: I would like to say something before I come back to the question about the eight days. You mentioned the possibility of making an amendment that sets out a time frame of 15 days. You even said 20 days. Right now, people have to submit the Personal Information Form, or PIF, within 28 days. I think that works well for all refugee claimants. It worked well for Kemoko and all those in our residence. I am talking about those in the Project Refuge program, but the same goes for Romero House and another shelter for women in Montreal. I think that is reasonable because it is also a matter of identification documents and so forth.

[English]

The Chair: Mr. Bray keeps waving his hand.

Mrs. Alexandra Mendes (Brossard—La Prairie, Lib.): Yes, and I actually was going to ask questions of Mr. Bray.

Mr. Rob Bray: Can I speak to this?

Mrs. Alexandra Mendes: Yes. I was going to complete, but okay, go ahead, Mr. Bray.

Mr. Rob Bray: The time limit is one thing. The more important thing is access to counsel or advice of some kind. I know from drawing up those personal information forms that refugee claimants doing them on their own very frequently get into trouble. If we have eight days, if there can be competent counsel—a paralegal, even—to work with the claimant to have them understand what they should put in, what they're going to be asked, what the required information is, basically a cultural context of what's going to happen...I don't know if you can do that within eight days. I mean, there are weekends, long weekends, and things like that, so I think the eight days is not reasonable. Sixteen would be better, 21 would be better yet, because you really have to have time to understand the process you're going to be going through.

The other thing is, I don't know enough yet about the nature of this interview, what kinds of things they're going to be asked, what the admissibility of whatever is said actually amounts to. We need a lot more information before we can really pass judgment on it.

• (1935)

Mrs. Alexandra Mendes: Mr. Bray, I don't want to interrupt you unduly, but I do want to ask some other questions, and I'm limited. I have one question to ask. I was going to ask you about the humanitarian and compassionate clause that is being disputed in this bill, or actually reviewed, I think, in a negative way. How would you advise us to proceed with the humanitarian and compassionate considerations?

Mr. Rob Bray: That's a bit beyond my competence.

The humanitarian and compassionate grounds feature is an extremely important safety feature in the system. The definition of a refugee is very narrow, and you get people from situations who really have very good grounds to fear for their lives but don't necessarily meet the definition. We should keep the H and C. If we do, fear needs to be included in it, because we do need to be able to save people. We don't need another Mexican woman getting shot after being turned down for a claim, even though there was fairly good evidence that she was in danger if she was returned. And then limiting access to it for people from safe countries, which I believe is in the bill, makes no sense at all because it's precisely the people coming from these presumably safe countries—

Mrs. Alexandra Mendes: Thank you for your answer.

I just want to confirm in French—I'll be two seconds.

The Chair: All right.

[Translation]

Ms. Alexandra Mendes: Mr. Thibault, what are your thoughts on humanitarian consideration? Is it necessary to ensure access to remedies?

Mr. Sylvain Thibault: We have seen people who were accepted based on humanitarian grounds. They are people who probably would have been accepted if there had been an appeal.

Mrs. Alexandra Mendes: Thank you very much.

[English]

The Chair: Monsieur St-Cyr.

[Translation]

Mr. Thierry St-Cyr: Mr. Thibault, we discussed the initial time frame for the interview. We discussed the current 28-day period. Most of the groups and individuals who have appeared before us have said that keeping the 28 days would be more appropriate.

The maximum amount of time can be requested if necessary. We all understand that if people want to, they can speed up the process, all the better for them, but that time frame will be left for those who need it. A number of groups have recommended that we allow up to a maximum of 120 days for the first hearing.

Do you think that would be an adequate time frame for a hearing before the board? If not, what would you suggest?

Mr. Sylvain Thibault: Two months is too short. For some people, two months is not enough time to gather all the identification documents required for a board member to grant them protection.

I, too, have accompanied a lot of people to the Immigration and Refugee Board, and the matter of the person's identity is of the utmost importance to the member. If the member is not convinced that the person before them is indeed Joe Smith, even though he may believe the claimant's story, even if all those elements are in place to give the claimant protection, the member cannot grant the person refugee status and will deny the claim. For some people, two months is much too short. I would worry that some people's claims would be denied because of that.

Therefore, I think 120 days is much more reasonable, especially given the current time frame of 18 months, even longer in some cases. So I think 120 days is reasonable.

Mr. Thierry St-Cyr: I want to come back to the matter of the interview. The government has often presented this approach as more pleasant for the claimant because it involves human contact; the person tells their story and, as a result, does not have to fill out all kinds of forms. But other groups have told us that the interview is more intimidating than filling out the form with their counsellor.

Do you have a preference when it comes to how information is initially gathered?

• (1940)

Mr. Sylvain Thibault: My understanding is that the interview within eight days is done in a single step. The meeting happens Tuesday afternoon, and it ends there. It lasts an hour, an hour and a half or however long, but with the form, the deadline can be up to 28 days. I know certain lawyers who meet with the person two or three times, or even more. Certain pieces of information are missed at the first meeting. The person's story unfolds as they recover.

Mr. Thierry St-Cyr: So you would prefer to keep the written format rather than opting for the interview.

[English]

Ms. Mary Jo Leddy: Mr. Chairman, may I—

[Translation]

Mr. Sylvain Thibault: Well, if an interview were used, I would want it to be recorded and a verbatim record to be given to all three parties: the interviewer would keep a copy for the government, the claimant would keep a copy for themselves and the decision-maker could also receive a copy.

After having accompanied claimants to the initial interview, known as the eligibility interview...

The Chair: Mr. St-Cyr.

Mr. Thierry St-Cyr: I just want to hear the end of Mr. Thibault's answer.

Mr. Sylvain Thibault: The eligibility interview should, in theory, take place in a neutral setting, but that is not what I have seen. I am concerned that the same thing would happen with the information-gathering interview. The official gathering the information can be subjective, can omit something or can cut the person off and not give them an opportunity to qualify their answers.

That interview is somewhat worrisome to me, because, as I said earlier, anything a claimant says to an immigration official can have an impact on the claimant's case at the next stage. So that is my fear.

[English]

The Chair: Ms. Leddy is waving her hand.

Go ahead, Ms. Leddy.

Ms. Mary Jo Leddy: I believe that this initial interview is very much like the port-of-entry interviews that I've been part of several times. There are very serious problems there, first with the competence of the officers. When we check the port-of-entry notes that the officers make from interviews, very often they have mixed up the acronyms of political parties, mixed up the background questions of a country. Given the present state of incompetence at the level of the civil service, to rely on their interview and their notes, which are often mis-translated, would be a very serious injustice, and it is of great concern to us. To have the claimant's story written down in their own words as a matter of record is a fundamental fairness.

The Chair: You have one minute.

Yes, sir, go ahead.

Mr. Rob Bray: I have a very short comment.

First of all, I've seen the eligibility interviews go on for 14 hours on occasion. If we're going to be talking about telling your story, expecting people who perhaps have been tortured, who perhaps have been sexually assaulted, who perhaps are being detained in a prison, to disclose sensitive information and traumatic information about themselves to an official of the Canadian government, I'm profoundly worried about the outcomes of those kinds of interviews.

The nice thing about the personal information form is that you can take your time to fill it out carefully, to think about things. It's neutral; you're not looking somebody in the eye when you're talking about having been raped. I'm worried about those interviews.

The Chair: Mr. Bray, Ms. Chow is going to ask you some questions, but before she does, I want to know, is that a hockey sweater on the wall behind you?

Mr. Rob Bray: It is, actually. It is a hockey sweater.

The Chair: Who's that? It's not Ottawa.

Mr. Rob Bray: I don't know who it is.

The Chair: It's the Flames.

Ms. Chow has the floor.

Hon. Denis Coderre: I should raise a point of order, Mr. Chair, because that's annoying. I'm from Montreal. We're keeping Cammalleri.

The Chair: As usual, I regret interjecting.

Mr. Rob Bray: At least you made the playoffs.

The Chair: Ms. Chow is going to ask all of you some questions.

● (1945)

Ms. Olivia Chow: First, I want to thank Gift, Mr. Gutierrez, and Mr. Kamara for coming to tell us about their experiences. Thank you so much. After all, our discussion here is really about refugees, their lives, and what would happen if they were deported to their home countries.

I also want to take the time to thank Mary Jo Leddy, who I've actually admired for many years, for her work.

To Mr. Thibault, who I don't know very well, I've certainly heard of the good work of the mission.

Mr. Bray, I've heard of your work in Calgary.

From your submissions, I take it that it's pretty clear the three of you think it's grossly unfair to designate safe countries and to have people from countries such as Mexico or Nigeria be denied a right to appeal. Am I correct in that assumption? Is that the element? Is it section 109 that you want removed? Am I correct in that assumption? I assume I'm correct.

As you can tell, in this committee I think there is some consensus on how long it takes to get the information, that it should not be rushed too much, and that humanitarian and compassionate grounds are important.

I want to stress this element of safe countries, because it is about life and death. I think it's critically important. I'm very encouraged. I've heard at least three members of the Liberal Party say they may not want to support the safe countries. However, the critic has said that he would. I also heard Mr. Ignatieff say:

There are a number of countries in the world in which we cannot accept a bona fide refugee claim because you don't have cause, you don't have just cause coming from those countries. It's rough and ready but otherwise we'll have refugee fraud and nobody wants that.

This quote is from the Saint John Board of Trade on August 13 of last year.

The Chair: Stop the clock.

You have a point of order, Monsieur Coderre.

Ms. Olivia Chow: I'm only reading a quote.

[Translation]

Hon. Denis Coderre: Mr. Chair, after 14 years as a member, it was my understanding that the rules of the House of Commons also applied to the committees. It is unacceptable for my colleague, Ms. Chow, to say things when the critic is not here, for her to talk about someone when they are not here.

What is more, our three groups of witnesses need to know that we have not stopped speaking out against the issue of designated countries. So I would like some clarification about this: are we allowed to talk about someone when they are not here?

[English]

The Chair: Ms. Chow, it's a valid point of order. Please refrain from doing that again.

Ms. Olivia Chow: Oh, so I should not talk about it. I'm reading a quote, and the quote refers to coming from a country that claims to be safe.

The Chair: Ms. Chow, the point of order is that you can't refer to a member of Parliament who is not here.

Ms. Olivia Chow: Oh, I didn't say he was not here.

The Chair: I heard you say that.

Ms. Olivia Chow: All right. Never mind. I won't claim that.

I actually heard comments on Tuesday. I have quotes. That is what is causing me a lot of worry.

Mr. Terence Young (Oakville, CPC): Mr. Chair, I couldn't hear the quote because there were two conversations going on.

Ms. Olivia Chow: I'm not trying to be unreasonable. I am worried about this, because it said fairly clearly that if you're from a certain country, you shouldn't even be heard, and it's "rough and ready". If you are from those countries and you don't have just cause, you shouldn't even be heard.

I don't agree with that. What I want to see is that they should at least be heard and there should be an appeal.

The Chair: Ms. Chow....

Turn the clock off.

Ms. Chow, I did say to Mr. Dykstra that there is a fair amount of leniency. You could talk the entire seven minutes and not ask one question, but I think the problem is now you're starting to get into debate. The purpose of these hearings is to ask questions of these witnesses. You can do it by simply making comments and asking them to respond. But you're getting into debate, and I don't think this is the time to get into debate.

Start the clock again.

● (1950)

Ms. Olivia Chow: I won't get into debate. I will ask Ms. Leddy this. If the people you've worked with lose the chance to get a hearing, or if they get a hearing but lose the chance to have an appeal, what could happen to them, for example?

Ms. Mary Jo Leddy: Are you asking me?

Ms. Olivia Chow: Yes. Why is “safe country” a real problem?

Ms. Mary Jo Leddy: I think “safe country” for us is a very real problem because of the number of Mexicans we have in our houses. It's also a question of principle, because this year it's Mexico, but another year it will be another country and then another country. What we've seen over this year is that the key issue is who defines a country as safe. At this point, in the specific case of Mexico, the minister has publicly declared, with immense impact, that refugees from Mexico are bogus. That has resulted in cookie-cutter decisions at the refugee board. That's what I mean. If the designated list is decided by politics, as we saw in spades today in Calderon's visit, then the determination of this list will be completely politicized and human rights will take second place to trade and tourism.

It is immensely problematic, and I think the only way to solve it is to say that the designation of countries, whether safe or unsafe, has to be done by a completely independent body, independent of the government. I think one of the other speakers said, and I believe it completely, that you will have a political nightmare on your hands if the government starts saying some countries are safe and some are not safe. It's just going to be a quagmire.

Ms. Olivia Chow: Please.

Mr. Rob Bray: I have a comment on this. I can tell you a very simple story that illustrates what the problem is. Some years ago we had a Nicaraguan couple here in Canada. There was a lot of domestic violence. He had been convicted of assault. As often happens in domestic violence cases, they had reconciled. Then the Sandinistas were out—there had actually been an election—and they went back to Nicaragua.

About two years later she showed up back in Canada. She had been gone for more than six months, so she had lost her status in Canada. She tried to file a claim, her refugee claim again, and they turned her down because the country was a democracy and there was rule of law so she could go to the police. She pointed out that the problem was that her husband was the deputy commander of the national police force. The odds were very high that if she stayed there, she would be dead. She was able to make an H and C application and was successful, and she's in Canada and doing quite well.

If Nicaragua, as a democracy with a rule of law, had been put on a safe country list, that would not have been possible and she would be dead now. That's a real good, clear, concrete explanation as to why the limitations on appeal are just going to cause people to die.

The Chair: Thank you very much, sir.

It's Dr. Wong's turn, from the Conservative Party.

Mrs. Alice Wong: Thank you, Mr. Chair, and thank you, ladies and gentlemen for coming to the committee. We really appreciate your time and your expertise.

I just want to make a few remarks first to clarify some of the points before we move on. First of all, Mr. Bray mentioned there should be extra funding. Yes, in this bill there will be extra funding regarding two areas. First of all, there is the hiring of what they call IRB officers; they are government servants, but not necessarily from among the present government servants. Obviously you are not happy with the system right now because you are worried about the

quality of the people. We were assured by the board chair the other day—and he is coming back again—that they will make sure that the people they hire will go beyond existing government servants, and there will be vigorous training to make sure they know the culture, to make sure they know the techniques in the first and second levels of hearing.

The director general of refugee affairs of the immigration department also came earlier in the afternoon and he gave us some clarification about the first interview, that it's data collecting. Also, some of your suggestions are already in their recommendations, saying that the interview will be recorded and also that there will be a written report, and both of them will be given to the applicant as well as to their counsel if they do have one.

In terms of funding, I mentioned earlier that, yes, there will be extra funding and hiring of people to do the processing at the beginning, otherwise there will be another backlog. Also, there will be money for deportation, because very often when we have false claimants, we cannot get them out and they end up staying.

My question is for all of you. Do you think the present system actually is preferable to the reforms?

• (1955)

Mr. Rob Bray: As I said, in some ways yes and in some ways no. The proposed reforms are bringing in the refugee appeal division, which is desperately needed. If we had a refugee appeal division, we wouldn't have the H and Cs and the PRRAs so clogged and delayed, and with poor outcomes from them.

On the other hand, I find the personal interview problematic and I find the safe third country problematic. So some things are good and some things aren't so good.

Mrs. Alice Wong: For the designated safe country, again, we were given the explanation that there will be specific populations in specific countries that will be considered as vulnerable. Also, for the list there will be assessments done by panel experts, and we will seek the input of the United Nations High Commissioner, who will look into the human rights situation.

I'm going to share my time with Mr. Rick Dykstra.

Mr. Rick Dykstra: Gustavo, I have a question for you. We had the President of Mexico speak in the House of Commons this morning, and one of the things he stated was that we sincerely hope that the solution this Parliament is studying, through comprehensive amendments to the refugee law, will also serve as a bridge that will enable us to renew our exchange of visitors. He's supportive of the changes to our refugee laws, in terms of trying to make this process a better one.

I understand your perspective and I understand your frustration, but in 2009 we had over 10,000 applications from Mexico, of which 90% were rejected because they were not to be considered....

Mary Jo, I would just like to have Gustavo listen to what I have to say, because this is really important.

We had to make a decision. It wasn't a decision to try to hurt anyone; it was a decision to try to help unclog a system. I've read a little bit about your background, and I understand the fear that you lived under in Mexico, but I also understand that there are a number of Mexicans who have filed refugee applications that are simply not refugee applications. We want to unclog the system so that we can help the people who need the help and who need to come to Canada to be safe.

I just want to know if that is not the kind of system that brought you to Canada, and wouldn't you want the system in Canada to work?

Mr. Gustavo Gutierrez: About the numbers in 2009, as you know, there has been increased violence in Mexico since 2007. The numbers having been rising during this war, and a lot of people have been affected by this violence. I can't speak about whether or not there were bogus claims in 2009, but you can see the numbers increasing in Mexico due to increasing violence from this war.

• (2000)

Mr. Rick Dykstra: The frustration you have is that the system takes so long. Part of the reason for that is people are making applications for refugee status in this country who are not true refugees. This is why we're trying to correct the system. This is what we're trying to achieve. I just want you to understand that part of what we're doing here is to try to make it a better system.

Ms. Mary Jo Leddy: Mr. Dykstra, could I say something, please?

To follow your logic—and I don't think Gustavo would say this himself.... He was rejected by the refugee board for the cookie-cutter reason that all of the Mexicans received: that they were bogus, that Mexico was a democracy, and that democracies support human rights. So in dealing with what you call a “backlog”, we have had a lot of legitimate refugees caught up in or labelled as “bogus”.

When Canadians hear the story of people like Gustavo and about bank managers, lawyers, writers, and business owners who have come here and been treated as bogus refugees, I do not think they want that. So I understand that—

Mr. Rick Dykstra: Mary Jo, in the polls that we have received, 80% of Canadians want changes to this refugee system because it doesn't work.

What I'm trying to say—

Ms. Mary Jo Leddy: And 100% of refugees do.

Hon. Jim Karygiannis (Scarborough—Agincourt, Lib.): Mr. Chair, on a point of order...[*Inaudible—Editor*]

Mr. Rick Dykstra: No. It's my—

The Chair: Stop the clock—not that it matters, because we're way over our time.

Mr. Karygiannis has a point of order.

Hon. Jim Karygiannis: Mr. Chair, I think courtesy should be given to the witness to answer the questions without being cut off.

The Chair: Mr. Dykstra, you have the floor.

Voices: [*Inaudible—Editor*]

The Chair: Can we have some order, please?

Mr. Rick Dykstra: My time is being....

The Chair: You don't have any time. You have time for one question.

Mr. Rick Dykstra: Mary Jo, if it's a cookie-cutter approach, 10% of those who were received were approved as refugees here in this country. The rest of the world says we have a very good system. We understand that it needs change. What we're trying to accomplish, and I hope this is all I can get out of you, is that indeed we need to improve the current system we have because it's simply not working.

Ms. Mary Jo Leddy: Mr. Dykstra, I am accepting your genuine concern, and it's shared by all of us, but we have to find a more constructive way than having a government concerned about trade with Mexico and tourism and flying in the face of every human rights report about Mexico.

The Chair: Unfortunately, we'd like to hear more, but we're well over time. We have another group coming in after you.

Ladies and gentlemen, I want to thank you for your contribution to the committee. We appreciate your time and your comments. Thank you very much.

This meeting is suspended.

• _____ (Pause) _____

•

• (2005)

The Chair: We're going to continue on with the meeting.

Ladies and gentlemen, we're nearing the end of a three-hour session—actually it's six hours—so I hope we don't appear too giddy. We're doing our best and trying to hear as many witnesses as possible.

We have here in Ottawa, Sharalyn Jordan, who is with the Rainbow Refugee Committee. In Toronto, by video conference, we have, from the Kurdish Community and Information Centre, Huseyin Pinarbasi.

Mr. Huseyin Pinarbasi (President, Kurdish Community and Information Centre): Yes, it's Huseyin Pinarbasi.

The Chair: Thank you. I just need to identify you, sir. I don't do very well with names.

We also have Dogan Dogan, research analyst. Thank you for coming.

Mr. Dogan Dogan (Research Analyst, Kurdish Community and Information Centre): That's right, sir. Thank you. I appreciate it.

The Chair: Your organization and Ms. Jordan will each have up to seven minutes to make a presentation to the committee.

We will start with Ms. Jordan from the Rainbow Refugee Committee. Ms. Jordan, you have up to seven minutes to make a presentation. Thank you for coming.

[*Translation*]

Ms. Sharalyn Jordan (Rainbow Refugee Committee): Thank you.

On behalf of the Rainbow Refugee Committee in Vancouver, I want to thank you for the opportunity to present our position on Bill C-11.

[*English*]

Canada's refugee protection system is held up as a model for others, not because it's perfect, but because it comes closer than most to upholding our international commitments to protect the lives and safety of those who face persecution. This core purpose must be front and centre in any reform efforts.

Canada has been a global leader in refugee protection for those at risk of persecution due to sexual orientation and gender identity. We were one of the first countries to recognize that homophobia and transphobia can result in persecution; 21 countries now do the same. This protection is vital in a world where lesbian, gay, bi, trans, and queer people continue to be persecuted in at least 80 countries globally.

Rainbow Refugee supports efforts to create a faster system, reducing the time claimants spend in uncertainty. We see efficiency, fairness, and effectiveness as complementary goals. However, we are deeply concerned that Bill C-11 undermines fairness and that lesbian, gay, bi, and trans refugee claimants in particular will be disadvantaged. These concerns are based on a decade of experience focused on this work and are shared by other LGBT refugee support groups—SOY Express in Toronto and AGIR in Montreal.

Our members have left countries where they have been under surveillance, arrested, imprisoned, extorted, and, for some, tortured because of their sexuality or gender identity. Survival has required keeping silent, being vigilant, and remaining hidden. The silencing impacts of persecution and trauma do not disappear on arrival. I know one man who spent 27 days in detention before working up the nerve to tell his duty counsel that he was gay. What kind of interview would he give at eight days? The expedited timeframe proposed in the background to Bill C-11 will not give LGBT claimants a fair chance to prepare themselves or their documents. Hearings held with poor evidence will result in poor decisions and more appeals—not fair, effective, or efficient.

We welcome the long-awaited implementation of the refugee appeal division. The right to a full merits-based review is fundamental to fairness. This appeal should consider all relevant evidence, not only new or previously unavailable evidence. This is important to us because country condition evidence for LGBT claims is very hard to find. Our members bring all the evidence they can to their hearings.

I know a gay man who lost his PRRA because it only looks at new evidence. Canada was willing to deport this man to a country that

criminalizes gays and lesbians because he had no new evidence to prove he would be targeted.

Humanitarian and compassionate applications are an absolutely critical safety net for lesbian, gay, bi, and trans people who are at risk of serious harm in their home countries. Determining when homophobia and transphobia cross the threshold and become persecution is challenging. Board members struggle to make this call. Good information is sparse, and the gap between laws on paper and on-the-ground conditions is large.

Consider the experience of one of our members and where the harms against her crossed into persecution. Angela is from a West African country. She was beaten by her father when he learned she was a lesbian. Her church expelled her. Rumours spread. Townspeople began throwing rocks at her window. It became impossible for her to go outside without being harassed. She narrowly escaped from a gang of young men threatening to rape her and she has a knife wound from the attack.

She was not granted protection under sections 96 or 97. The board member found her credible, but determined that state protection would be available because laws in her country only criminalize male homosexuality. Angela has been in Canada for over two years. She works in an office and has begun a relationship with a woman she's met at work. She has found a church that has embraced her. But provisions in Bill C-11 would leave Angela without the option of an H and C application.

If we are going to define the limits of refugee protection this stringently, then we must allow for the safety net of a humanitarian and compassionate appeal. I urge you to eliminate the ban on H and C applications for claimants and to omit the unworkable restriction on considering risk in an H and C application.

We also strongly oppose giving the minister power to create a designated country list that denies access to appeal based on nationality. The list violates principles of equality before the law, has the potential to politicize protection, and leaves life or death decisions in the hands of one person. The designated safe country list is profoundly unsafe for lesbian, gay, bi, and trans refugee claimants. It would be perilously easy to designate a country as safe based on inaccurate or insufficient information about the on-the-ground realities.

• (2010)

A safe country list cannot accommodate the complexity and flux that currently exists in persecution and protection for lesbian, gay, bi, or trans people. Could Brazil be on this list? It hosts the largest gay pride parade in the world, with over three million people celebrating, but it also has the highest rate of homophobic murders in the world. Would it be on the safe list because these murders are reported, or would it be on the unsafe list because the murders happen in the first place and the police seem unable to curb them? South Africa recognizes same sex marriage and yet human rights organizations there report 10 cases a week in which lesbians are targeted for corrective rape and the police fail to investigate. We've heard Bogota described by one man as a great place to be gay. Another gay man described it as a terrifying city, after spending 10 years on the run trying to escape death threats. Within the same country of origin, people's vulnerability and the viability of state protection vary considerably, based on a person's social class, race, gender, religion, and social networks. It is precisely when country conditions appear safe on paper that refugee decisions on people who are lesbian, gay, bi, or trans are most complex and the safety net of an appeal is most needed.

The Chair: Perhaps you could wind up, Ms. Jordan.

• (2015)

Ms. Sharalyn Jordan: The ministers argue that the safe list is needed to deal with sudden surges in unfounded claims. An alternative mechanism to deal with this issue would be to allow Canadian border services to designate a percentage of claims for expedited processing by the refugee board. This solution is in keeping with the position of the UNHCR, unlike denying access to an appeal.

As you undertake the important work of reforming the refugee system, I urge you to hold in your minds that in every refugee decision someone's life and safety are at stake. Lesbian, gay, bi, trans, and queer people have worked hard for their human rights in Canada. We value these deeply and we are keenly aware of the need to protect those whose safety and lives are at risk because of the most heinous versions of homophobia and transphobia. I hope you'll give weight to the perspectives of those of us who work closely with these refugees and create legislation that improves the system while protecting safety and lives.

The Chair: Thank you.

Mr. Pinarbasi and Mr. Dogan.

Mr. Dogan Dogan: I will start and if Mr. Pinarbasi would like to continue, he will take the next step.

Honourable members of the Standing Committee on Citizenship and Immigration, my name is Dogan Dogan. I am a Canadian citizen of Kurdish descent, a resident of Toronto, Ontario. I am currently working at the Kurdish Community and Information Centre, advising the president and the board of directors on issues concerning Kurds and their community. I hold a Masters of Science degree in International Economics and Finance from Brandeis University in Waltham, U.S.A., and an MBA degree from Suffolk University in Boston.

On behalf of the Toronto Kurdish Community and Information Centre, I am here with Mr. Huseyin Pinarbasi to speak about the Bill C-11, An Act to amend the Immigration and Refugee Protection Act and the Federal Courts Act.

Canada is a member of the G-8. Its per capita GDP, living standards, health care system, educational system, not to mention—

The Chair: Mr. Dogan, I'm sorry to interrupt you. This is being translated into French and we need you to slow down a little bit.

Mr. Dogan Dogan: I will do that.

The Chair: Thank you.

Mr. Dogan Dogan: Certainly. So rephrasing from the third paragraph, Canada is a member of the G-8. Its per capita GDP, living standards, health care system, educational system, not to mention its generous package for asylum seekers, and its human rights standing are highly regarded around the world. Consequently, it is a popular destination for asylum seekers, as well as being targeted by human smugglers and traffickers.

To live up to its moral obligation, as any other developed nation, Canada provides a safe home for refugee claimant applicants based on the UN convention on refugees under which those fleeing from persecution are accepted. Canada decides claims on the basis of the Geneva Convention of 1951, which defines a refugee as someone with "a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion...."

It is fair to expect that some of the asylum and refugee claimant cases that arrive in Canada may be bogus and fabricated by transnational organized criminal elements. For this very reason, the government's objectives to fix the dysfunctional refugee determination system in order to discourage smugglers, human traffickers, and false asylum seekers who choose Canada as a country of destination may be reasonable and well regarded. However, as a non-profit organization that knows many refugees and asylum seekers, understands the issues facing many of them, and as well as tries to help some of them integrate into Canadian society during and after their cases are completed, we find it difficult to accept some of the solutions offered with proposed reforms.

On faster decisions, with the proposed reforms, individuals who are determined to be eligible to make an asylum claim would meet with a public servant at the Immigration and Refugee Board within eight days of being referred to the Immigration and Refugee Board. The question will be then asked, is it fair to ask someone who is fleeing for their life, probably coming from a country where government officials are not trusted by the general population and often expect payments for a favourable decision, is probably not fluent in English or French, and does not understand the Canadian legal system, to be able, on their own, to meet with the public servant at an information-gathering interview within eight days of their arrival in Canada? Also, during this information-gathering interview the proposed reform requests that information on the claim will be collected properly and completed at a hearing scheduled before another public servant at the Immigration and Refugee Board within 60 days. The question will then be asked, is it fair to ask someone to prepare all documentation that the system expects and requires for a hearing within 60 days? Without a fair and strong pre-screening system to determine the validity of each case, we believe that this is simply not justifiable. These time limits must be extended in order to be fair to all refugees. Furthermore, it must comply with international human rights obligations.

On safe country of origin, while the comprehensive, long-term solution will be overhauling Canada's refugee system, the designation of a safe country solution may be morally disturbing. In order to share some of the cost for each refugee claimant or asylum seeker, Canada may enact necessary legislation that enables the government to unilaterally degrade certain countries as safe. And it may be true that these may discourage some of the racketeers who are flooding the Canadian shores with bogus refugees significantly.

• (2020)

However, all one has to do is listen to the nightly news to know that many countries, which have constitutions that ensure freedom of religion and other rights that Canadians take for granted, either ignore those rights or allow members of their societies to persecute individuals who are different. Therefore, we believe each case must be considered on its own merits. A safe country of origin for one person may not be a safe country of origin for another.

I want to give you an example to illustrate why the safe country of origin designation is questionable.

The Chair: Mr. Dogan, I have a feeling you're going on for a long time. We have a time problem here. Do you expect to be much longer?

Mr. Dogan Dogan: I will take the time for Mr. Huseyin Pinarbasi for this. Is that fair enough?

The Chair: I have a feeling the committee is prepared to let you go on a bit longer. Go ahead.

Mr. Dogan Dogan: I appreciate that. You have slowed me down.

The Chair: I know. I'm doing everything wrong. I'm going to try to improve my ways.

Mr. Dogan Dogan: I will make this point and then conclude.

The Chair: Okay.

Mr. Dogan Dogan: I want to give you an example to illustrate why the safe country of origin destination is questionable.

The Chair: Go ahead.

Mr. Dogan Dogan: Consider the Republic of Turkey.

The Chair: Proceed.

Mr. Dogan Dogan: I am giving an example of the Republic of Turkey. Turkey wants to join the EU. It's part of the G-20, it wants to shape the world, it attempts to mediate between Israel and Syria, and it collaborates with Brazil to stop the world from confronting Iran for its ill-fated nuclear ambitions.

So the committee may consider Turkey a safe country. But this is a country where in the past quarter of a century almost all churches and temples of different faiths have been destroyed. Over 4,000 Kurdish villages have been destroyed. More than 17,000 extra-judicial killings have taken place. Over 2,500 politicians, elected representatives, mayors, and human rights activists have been jailed without due diligence. More than 400 Kurdish children have been killed by military police, one of them yesterday.

Approximately 3,000 Kurdish children ages 7 to 16 are currently in jail just because they have been in the demonstrations. So Turkey may be designated a safe country, but this standing does not make it safe. To consider it safe, this commission has to ignore reality and government must turn a blind eye to the facts.

• (2025)

The Chair: Thank you.

I have to cut you off.

Mr. Dogan Dogan: I understand.

The Chair: Mr. Karygiannis.

Hon. Jim Karygiannis: I would like the witness to continue with the statement, and he can take my time. I'm especially interested in hearing what he has to say about Turkey. The western powers were trying to push Turkey—

The Chair: Mr. Karygiannis is giving you another seven minutes. Go right ahead and finish your presentation.

Mr. Dogan Dogan: Thank you.

Hon. Jim Karygiannis: I'd like to ask a question.

The Chair: Wait a minute now. You just said you were going to give him your time.

Hon. Jim Karygiannis: I have a point of order, a point of personal privilege. Would Mrs. Wong explain why she said "not surprisingly" when I said "about Turkey"? Can she please explain that?

The Chair: Mr. Karygiannis, I didn't hear what she said. Are you going to let these people continue or not?

Hon. Jim Karygiannis: I think the member would like to—

The Chair: I didn't hear what she said, so it's not a valid point of order.

Mr. Dogan, continue with your presentation.

Mr. Young, we're going to finish.

Mr. Dogan, you go right ahead and finish your presentation.

Mr. Dogan Dogan: Thank you, sir.

To continue with my appeal here about the safe country of origin, we believe the objective should be to prevent the problem of unfounded refugee claims before they are filed, by developing a pre-screening procedure. Safe country designation is simply not a solution. We believe that each applicant should be given equal right to access the law and be treated equally, regardless of the country of origin.

On the refugee appeal division, if an asylum claim is denied, most clients will be eligible to appeal the decision to the new refugee appeal division of the Immigration and Refugee Board. Appeals will be decided by the governing council appointees at the Immigration and Refugee Board. This appeal will review the original decision and in certain cases any new evidence. Since the time to prepare for the information-gathering interview and for the hearing is so short, the refugee appeal division must review all documentation from the original hearing and must hear any new evidence the applicant has to present. It must not be just for certain cases but for all cases.

We agree that the new measures that will amend the existing system must be fast and cost-effective. However, they must be fair. Pre-removal risk assessments may be crucial and very important for some applicants whose cases are rejected, but this clause may overwhelm the current system and cost more for taxpayers. That is not a well-designed solution.

Thank you, sir. I especially appreciate your giving us extra time.

Thank you, committee members.

The Chair: Mr. Pinarbasi, did you want to say something?

Mr. Huseyin Pinarbasi: *[Witness speaks in Turkish]*

Mr. Dogan Dogan: Mr. Pinarbasi would like to answer any questions you have, but he is not going to say anything right now.

The Chair: Okay.

You have a little less than five minutes, Mr. Karygiannis.

Hon. Jim Karygiannis: Thank you, Chair.

Can you please describe for us and give us some examples of how traumatized the people you've been working with are?

Would the eight days that my colleagues are boasting so much about be enough time for people to gather information? Would they be able to collect the information from your country of origin, Turkey, and be able to bring it in front of an individual in order to have their first hearing and to give their first evidence? Would eight days be enough?

Do you have trouble getting information from a country that's aspiring to join the EU?

Mr. Dogan Dogan: Mr. Karygiannis, I appreciate the question. I certainly believe that eight days is not enough for any person who left the country I have described and fled to Canada, a safe haven, where they would find a peaceful place to live.

I want to give an example to illustrate this again. Consider a person who doesn't know how to swim in the ocean but tries to reach the shores. They are rescued by somebody, so they reach the shores. Is it fair then to ask this person within seconds of their being rescued to explain their ordeal? This example shows the same thing. You are

asking someone fleeing a country, where there is extreme oppression and no normal human rights conditions are being recognized, to prepare everything they have been through within eight days. I believe this is simply not possible with the examples that we face.

I've seen a gentleman who arrived a few days ago. He doesn't trust anybody enough to say anything. He wouldn't even tell me what work he had done. I was surprised. How would this person be able to explain what he has been through within eight days? This is simply not justifiable.

Thank you.

● (2030)

Hon. Jim Karygiannis: Thank you.

I was wondering if I could ask Ms. Jordan the following couple of questions. There are different countries that people of the lesbian and/or homosexual preference are coming from, and in Europe there are countries that could be designated as safe countries of origin. Do you know of any countries in the European Union where people have been bashed, called names, or feared for their lives? We've been hearing from current and previous officials that people within Europe move from country to country. Are there any concerns that your organization has?

Ms. Sharalyn Jordan: Certainly. We have a claimant now from Poland who was hospitalized after being assaulted. Police were present at the time he was being assaulted and stood by and watched. This continues to go on in countries that are members of the EU. We don't see a lot of claimants from these countries, because they can seek refuge in EU countries, but the notion of a designated safe country is highly problematic for LGBT people. It simply does not exist. The experience of each person, with regard to their vulnerability or safety in a country, is different.

Hon. Jim Karygiannis: When a previous official today was asked how many countries are using this safe country or origin designation, he said there are about 15.

Travelling through Europe, if you arrive in Heathrow, there's a sign that says, "If you're going to claim refugee status, you must do it immediately." We're almost moving in that direction. You have to do it within eight days.

I'm wondering if you can share with us some of the experiences of the people who have come from Europe, or from other countries, and the difficulties they face in coming up and saying, "You know what? I am a homosexual, I am a lesbian." It's the shame they feel.

Ms. Sharalyn Jordan: Absolutely.

It's important to recognize the impacts of persecution and the impacts of being told that your identity makes you mentally ill or evil or a sinner. Those are profoundly silencing and shaming.

It's also important to recognize that people tend to experience homophobic and transphobic persecution in their most intimate relationships—in their families and their schools—and then also with officials. So the shame and the fear are deeply entrenched.

I have seen people take months to be able to work up the nerve to say “I am gay” or “I am lesbian” out loud, let alone out loud to an official in a government building.

The Chair: Thank you.

Thank you, Ms. Jordan.

Monsieur St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: I would add that not that long ago, schools in Quebec were running campaigns to encourage young people to say if they were gay or a lesbian. In our nation's schools, still today, some people are reluctant to say it and can feel rejected if they do. I would imagine that the situation is worse in other countries.

I have to say that your presentation was very thorough. It is not easy to come up with questions, as you covered nearly every aspect of the bill. Nevertheless, I would like to hear your thoughts on something in particular, first you and then Mr. Dogan. What happens when the process is over and the person has lost? Certain things can happen after the person's case is rejected and before they are removed from Canada. The current process includes a pre-removal risk assessment, or PRRA, which is designed to deal with that kind of situation.

Almost everyone agrees, however, that this mechanism does not work very well, that it is not very effective. A number of groups, including the CCR, have told the committee that the measure could be abandoned if there were another mechanism to allow claimants whose case had been rejected to apply to the Refugee Appeal Division to have their case reopened when the situation changed in their home country. The case would not be reopened automatically; it would happen only in rare cases. The person would have to prove that the situation had changed significantly in their home country, so much so that it could conceivably result in a different decision.

Would you agree with putting a mechanism of that sort in place? If not, what would your solution be?

• (2035)

[*English*]

Ms. Sharalyn Jordan: I think this mechanism is an important one for members of our community for precisely the reason you mentioned. Situations on the ground with regard to homophobic and transphobic persecution are changing. We are seeing a backlash such that as groups organize and ask for rights, the level of violence is increasing. Countries that may be moving towards greater rights and safety for LGBT persons could change, so it is very important that there be the option for them to reopen a case in those circumstances.

[*Translation*]

Mr. Thierry St-Cyr: Mr. Dogan?

[*English*]

Mr. Dogan Dogan: Laws in Canada allow any refugee claimant, after their case has been rejected, to choose other avenues of appeal to the system, and perhaps some of them use this time to stay longer. However, it is justifiable that some of these cases are incorrectly concluded and well-deserving cases may be rejected as well. So these individuals go through a lengthy process.

We understand that reforming and producing new tools to decrease this time is legitimate. However, I suggest that a pre-screening system is produced first to eliminate bogus claimants arriving here. After individuals—

[*Translation*]

Mr. Thierry St-Cyr: I will stop you there, Mr. Dogan, since my question was not really about the appeal itself.

People may lose their appeal, because they are not considered a refugee at the time the decision is made. But after that decision is made and before the person is removed from the country, the situation in their home country may change. The individual could, from that point on, be considered a refugee.

The current bill does not include any mechanism to allow those people to request that their case be reopened. Would you be in favour of the committee seeking an amendment to the bill to include such a mechanism? The mechanism would be used in rare cases where the situation in the claimant's home country had changed so much that it would be reasonable to think that a different decision would be made.

[*English*]

Mr. Dogan Dogan: I certainly agree with that, sir. Is it fair to allow a human being who believed that his case has not been proven due to the fact that maybe he was unable to gather enough support...? So if changing the country of origin to allow these persons' cases to be more valid...that system should allow that person to re-open his case and live in this country without fear of persecution. Otherwise, if these people are being sent back home, their lives are not safe in any way.

• (2040)

[*Translation*]

Mr. Thierry St-Cyr: Thank you.

Ms. Jordan, I want to come back to the gay and lesbian community. You said that the current definition of a refugee was rather narrow. Fortunately, in a number of cases, certain members are broadening the definition of persecution to include sexual orientation, but others are not. Personally, I think an appeal division would be a good thing. It would result in a consistent interpretation where sexual orientation could be considered grounds for persecution.

Furthermore, are you not concerned that if the safe country measure passes, it would be used in cases where the country's situation was the least obvious, the least clear, and that less analysis would be done and the case law would be relied upon less, when, in fact, more analysis would be needed?

[*English*]

Ms. Sharalyn Jordan: You raise a very important point. The quality of information available around homophobic and transphobic persecution is extremely sparse. It's limited. So people are making life and death decisions based on highly questionable, sometimes contradictory, information. This is particularly true in situations where countries are in flux.

The example of Turkey was brought up. There will likely be a non-discrimination law passed in Turkey fairly soon. At the same time, men going into the military in Turkey are publicly humiliated if they are gay. Their photos are put in the paper. They have to make a public statement that they are gay and they are not allowed in the military. But the information we have on that is very limited.

Another good example would be a few hearings I've been in recently for two trans women and then a lesbian woman, all from Mexico. They're some of the very few, 8%, who are being accepted from Mexico. These hearings took eight hours, and then the board members spent another three or four weeks deliberating over the evidence because it was very challenging to make these decisions.

When these decisions are so complex and involve life and death decisions, it is really critical that we have an appeal. The designated country list is a cumbersome mechanism.

The Chair: We have to move on. I'm sorry.

Ms. Chow.

Ms. Olivia Chow: On that same note, perhaps you can describe your organization and the kind of work you do. It's fairly obvious, but perhaps you can describe it more and tell us who you represent and the connections you have with different organizations—EGALE, etc. Give us a bit of a description.

Ms. Sharalyn Jordan: Sure. Rainbow Refugee is a Vancouver-based group. We've been around since 2000. We hold drop-in meetings at the community centre for LGBT persons twice a month. Basically this is a place for people to learn about the refugee process and, I would say, to gain social support from each other. We also liaise with settlement organizations and lawyers, because it is often challenging, as we've said, for someone to come in and say, "I'm gay; I need to make a refugee claim."

They continue to need the support of settlement organizations. Our support helps to make it easier for them to go in and get the help they need. We also connect them with lawyers who are familiar with these kinds of claims, because, again, it is a specialized field. People need to have in-depth experience. Often people arriving at the airport may know that they face risks. They know they are in danger, but they don't understand that the risks and dangers they've faced constitute persecution and they need the help of working with a lawyer to understand this. So we make sure we connect them with lawyers who understand the specifics of homophobic and transphobic persecution.

Ms. Olivia Chow: Do you have counterparts in Toronto, Montreal, and other big cities, for example?

Ms. Sharalyn Jordan: Yes. There's a group in Toronto called SOY Express, based out of the Sherbourne Health Centre. They've been around, I believe, since 2002. Suhail Abualsameed is the leader of this group. I know him. I've met him at conferences and things like this.

• (2045)

Ms. Olivia Chow: Would the experience of all the different groups be quite similar to yours?

Ms. Sharalyn Jordan: I believe it would be very similar, yes. AGIR is a group in Montreal that has recently formed and, yes, is very similar.

Ms. Olivia Chow: I would imagine all of them would share the same policies that you have on safe country designation.

Ms. Sharalyn Jordan: Very much. We've been speaking on the phone and by e-mail and raising these concerns with each other. I know AGIR has submitted a brief, so I hope you will also give it attention, and yes, Suhail and I have spoken at length about our concerns, and they have very similar concerns.

Ms. Olivia Chow: As you may or may not know, this committee will be finishing its deliberations, in terms of its hearings, on Monday night. I believe we'll be hearing from the minister, and then on Tuesday and Thursday, for two days, we will be doing clause-by-clause consideration in camera at this committee. The bill will then pass this committee, maybe, and it would then go to the House of Commons for final report stage and third reading. So there is really not a lot of time left.

Ms. Sharalyn Jordan: No, it's happening fast.

Ms. Olivia Chow: Yes, it's being fast-tracked. If you have any information you need to provide to other members of Parliament, this would be the time.

I want to thank you for coming.

Do I still have one or two minutes?

The Chair: You do.

Ms. Olivia Chow: Have you made any submissions to other members of Parliament in which you have been able to express your opinions, other than at this committee? Have you been able to talk to your local elected MPs, for example?

Ms. Sharalyn Jordan: We have good relationships with the MPs who represent the ridings most of our members come from, so we've had an opportunity to speak with Dr. Hedy Fry, for example, and some local politicians.

Ms. Olivia Chow: Do you plan to do more discussion with other members of Parliament, given that there is so little time here?

Ms. Sharalyn Jordan: We have meetings scheduled next week, so hopefully we'll have more opportunities to do that, yes.

Ms. Olivia Chow: All right. Thank you.

The Chair: Thank you, Ms. Chow.

We have Mr. Young.

Mr. Terence Young: Thanks for coming today. We appreciate your advice.

I assume you know that there are thousands of people in Canada every year who make refugee claims that are not real—maybe as many as half the people who make the claims. So how do you discern if people walk in your door asking for help? Do you discern and say no to some people, or do you act like a lawyer or an advocate and whoever comes in you take their case and you advocate for them?

Ms. Sharalyn Jordan: I absolutely acknowledge that there are claims made that are either fraudulent or not well-founded. I want to caution against assuming that someone who has their claim rejected and that 50% rejection rate.... People are rejected for a number of reasons, not just because they've submitted a fraudulent claim.

When people come in the door, we give them information. We give them very clear guidelines around the distinction between discrimination and persecution. We let them know what the refugee process is about. They make decisions about whether to proceed with claims.

Mr. Terence Young: What percentage would just walk away and say no...?

Ms. Sharalyn Jordan: We're such a low-budget organization, we don't keep stats like that. Probably 20% or 25% come, find the information, and no, it's not for them.

Mr. Terence Young: I wanted to know if you understand that even under the safe country of origin policy, there are exemptions for certain classes of nationals—

Ms. Sharalyn Jordan: Yes. I'm very concerned about that, actually.

Mr. Terence Young: —including that there will be a regulation that the minister can designate a group—for example, sexual orientation—from a specific country? You knew that?

Ms. Sharalyn Jordan: I know that, and I don't think it will work—

Mr. Terence Young: Sorry, could I just finish the question, because it may be helpful?

• (2050)

Ms. Sharalyn Jordan: Sure, of course.

Mr. Terence Young: But even without an exemption, nationals from countries that would be designated as safe still have access to a hearing at the Immigration and Refugee Board. And they can still seek judicial review afterwards, the same as they have now.

Ms. Sharalyn Jordan: Yes, and we've seen that it doesn't work terribly well.

There are a couple of concerns I have about that. One is the concern I raised in my talk. If LGBT people are treated as an exception to the rule, this becomes a clear incentive for people to make fraudulent claims. This is not helpful to us and it's not helpful to the refugee system. So I would advise against it.

Allowing someone to have their hearing and then the possibility of a judicial review if something goes wrong is inadequate. We see people refused leave for judicial review all the time; it is not the same as an appeal. People need access to a full hearing and a full appeal, particularly in situations where it is complex and the situation is changing.

The UNHCR guidelines are quite clear on this. It is all right to designate countries for expedited processing. They see that as sort of in keeping.... But denying procedural fairness—so denying an appeal—would not be in keeping with the UNHCR position.

Mr. Terence Young: With regard to fairness, in the current system it can take up to two years to have a claim heard. It's more than four

years, in some cases, to remove a failed claimant, which in my view is another kind of unfairness. Do you find that fair?

Ms. Sharalyn Jordan: Absolutely not. It's very clear to me that we need to move people through much more quickly than we currently are; 19 months is unacceptable. A great deal of that waiting time is due to understaffing of the IRB. Now that the problem has been dealt with, I think we will see claims move through more quickly.

I think there are better ways to deal with moving people through expeditiously than having expedited timeframes and denying appeals based on a safe country list.

Mr. Terence Young: Once a claimant has gone through the various levels of appeals, why shouldn't they be removed?

Ms. Sharalyn Jordan: Once they've gone through a full hearing and a full appeal and have had an opportunity to have humanitarian and compassionate considerations looked at, I think it's quite fair to remove someone.

Mr. Terence Young: Thank you.

Did you want to ask a question, or can I continue?

Mr. Rick Dykstra: Sure. Go ahead. I've got a couple.

Mr. Terence Young: I'm not sure you have time, so you better go ahead.

Mr. Rick Dykstra: Okay, thanks.

Ms. Jordan, very good presentation, by the way. I thought you did a good job in terms of research and purposes stated of the changes you'd like to see. I don't necessarily agree with all of them, but I thought you did a great job.

One of the things you've led me to believe, though, and what I want to ask is, can you give me the name of some countries where you would consider gays, transgender, and lesbians to be safe?

Ms. Sharalyn Jordan: We have good protection here in Canada. What you need to look at is, are there anti-discrimination laws present—

Mr. Rick Dykstra: No. There's a purpose to my question. Give me a number of countries. You can't give me only one, because what you're saying then is that basically every country on the planet.... You basically could apply for refugee status in Canada based on the fact that you could be mistreated in any of those other countries if you were—or your life may be in danger, as you explained.

We have experiences of that right here in this country, in all of our communities. So it's not like we're the only country on the face of the earth that is a home or is the right place to be if you're gay. There are other countries that certainly—

Ms. Sharalyn Jordan: Absolutely. We don't see very many refugee claims from those countries. I think there is still a fundamental problem with designating an entire country as safe if that designation is then going to be used to deny someone access to appeal. The United States is, in many ways, a progressive place for LGBT folks to live, and yet we do have one woman, a lesbian, an American soldier, making a claim.

Mr. Rick Dykstra: Well, yes. That might be for a bit of a different reason.

Ms. Sharalyn Jordan: It's a different reason, but her sexuality—

Mr. Rick Dykstra: In fact, there's a private member's bill dealing with that issue.

Ms. Sharalyn Jordan: Yes, I recognize it's controversial—

Mr. Rick Dykstra: But even from the United States, 1% of the claims in 2009 were approved, so it's not like it can't happen. It's an extreme situation, obviously.

I think the point I am trying to make is this. There has been some misinformation with respect to safe countries of origin. It's obvious, even when you look at proposed section 109.1, that while the minister is going to be the person at the end of the day who designates, the minister isn't going to have that without receiving a recommendation from an expert panel on the issue across ministries here. I do think there is opportunity for us to move in this direction because it actually frees up those whose lives are in danger, who actually end up in a line or end up not able to have their application heard here in Canada because we have a number of applications that simply shouldn't be refugee applications.

• (2055)

Ms. Sharalyn Jordan: My concern is that it's a very cumbersome way of freeing up space. If you look at countries that do have a designated list, they spend a lot of resources and time in managing this list and managing challenges against this list. The U.K. is a really good example of that. It's inflexible and quite cumbersome.

Mr. Rick Dykstra: I think one of the things we're going to do to make it less cumbersome is we're not actually going to go out and say, well, there are 200 countries in the world and we're going to put the list together. We're going to start to look at this when we see a huge intake from one particular country and we find out that the rejection rate is higher than it should be and the acceptance rate is that much lower. So while we may start out to call this a direction of safe countries of origin, when you come down to it, it really is a mechanism to ensure that those whose lives are in danger do have an opportunity to have a fair and quick hearing in this country to be able to be accepted as true refugees.

Ms. Sharalyn Jordan: Absolutely. I agree with that goal. I wonder about changing the mechanism from a list in the power of the minister's hands...instead designating Canada Border Services the power to expedite certain claims. They would identify these on an individual basis, based on the research they do—

The Chair: I have to cut both of you off. Sorry. You're two minutes over. These guys will yell at me.

Mr. Dogan, Mr. Pinarbasi, Ms. Jordan, thank you very much for your presentations. They've both been excellent. We thank you for taking the time at this late hour to come and speak to the committee. We've appreciated it. Thank you kindly.

This meeting is adjourned until Monday, May 31, at 6 p.m.

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