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Chair

Mr. David Tilson

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• (1530)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): I call the meeting to order.

Good afternoon. This is the Standing Committee on Citizenship and Immigration, meeting number 38. Today is Monday, December 13, 2010.

The orders of the day, pursuant to the order of reference of Tuesday, September 28, 2010, are for an examination of Bill C-467, an act to amend the Citizenship Act (children born abroad).

We have three witnesses today who are going to talk about adoption abroad. They're all from the Department of Citizenship and Immigration. We have Régnald Gilbert, director general for the international region; Nicole Girard, director of legislation and program policy, citizenship and multiculturalism branch; and Alain Laurencelle, legal counsel in the integration and admissibility team, legal services.

Good afternoon to you.

Ms. Girard, you have a presentation, so please proceed.

Ms. Nicole Girard (Director, Legislation and Program Policy, Citizenship and Multiculturalism Branch, Department of Citizenship and Immigration): Thank you, Mr. Chair, and thank you for the invitation to appear before you today. I'm accompanied by Régnald Gilbert and Alain Laurencelle.

[Translation]

Over the course of the next few minutes, I'd like to discuss the citizenship route for adoption in the context of the proposed Bill C-467. I will begin with a brief overview of CIC's role in intercountry adoption.

Intercountry adoption is a three-step process involving the provinces or territories, the country of origin of the child, and the Government of Canada. Citizenship and Immigration Canada's role is to give the adopted child status to enter Canada, either as a permanent resident or as a citizen.

[English]

I'll begin with Bill C-14. The citizenship route for adoption introduced through Bill C-14 was implemented on December 23, 2007. Before these changes were implemented, parents who adopted a child outside Canada first had to bring their child to Canada as a permanent resident and then apply for citizenship, whereas children born outside Canada to Canadian parents were Canadian from birth.

This process meant an additional requirement for children adopted abroad by Canadians and thus treated them differently from children born abroad to Canadians. Bill C-14 aimed to rectify the situation by minimizing the difference in treatment between children born abroad to a Canadian and children born abroad and adopted by a Canadian. As a result of Bill C-14, foreign-born adopted children are able to acquire citizenship directly. This is without having to go through the sponsorship process for permanent residence in Canada.

The direct route to citizenship for adopted children is by grant of citizenship, rather than automatically by operation of law. This ensures that Canada's international obligations with regard to intercountry adoption and provincial jurisdiction are respected. Throughout the grant approval process, CIC's first priority is to ensure that adoptees are subject to the safeguards aimed at protecting the best interests of the child.

In some parts of the world, child trafficking is a serious concern. Documentation may be non-existent or unreliable, or there may be limited infrastructure existing to support the protection of children, so we have international adoption requirements. For adoptees to be granted citizenship under Bill C-14 and under the Citizenship Act, the adoption must meet four criteria.

These are as follows: the adoption must conform to the laws of the province or country where the adoptive parents live and to the laws of the country where the adoption has taken place, there must be a genuine parent-child relationship, the adoption must be in the best interests of the child, and the adoption must not have taken place for the primary purpose of acquiring Canadian immigration or citizenship status, also known as an adoption of convenience.

• (1535)

[Translation]

The criteria for granting citizenship to foreign-born adopted children of Canadian citizens under the Citizenship Act and Regulations are similar to those for granting permanent resident status to adopted children under the Immigration and Refugee Protection Act and Regulations.

On April 17, 2009, changes to the Citizenship Act were implemented, including a first-generation limit to citizenship by descent to preserve the value of Canadian citizenship by ensuring that citizenship can no longer be passed on endlessly to generations born outside Canada. Since that date, only those who are born or naturalized in Canada are able to pass on citizenship to children born or adopted outside Canada.

[English]

To be fair, the first-generation limit on citizenship by descent applies equally to those who are citizens through birth outside Canada to a Canadian parent and to those who become citizens through the direct route to citizenship available to children adopted internationally by a Canadian parent.

The objective of Bill C-14 was to minimize the difference in treatment between children born abroad to a Canadian parent and children born abroad and adopted by a Canadian parent. Applying the first generation equally to both groups continues to minimize the difference in treatment between these two groups.

The exception to the first-generation limit for children of crown servants born abroad, as proposed in Bill C-467, would also apply equally to children adopted by a crown servant. Government fully supports the intent of this bill and recognizes and values the strong contribution, commitment, and sacrifices of crown servants working abroad and of their families. However, Bill C-467, as currently worded, poses some problems with respect to adopted persons. Specifically, the bill proposes to confer citizenship automatically on children adopted abroad by crown servants born or naturalized in Canada, and this is without regard to the international obligations and safeguards that are in place under the current law, the Citizenship Act.

The criteria for grant of citizenship under the adoption provisions of the Citizenship Act respect these international obligations. They're there to protect the best interests of the child—for example, to protect against child trafficking—and also to respect provincial jurisdiction on adoptions.

The problem is that under Bill C-467, as it is currently drafted, children adopted abroad by crown servants who are born or naturalized in Canada would no longer need to apply for a grant of citizenship in the current manner, meaning that they wouldn't be subject to the safeguards aimed at protecting the best interests of the child.

For the reasons mentioned, Bill C-467 would have unintended adverse impacts on intercountry adoption and the best interests of the child. Some amendments would need to be made to the bill in order to ensure that the benefits of Bill C-467 are achieved. In addition, in June 2010 the government also introduced Bill C-37, strengthening the value of the Canadian Citizenship Act. Similar to Bill C-467, Bill C-37 also proposes changes to the crown servant exception to the first-generation limit. Consistent with the objective of Bill C-467, the proposed changes to the crown servant exception in Bill C-37 would ensure that the children of crown servants serving abroad are not disadvantaged by their parents' service to Canada and are able to pass on citizenship to their children born or adopted abroad.

I'd also like to mention briefly that adoptive parents continue to have two options to obtain citizenship on behalf of their adopted children. One is the regular immigration process and the other is naturalization, or the direct citizenship grant route. Parents may still choose to sponsor their child through the immigration process. Those who go through the immigration route and then obtain a regular grant of citizenship will be able to pass on citizenship to any child they may have or adopt outside Canada. This option is

available for adoptees and does not apply to children born abroad to a Canadian parent. In this way, adoptees have an option that children born abroad in the first generation to Canadians do not.

• (1540)

[Translation]

Intercountry adoptions are complex, and CIC is working to help parents through the intercountry adoption process. CIC is currently working on improvements to the departmental website to assist parents in navigating the international adoption process.

[English]

Thank you for the opportunity to speak before you. We'll be happy to take your questions.

The Chair: Thank you, Ms. Girard, for your presentation. It was an excellent presentation.

I believe the human resources committee is studying adoption. I think this paper would be very useful to send to that committee, and I'm sure that will be done.

Thank you very much. The committee will have some questions for you, and Mr. Trudeau is first.

Mr. Justin Trudeau (Papineau, Lib.): Thank you, Chair.

I'm very pleased that we're able to talk about this situation today, primarily because less than two weeks ago I received the case of a woman in my riding who is wrangled up in the challenges of the adoption process, the naturalization process. I won't go into too many details of her specific case, but they've given rise to a number of concerns.

First of all, in the case of adoption through New Delhi, the New Delhi high commission is talking about a 59-month delay for treatment in the naturalization process. This is not through the adoption process but through the naturalization process. This woman has been legal guardian for a year, and she wanted to bring her nieces over because the kids are orphans.

A 59-month delay to bring over orphans for whom you have legal guardianship seems to be a little excessive, but it doesn't fall into the priority of dependent children and spouses. I'd just like to hear from you guys why we've allowed it to be that long and what the reasons are behind the 59-month delay.

Mr. Régnald Gilbert (Director General, International Region, Department of Citizenship and Immigration): That would be for me to answer.

You said 59 months, but 80% of the cases are done much faster. We see two types of adoption—

[Translation]

Mr. Justin Trudeau: You can speak in French if you wish.

Mr. Régnald Gilbert: We see two types of adoption in India. First, there are children who, as you described, are orphans and are either in an orphanage or in the custody of family members. These applications are generally given priority, like applications for spouses and natural children.

The second type of adoption, which has a very high refusal rate, involves mainly individuals who are still living with their natural parents but are then adopted by an uncle or aunt. Very often, these people are adolescents or even young adults. In these cases, we meet with the children and the adoptive and natural parents in an interview. The process is therefore longer.

Mr. Justin Trudeau: So if the children really are orphans, the process generally takes less than 59—

Mr. Régnald Gilbert: Yes.

Mr. Justin Trudeau: The woman in my riding said that she did not know there were two options and that she found out later. Clearly, each option has its advantages. Unlike children born abroad, children who are naturalized are not subject to the second-generation restriction. But the process can take longer than just bringing the child into the country.

You mentioned improvements to a website. Are you promoting these options and letting people know what they involve?

Mr. Régnald Gilbert: That is the purpose of the changes to the website. The information is already on the site, but it may not be as easy to find as we had hoped. When children are adopted through agencies, the agency officials are well aware of these options, but that is not necessarily the case when children are adopted within a family.

Mr. Justin Trudeau: I recognize that for certain reasons, the family I mentioned did not want to go through the orphanage and the adoption process for orphans, because the children are still living with members of the extended family. I hope we are going to be able to clarify things, because this is a very difficult situation.

I would like to talk about the difference between the two categories. Children born abroad who are then naturalized have more rights than children born abroad to parents who were born here. Even though they were not born in Canada, the transmission of their Canadian citizenship does not stop at the second generation. Is this inequitable?

• (1545)

Ms. Nicole Girard: The explanation goes back to the amendments to the law that I described. These amendments were made in response to criticism from adoptive parents. Before the law was first amended in 2007, some parents were critical of the fact that they had to go through the immigration process and then the citizenship process. With Bill C-14, the comparable groups were children born abroad to Canadian parents and children adopted abroad. With the subsequent changes to the law, including the first-generation limit, the two groups were treated the same way. We continue to minimize the difference between these two groups of people born abroad. Moreover, I think that before the 2007 changes, the court had ruled that the two groups were comparable.

Mr. Justin Trudeau: An application from someone who wants to sponsor and have legal custody of a child therefore takes priority, as in the case of a dependent child or a spouse. Is that correct?

Mr. Régnald Gilbert: Yes.

Mr. Justin Trudeau: The information we gave my constituent was incorrect, then. I am glad to be able to tell her that.

Can my colleague come back to the issue of adoption?

[*English*]

The Chair: No, we can't do that. You can come back to it next time.

Go ahead, Monsieur St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): I will come back to the issue of the two types of adoption. I know that they are handled differently from a bureaucratic standpoint. The situation of those who acquire citizenship directly is a bit like that of a Canadian child born abroad who acquires citizenship directly at birth. A child who is adopted and then naturalized is treated just like any naturalized person. I understand the principle from a bureaucratic standpoint, but I do not understand it from a public policy standpoint. The government has established two categories, but I do not see what social value that has or even what value it has to the state.

For example, why are parents encouraged to opt for naturalization rather than direct citizenship? From a societal perspective, what is the point of giving parents such a choice? Is there some benefit to the state? Is naturalization less expensive than direct citizenship? Is the naturalization process considered more efficient, more useful, more transparent or whatever? How do we as a society benefit by forcing parents to make this choice?

Mr. Régnald Gilbert: I should explain that this choice is not available to everyone. It applies only to children adopted by Canadian citizens. Permanent residents who adopt children do not have this choice. There is a second category of people for whom adoption is not possible in the country where the adoption takes place. These people can gain custody and then complete the adoption process in Canada. In that case, the child is not yet adopted. A fairly large percentage of people are in this situation. So we need to keep both choices. There are countries where it is not possible to adopt a child in certain situations. I myself adopted a child in India. I could not complete the adoption process in India because I am Christian and only Hindus can adopt. There is that sort of restriction.

The difference was not created deliberately. The two choices parents have are more or less the same to us from a bureaucratic standpoint. There are not really any advantages or disadvantages.

• (1550)

Mr. Thierry St-Cyr: Let us talk about a case where two Canadian parents who were born in Canada adopt a Chinese girl. Once the adoption is finalized, the parents have to choose between direct citizenship and naturalization. Naturalization strikes me as being more complicated. Moreover, that is why direct citizenship is offered as an option. But it is as though we offered parents a way to facilitate adoption, but penalized them from a bureaucratic standpoint by making this situation comparable to the situation of a child born abroad.

What would we lose as a state if we allowed the children of people who opted for direct citizenship to pass on their citizenship by descent, as in the case of naturalized children?

Mr. Régnald Gilbert: It would create a difference between children born abroad to Canadian parents and children adopted abroad. It would give them an additional right. It would probably correct a... How can I say...

Ms. Nicole Girard: It would create a reverse inequity. The type of system you are describing would disadvantage other parents living in Canada who do not adopt but whose child is born abroad, in all sorts of circumstances. For example, a child can be born when the parents are travelling. There was also the example of women who are sent to the United States to give birth.

Mr. Thierry St-Cyr: In fact, they would lose nothing. The issue lies in the fact that these parents would have an advantage, because they could really make a clear choice to opt for direct citizenship. In a way, we are telling them that they will have to suffer equally, that they too will have to make a heartrending choice between naturalization and direct citizenship. However, something is lost, but why? So that people will have more compassion for parents who give birth abroad?

I do not want to get too far into this. I understand that I am taking you into political territory. We will have the chance to debate this in this committee. But I wanted to have a better understanding of the mechanics and compare the impact of these two options on parents.

Let us say that a parent obtains the necessary authorizations to adopt a child and the adoption is finalized. The parent has the choice and decides to opt for direct citizenship. When can he return with the child? Does he have to wait until he has obtained citizenship? How long will it take for him to obtain citizenship?

Mr. Régnald Gilbert: That depends on when you ask. I can tell you that at present, the processing time differs very little from one place to another.

It is a two-step process, whether you are talking about sponsorship or naturalization. Parents who apply for naturalization must first apply to our citizenship office in Sydney. The second step in the process takes place at the embassy abroad. Sponsorships go through our usual sponsorship process, which is handled by our office in Mississauga.

In terms of processing, if someone were to ask me whether one way is better than the other, I would say there is not much difference.

Mr. Thierry St-Cyr: So how much time does it take?

Mr. Régnald Gilbert: It varies a great deal from one country to the next; that is the main difference.

Mr. Thierry St-Cyr: Can the parent bring his child back to Canada while waiting for citizenship to be conferred on the child?

Mr. Régnald Gilbert: I am not sure I understand your question.

Mr. Thierry St-Cyr: In fact, it is not just citizens who have the right to be in Canada. Can someone who has adopted a child bring that child back to Canada while waiting for citizenship to be conferred on the child?

Mr. Régnald Gilbert: The child has a status, whether he is an immigrant or a citizen.

[English]

The Chair: Thank you.

Please go ahead, Ms. Chow.

• (1555)

Ms. Olivia Chow (Trinity—Spadina, NDP): How many children are adopted each year, say in 2008 and 2009, on average? Divide it by naturalization versus citizens. I just want the numbers.

Mr. Régnald Gilbert: It varies, usually, because the naturalization study—

Ms. Olivia Chow: How many were there in 2009?

Mr. Régnald Gilbert: In 2009, 60% were through naturalization and about 40% were through immigration.

Ms. Olivia Chow: What's the total number?

Mr. Régnald Gilbert: It's roughly 2,000.

Do you want the exact number?

Ms. Olivia Chow: The approximate number will do. Is it approximately 2,000?

If it's 40% by citizenship, you're looking at...

Mr. Régnald Gilbert: It's 2,112.

Ms. Olivia Chow: Okay. Thank you.

About 80 parents in Canada chose the citizenship route, so their kids will have the second-generation cut-off. It's almost like cancelling Bill C-14, because Bill C-14 gave the parents a choice to bring their kids in as citizens rather than as landed immigrants, and that was because of a whole ten years of campaigning.

Am I correct that when we put in Bill C-14, it was fast-tracked here because the Canadian parents were saying that by coming as citizens you would have immediate health care, whereas for permanent residents it's three months before you can have health care? Am I correct?

I think the benefit is to arrive as a Canadian citizen. Maybe you can name some of those benefits.

Ms. Nicole Girard: I think most of those benefits would be tied to provincial requirements, and sometimes those are dependent on residence in the province and not so much on status.

Ms. Olivia Chow: One example is health care.

Ms. Nicole Girard: I can't really say what the provincial requirements are for health care, but....

Ms. Olivia Chow: I know there are distinct advantages to coming to Canada as a citizen rather than as a permanent resident, are there not?

Ms. Nicole Girard: The advantage of the direct route would be that you'd go through one process rather than two, but it has the impact now, further to the changes in 2009 that you pointed out, that if you come as a direct grant, you wouldn't be able to pass on citizenship should your child be born abroad in the future.

Ms. Olivia Chow: In order to fix that, would it be a legislative change or a change in the regulations?

Ms. Nicole Girard: It's in the law, so the law would have to be changed.

Ms. Olivia Chow: Is it the law that would include the adoption of the kids when they come in as citizens?

Ms. Nicole Girard: It's the law that describes the first-generation limit as applying both to the natural-born children of Canadians abroad and to adopted children who come through the direct route.

Ms. Olivia Chow: I see. It's not a regulation change. It has to be....

Ms. Nicole Girard: Right.

Ms. Olivia Chow: To change that would impact maybe 80 to 100 Canadians and their kids. How many would it impact?

Mr. Régnald Gilbert: I'm sorry, it's far more than that.

Ms. Nicole Girard: It's several hundred.

Ms. Olivia Chow: I'm sorry?

Ms. Nicole Girard: It's several hundred, because we do 2,000 a year.

Mr. Régnald Gilbert: We do 2,000 a year. Through naturalization there are about 1,300 and through immigration there are about 800.

Ms. Olivia Chow: Oh, it's 800. Right, of course. I'm sorry; it's 800. I'm not looking at....

Mr. Régnald Gilbert: Maybe I have one thing I could add to your question: some parents could not bring their children for adoption because they are not residents of Canada. Through citizenship, it allows them to be—

Ms. Olivia Chow: I'm not concerned about those. I understand that, yes.

You're saying it would impact the kids of these 800 parents if they decide to have their child abroad, but how many Canadian parents would it impact for the children born abroad? I know you're now equating adopted by Canadian parents versus born abroad to a Canadian parent. One impacts on about 800 people. How many does the other one impact on?

Ms. Nicole Girard: It's hard to have an accurate number, because not all of these parents come forward and apply for proof of citizenship for their child, but on an annual basis we may do 40,000

or more requests for a proof of citizenship for people who are born abroad. In some cases those are replacement proofs, so that number is not exact, but it gives you an idea of the number we're talking about.

•(1600)

Ms. Olivia Chow: What do you mean by replacement proofs?

Ms. Nicole Girard: An example would be if you had one originally, but you need to replace it.

Ms. Olivia Chow: Do you know how many it would impact out of the 40,000 if you take away the replacement proofs?

Ms. Nicole Girard: I'm not sure if we're actually able to limit that number.

Ms. Olivia Chow: Is there any way to do an educated, intelligent guess?

Ms. Nicole Girard: We could look into it.

Ms. Olivia Chow: It would be good to know a ballpark figure for how many people would be impacted, because occasionally there will be these two or three stateless kids who hit the media, but we don't know....

Ms. Nicole Girard: If I'm not mistaken, I think that was one of the questions we took away last week, and it's in process.

Ms. Olivia Chow: Then you're looking at that.

Ms. Nicole Girard: Yes.

Ms. Olivia Chow: Putting aside those born abroad, the 800.... The only way to change that is really by changing the law. Is there any way that we could amend Bill C-14 or the Citizenship Act? It really wouldn't have anything to do with whether the second-generation cut-off would change, right? Is there any way that we could get around this problem through the adoption law?

Ms. Nicole Girard: Do you mean other than through changes to the Citizenship Act?

Ms. Olivia Chow: Yes.

Ms. Nicole Girard: No.

Ms. Olivia Chow: There's no way. Okay.

Do these 800 parents who adopt kids know what the consequences would be if they bring their kids in as citizens? Do they understand the consequences?

Ms. Nicole Girard: We make the information about the two routes available to the parents who are adopting, and I think, as was mentioned earlier, there are improvements being made to the website to ensure that the information is as obvious as possible.

The Chair: Thank you.

Mr. Dykstra is next.

Mr. Rick Dykstra (St. Catharines, CPC): Chair, through you, there are a couple of questions we have.

One relates to the point you've just made. You've clarified that if a Canadian parent has a child in another country, that child can pass on citizenship if they were to be in the same circumstance.

If the opposite isn't true from an adoption perspective.... If they came here as permanent residents and then became Canadian citizens, they would actually have an additional generation to be able to assist. I think it's important to note that, because you start to....

Mr. Gilbert, you alluded to our international obligations in one of your answers, and this is one of the major reasons that it was good to have you folks here to talk specifically about this. You stated a very clear and concise response with respect to adoption in India and the circumstances upon which adoption and citizenship can work in adoption, and the only process a parent could use is permanent residency.

The concern I have is the idea of a blanket allowance of adoption giving Canadian citizenship immediately. Under international obligations, if we wanted to pass that into law, we wouldn't actually be able to do so.

Ms. Nicole Girard: You're quite right, in the sense that the citizenship grant that we currently have in place embodies or reflects those international obligations that Canada has.

I mentioned four criteria in my opening remarks, including the fact that the officer who's deciding on the international adoption case and the application for citizenship has to be satisfied that the best interests of the child are protected. Having the grant mechanism in place allows the visa officer to ensure the best interests of the child, because they have to turn their minds to a number of related questions: is there any evidence that the child has been sold? Is there any evidence of child trafficking? Have the parents given free and informed consent?

All of those things speak to the best interests of the child. If you had some sort of automatic process that didn't take these things into account, then we'd be riding roughshod over our international obligations and over provincial jurisdiction on matters of adoption.

• (1605)

Mr. Rick Dykstra: How do the requirements for a grant of citizenship for adopted persons in the Citizenship Act actually ensure that Canada's international obligations and provincial jurisdictions are respected?

Ms. Nicole Girard: I was just talking about the international obligations aspect. What I should add to my previous comments is that Canada is a signatory to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, which is a bit of a mouthful.

The main goals of the convention include protecting the best interests of the child, which is one of the principles in the Citizenship Act that the visa officer has to look at in deciding an adoption case. One of the other goals is preventing child abuse, including abuse in the form of child trafficking. That is also something the visa officer has to look at.

When it comes to provincial jurisdiction, the provinces are responsible for adoption matters in their territory, so when the adoptive parent lives in Canada, CIC has to work closely with the

province or the territory to ensure their requirements are met. In practice, what this means is that CIC requests a letter from the province or territory—it's called a letter of no objection—and this is the mechanism by which the province is able to let CIC know and confirm that it has assessed that the adoption is in the best interests of the child, that a genuine parent-child relationship has been created, and that the adoption respects both the provincial laws and the laws of the place where the adoption took place. CIC doesn't grant citizenship further to an application until they have received this assurance from the province or territory that the adoption is valid and complete.

Mr. Rick Dykstra: Thank you very much. That was a very good description.

In your summary, you indicate that the criteria for granting citizenship to foreign-born adopted children of Canadian citizens under the Citizenship Act regulations are similar to those for granting permanent resident status to adopted children under the Immigration and Refugee Protection Act regulations. Could you clarify that a little further?

Mr. Rénaud Gilbert: With few exceptions, they are almost copies of each other. The few exceptions would have to do with the residency of the sponsor or parents—that is, whether the parent is a permanent resident as opposed to a citizen. That would make a difference.

Otherwise, with regard to the adoption itself, within the country the provincial review of the parents' fitness to adopt, for lack of better words, is exactly the same for whatever process has been selected, whether it's naturalization or permanent residency.

Mr. Rick Dykstra: Do I have time?

The Chair: You have a minute.

Mr. Rick Dykstra: I'll turn it over to Ms. Wong.

Mrs. Alice Wong (Richmond, CPC): Thank you, Mr. Chair, and thank you to the witnesses for coming to speak to us.

I wanted to go back to the basic question. Why does the first-generation limit apply to those adoptive parents who use the direct route to citizenship for the children? A lot of people keep asking this question. Can you clarify that a little bit more, please?

Ms. Nicole Girard: Sure. Thank you for the question.

Originally, before the legislative changes in 2007, Canadians who were adopting internationally had to go through a two-step process to sponsor the child. First was for immigration to Canada. Then, once the child became a permanent resident, they applied for citizenship. That process was criticized because natural-born children of Canadians living abroad were citizens from birth, so adoptive parents asked for a more streamlined process to access citizenship. The law changed in December 2007 to minimize the difference between the natural-born children of Canadians living abroad and the adopted children of Canadians.

Further changes were made to the Citizenship Act in April 2009, again to be consistent and to minimize the difference between these two groups. When the first generation was limited to the first generation abroad, it approached the two groups the same way and equally applied the first-generation limit to both the natural-born children and the adopted children of Canadians.

Mrs. Alice Wong: Thank you.

The Chair: Thank you.

We'll go to Mr. St-Cyr.

[*Translation*]

Mr. Thierry St-Cyr: I would like to talk some more about this. I understand the comparison between parents. Parents can choose to adopt abroad, but that choice means that the child will be born abroad. With natural-born children, the parents have a bit more control over where the child is born.

From what I understand about adoption, there is an attempt to create a relationship equivalent to a biological relationship between the parents and the child. Legally, adopted children have the same rights and responsibilities as other children in relation to their parents. It seems to me that the law should respect this principle and consider adopted children as though they were born here to their parents.

I would like to try to understand. Let us take the classic example of two Canadians who were born and live here and who decide to adopt a Chinese girl. If they opt for direct citizenship, about how long will it take from the time they receive the letter from the Quebec government approving the adoption to the time the child acquires citizenship?

•(1610)

Mr. Rénaud Gilbert: I cannot say exactly how long the process in China takes at this time. I know that it has varied over the years. My last posting was in China and when I was there, it took less than a year, from the time when the Chinese government identified an infant until the process was completed on China's end. That being said, things may have changed.

Mr. Thierry St-Cyr: Once a child has been identified, how long until he or she obtains citizenship?

Mr. Rénaud Gilbert: For the child to be identified, the parents must have completed the process, in other words, applied for citizenship. That part is done first, here in Canada, and then at the mission overseas. At the mission overseas—

Mr. Thierry St-Cyr: I am trying to understand. Does it involve two different steps? Are the adoption and citizenship two separate matters, or are they done together?

Mr. Rénaud Gilbert: No, they are two completely separate processes. The adoption process—

Mr. Thierry St-Cyr: What I want to know is the time needed between the two, between the formal adoption and the formal granting of citizenship. How long does that take, approximately?

Mr. Rénaud Gilbert: That depends on when the parents apply after they've adopted the child. Furthermore, it varies a great deal from one country to the next, largely because of the complexity. In the case of China, for instance, the processing time is under one

month. So it may take a few weeks between when the application is received at the embassy and when the citizenship is granted. However, parents can begin the process two years in advance.

Mr. Thierry St-Cyr: I assume that, during this time, the child remains a Chinese citizen and therefore cannot accompany his or her parents to Canada. Is that right?

Mr. Rénaud Gilbert: That is correct. Chinese authorities require that at least one parent remain in the country to complete the process. In some countries, that is not necessary, while in others, they insist that the parents to live there for a few months or even a few years in some cases.

Mr. Thierry St-Cyr: I am not talking about Chinese requirements, but rather what Canada requires. Even if the parent goes there to complete the process, he or she cannot return to Canada with the Chinese child if that child does not have Canadian citizenship. Or the parent could return—

Mr. Rénaud Gilbert: Either citizenship or permanent residence is needed, one or the other.

Mr. Thierry St-Cyr: So it would be permanent residence, first.

Mr. Rénaud Gilbert: Let's say that the adoption took place last week and the parent goes to the embassy today to apply. First of all, the child must have a passport. It takes a two-part process to get a passport. First of all, they must apply for a Canadian passport. Second, the Chinese government will not allow a child to leave on a foreign passport. In this case, even if the child is Canadian, he or she must travel on a Chinese passport. So the parents must apply for a Chinese passport. After applying for it, it takes a least a few days to get a passport in China, where the process is very strictly controlled. That is not the case everywhere, however.

Mr. Thierry St-Cyr: If the parents decide to follow the traditional route, through naturalization, they will apply for permanent residence status for the child, and they could immediately bring the child back without waiting for the citizenship to come through.

•(1615)

Mr. Rénaud Gilbert: They must apply for permanent residence status. This will be assessed based on the same criteria as for citizenship. Anyone who wishes to immigrate to Canada must satisfy one additional criterion: a medical exam. Otherwise, the same criteria apply. Thus, two people who apply at the same time will arrive at more or less the same time.

[*English*]

The Chair: Thank you.

Go ahead, Mr. Young.

Mr. Terence Young (Oakville, CPC): Thank you, Chair.

With regard to adoption requirements, your presentation says that the adoption must conform to the laws of the province or country where the adoptive parents live.

Can you give me an example, obviously without mentioning any names, in which an adoption might be proposed and wouldn't comply with the laws of the country?

Mr. Régnald Gilbert: I'm not sure I can give an example, because normally the country's own law would determine, first of all, whether parents from abroad can adopt. Some countries don't allow it. Then, once this is done, there is a different type of requirement. Residency is one of them, for instance: do the parents live in the country or not? Are they within a certain age group? There are a number of variants, and from one country to another the situation might differ considerably. Some countries ask for the parents to live three years in the country before they can adopt, so very few Canadians adopt there.

Mr. Terence Young: What are the age requirements, by the way, for adoption—the maximum age, for example?

Mr. Régnald Gilbert: For citizenship it's 18 years old, and for immigration it's the definition of “dependent”, for which 22 is the minimum. If the child is still studying, it can go longer than that.

Mr. Terence Young: So if a 50-year-old man wanted to adopt a 21-year-old young woman, it would be stopped because there must be a genuine parent-child relationship. How is that examined?

Mr. Régnald Gilbert: Whatever country it was would examine it first. After that, CIC would look at it to see whether there is a genuine parent-child relationship or whether it's an adoption of convenience.

Without knowing the details of the specific case, I wouldn't bet on the person coming to Canada.

Mr. Terence Young: I saw a presentation recently on human trafficking in children from Bangkok, and it occurred to me that there are people who will do anything for money. How big an issue is the trafficking of children in proposed adoptions into Canada?

Mr. Régnald Gilbert: It is a concern in a number of places. We have to look at every individual application with that concern in mind.

Mr. Terence Young: Do you have any idea how many have been turned away because that was the assumption?

Mr. Régnald Gilbert: I am not sure. We could provide the number of cases that were refused, but it's not necessarily for trafficking. In many of the cases it would be because we consider it's an adoption of convenience.

Mr. Terence Young: Can you give me an example in which the officials might determine that the adoption was just for the purpose of acquiring Canadian immigration or citizenship status?

Mr. Régnald Gilbert: That could be a situation in which, for instance, when we interview the applicant—who is, let's say, 15 years old—we find that the child doesn't know that he or she is being adopted. When we interview the biological parents, they don't know. They know their kid is going to live with their uncle in Canada, but they don't know the details of what happened. That would be a typical case.

Mr. Terence Young: How do you communicate to prospective adoptive parents the impact of going the direct citizenship route versus the immigration route? You said you were improving your website. You hear a lot around Ottawa about ministries improving their websites and stuff, but how does it actually work in practice right now?

Mr. Régnald Gilbert: The vast majority of adoptions are taking place through adoption agencies. They are very familiar with the details of the requirements on both sides, because it's their bread and butter.

It's more difficult when it's individual parents. An example might be a private adoption through an aunt who is a nun in some country and works in an orphanage, or that type of thing. In this case it would be largely through our website or when we interview one of the individuals, such as the relative who helps with the adoption.

• (1620)

Mr. Terence Young: So it's done by an official by way of an interview.

Mr. Régnald Gilbert: There is not always an interview. It depends largely on whether there is any type of concern.

With regard to parents, sometimes it's not an interview per se; it's more to see whether all the information is entered correctly or not. In the case of China, with which I'm more familiar, we would spend, let's say, the morning with a group of parents reviewing all the applications and making sure all the paperwork is fine. It's not an interview per se, but it's an opportunity to provide information.

The Chair: Thank you, Mr. Young.

Are there other questions?

Seeing none....

Do you have some questions?

Ms. Olivia Chow: Yes. I'm sorry.

I don't know whether the legislative clerk can answer the question, or maybe you can. If we were to amend Bill C-467 in a way that would make the wording work not just for the folks who serve in the army or in the embassies but also for the 800 kids who are citizens when Canadian parents adopt them to come to Canada, would that be in the scope of the bill? Is that possible?

Mr. Chair, I don't know whether it's a question for you to....

The Chair: I honestly don't think these people are—

Ms. Olivia Chow: It would be the clerk who could answer that, right?

The Chair: Well, let's say that a legislative clerk might be more appropriate. I know I'm not prepared to answer at this time, and I don't think it's a fair question of these people.

Perhaps you could approach the clerk privately with this question.

Ms. Olivia Chow: Yes, okay.

Let me ask another question, then. Is there a plan to try to fix this problem?

Maybe there's a political question also. Given the difference in treatment between adopted kids who are naturalized versus those who come to Canada as citizens, is there any discussion, any possibility, that a separate bill can come forward to deal with that problem? Obviously the department understands that this is an issue. I'm sure these Canadian parents are telling you it's a problem.

Ms. Nicole Girard: I don't think I can really comment, other than to point out again that under the current structure of the legislation, the comparator groups are those born and naturalized in Canada versus those born abroad and adopted abroad. Currently, those are the comparator groups.

Ms. Olivia Chow: You mean rather than, say, adopted kids?

Ms. Nicole Girard: It's rather than something else. Right.

Ms. Olivia Chow: Has the department had a round table discussion with all the big agencies that help Canadian parents adopt kids overseas? There are different agencies that do a lot of adoptions, and they're very reputable groups. There are some small ones, but there are the big ones, right? There are any number of them. I know this is an issue that really troubles them. Has there been a discussion, a round table, a sharing of minds with them?

Ms. Nicole Girard: There has not been one on our part recently. Certainly there were discussions with some of these groups when Bill C-14 and Bill C-37 were going through Parliament. These groups were in contact with us and may have been witnesses before committee as well, but not recently.

Ms. Olivia Chow: The adoption groups didn't realize that Bill C-37 impacted on them. In fact, some of us are not clear that it did, because we didn't put two and two together. We didn't put Bill C-14 together with Bill C-37. We didn't realize that Bill C-37 actually had an impact on adopted kids because of Bill C-14. That was approved two years ago, so I don't think these adoption non-profit organizations had any input at all.

•(1625)

The Chair: Well, Bill C-37 isn't even before the House, unless these were consultations prior to the creation of Bill C-37.

Ms. Olivia Chow: No, I don't think there had been any.

The Chair: Well, I don't know. Maybe they don't either. You're speculating, really.

Ms. Olivia Chow: Are you familiar with...?

Ms. Nicole Girard: Well, when Bill C-14 and the first Bill C-37 were going through the process, the department was certainly in contact with different stakeholders, including groups such as the Adoption Council of Canada, to indicate that these pieces of legislation were being put forward for Parliament's consideration and to indicate what the provisions were. Certainly our records indicate that.

The Chair: Okay.

Thank you, Ms. Chow.

Madame Beaudin is next.

[*Translation*]

Mrs. Josée Beaudin (Saint-Lambert, BQ): Thank you very much, Mr. Chair.

I would like to ask two brief questions to make sure I understand. If I am not mistaken, if I were a Crown servant, for instance, and I

adopted a child, my child could also pass his or her citizenship on to his or her children, right?

Ms. Nicole Girard: No, that is not the case.

Mrs. Josée Beaudin: So that is not the case. So, for public servants, it applies only to the first generation.

Ms. Nicole Girard: That's right.

Mrs. Josée Beaudin: Now, if I adopt and go through the normal citizenship process, my children would be able to pass their citizenship on to their children.

Ms. Nicole Girard: I'm sorry, you mean through the immigration process?

Mrs. Josée Beaudin: I am talking about the normal process for obtaining citizenship.

Your document states, "Those who go through the immigration route and then obtain a regular grant of citizenship will be able to pass on citizenship to any children they may have..."

Ms. Nicole Girard: That's right.

Mrs. Josée Beaudin: So that applies to all children those people may have. I wanted to confirm that, because I will be attending the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities meeting tomorrow morning.

Ms. Nicole Girard: We will also be there.

Mrs. Josée Beaudin: That's what I thought. I will have more questions tomorrow morning.

Thank you.

[*English*]

The Chair: Are there any other questions?

Thank you very much for your presentation and your comments. They've been most helpful.

This meeting is adjourned—

Mr. Rick Dykstra: No, hold it. I had my hand up, sir. I know it's tough to look over that left shoulder of yours, but I have had it up for a while.

The Chair: I haven't banged the gavel, so you're in time.

Mr. Rick Dykstra: I want to confirm that we will be able to meet on Wednesday for an hour to have officials make presentations and respond to questions.

The Chair: Do you want to meet for one hour or two hours?

Mr. Rick Dykstra: We could meet for one hour.

Mr. Justin Trudeau: It should be specifically on Haiti and the response to the earthquake.

The Chair: Is everybody happy?

The meeting is adjourned.

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