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Chair

Mr. David Tilson

Standing Committee on Citizenship and Immigration

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• (1540)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): I'm going to call the meeting to order. This is the Standing Committee on Citizenship and Immigration, meeting number 48, Tuesday, June 12, 2012. This meeting is televised. The orders of the day are pursuant to Standing Order 108(2), studying “Standing on Guard for Thee: Ensuring that Canada's Immigration System Is Secure”. That, translated, means the security of Canada's immigration system.

I have just a few comments before we start. First of all I wanted to thank Madame Béchar and Ms. Elgersma for the briefing note you gave us as to the evidence we've heard to date on this subject, since February. Of course, we were interrupted by a study of Bill C-31.

I will be attending the Liaison Committee tomorrow, as the chairman, to seek approval for spending to the three detention centres: Laval, Toronto, and Vancouver. We'll see how that goes. If it is successful, I will count on the two critics and the parliamentary secretary to ask their house leaders—I don't know whether it's the house leaders or the whips, maybe both—because a motion would then have to be made in the House approving our attendance on those visits.

We're going for an hour. We have the Canadian Centre for International Justice, Jayne Stoyles, executive director. Good afternoon to you. We have the Canadian Council for Refugees, Loly Rico, vice-president. Good afternoon to you. You each have up to 10 minutes to make a presentation to the committee. I think you've been here before, so you know the rules. Then we'll go in rounds asking questions.

Ms. Stoyles, you may proceed.

Thank you.

Ms. Jayne Stoyles (Executive Director, Canadian Centre for International Justice): Thank you very much.

[Translation]

Distinguished members of the committee, thank you for the invitation to join you today.

[English]

Distinguished members of the committee, I want to thank you for the opportunity to speak with you today.

In the context of your discussion on Canada's immigration system, I will address the issue of how Canada should respond to the presence of alleged war criminals in this country.

I'm the executive director of the Canadian Centre for International Justice, CCIJ, which is based here in Ottawa. CCIJ is a charitable organization that works with survivors of torture, genocide, and other atrocities to seek redress and to bring alleged perpetrators of these crimes to justice both in Canada and internationally.

I'm a lawyer, and I previously directed the global campaign to establish the International Criminal Court.

After the Holocaust, the world said “never again”, and yet mass atrocities have since been committed in a great number of countries in every region of the world, subjecting people to torture, murder, rape, mutilation, false imprisonment, and many other horrors. During or after a period of massive human rights violations, many people flee the country because they have nothing left. They no longer have any means of survival, or staying in their country is not safe for them or their families.

Most of those who come to Canada are victims of conflict and human rights abuses, yet there will inevitably be a few who were involved in ordering, participating in, or committing atrocities as well.

There are about one million people in Canada who are survivors of torture and war trauma, according to torture treatment centres. At the same time, there are an estimated 2,000 people in Canada who may have been involved in planning or perpetrating war crimes or crimes against humanity and genocide. Canada does invest in preventing entry to Canada on the basis of allegations of involvement in war crimes, and does indeed prevent many people from entering on this basis.

I do not think the emphasis should be placed on doing more on that point. There will always be some people who slip through the cracks, and there is also a risk of preventing the victims from escaping their abuse when the net is cast too widely.

What I do strongly believe is that we need to do more when it comes to light that there are alleged war criminals in Canada. My organization and many other Canadian organizations and individual experts have, for over a decade, been calling on the Government of Canada to take action on this issue. In fact, these efforts date back to just after World War II when members of the Jewish community in Canada became aware of the presence of Nazi war criminals in Canada. It was 40 years before a commission of inquiry was established to look into that, and it was found that indeed about 800 former Nazis were living in Canada, some in the same communities as survivors of the Holocaust.

Unfortunately, despite changes to the Criminal Code to allow for at least some of them to be prosecuted in Canada, a Supreme Court case allowed the defence that one was simply following orders. This shut down other cases and led to a complete focus on immigration approaches such as citizenship revocation and deportation.

Last summer we saw this approach taken one step further with the names and photos of 30 individuals accused of war crimes or crimes against humanity and thought to be in Canada were made public. The publication of names and photos was for the purpose of inviting assistance in finding them so that they could be arrested and deported.

We know that everyone in Canada would share concern about the potential for alleged war criminals to live here without facing consequences for the very serious crimes in which they've been implicated. In particular, when we imagine them in the same communities as their former victims, as is often the case, there is a clear need for action, but it is a matter of what kind of action.

We have concerns that a singular focus on deportations of alleged war criminals in Canada will not, in fact, meet the stated goal of making Canada safer, nor will it make the world safer. It is also in violation of our obligations under several international treaties we've ratified, and is contrary to the global trend in the past 15 to 20 years, of seeking justice in response to the commission of mass atrocities.

What would we like to see? We strongly believe that Canada should be trying to ensure that as many as possible of these alleged war criminals will be held accountable for their crimes in courts of law. This would contribute to sending a message that the commission of war crimes and genocide could result in a life behind bars, in the same way that we want to send that message to someone who commits murder in Canada. It is still largely true globally that while the murder of one person results in a jail sentence, the murder of hundreds of thousands of people results in an invitation to a peace conference and to live out one's days luxuriously in another country.

We have two specific recommendations as to how Canada can contribute to sending a message that there will be accountability, which would make a much greater contribution to public safety and to global security than would simple deportations.

- (1545)

There are now options for individuals to be held criminally accountable in courts of law in the affected country, in another country not directly implicated, or before an international court or tribunal. As a result we first recommend that there be an approach that both bureaucrats and members of Parliament and their staff discuss, with their counterparts in the affected country, the evidence against these most wanted individuals and the potential for them to be brought to justice there.

These discussions could also take place with other countries that may have a history of trying some of the cases related to a particular conflict. Spain, for example, has taken on a number of cases arising from Central and South America, and other European countries have prosecuted cases arising from mass atrocities committed in Africa. This might result in requests for extradition or at least an assurance

that the case will be investigated seriously. This does not require a large investment of resources.

The second recommendation is that, when there do not appear to be options for justice anywhere else, an investigation be undertaken in Canada with a view to a potential prosecution here. Canada has committed to seeking justice in response to the presence of alleged war criminals within our borders. We've signed a number of international treaties that include a duty to extradite or prosecute people suspected of torture, genocide, and other atrocities.

Canada also committed to doing that when we ratified the International Criminal Court treaty in 2000 and passed the Crimes Against Humanity and War Crimes Act. The International Criminal Court opened its door in The Hague in 2003, as the first permanent international criminal court capable of trying individuals for genocide, war crimes, and crimes against humanity. Yet, at the same time, it was intended that this court be a court of last resort with the resources and jurisdiction to try only a relatively small number of alleged perpetrators in any situation of atrocities. It was intended that the national criminal courts of countries around the world would take on cases as well. With this in mind, there are now a number of options to seek justice globally for the commission of the most serious crimes of international concern.

One might ask, though, what would be achieved through justice rather than through deportation. The primary goal, the real hope and potential in bringing alleged war criminals to justice, is that we can finally realize the goal of "never again". Most, if not all, situations of mass atrocities like genocide are premeditated. It's therefore very intuitive that at least some of those who might otherwise plan and carry out widespread acts of violence will not do so if they know there's a risk that they might be held criminally accountable and receive a sentence of life imprisonment. In the same way, although not all crime in Canada is prevented by our laws, police, and courts, one can imagine how much more crime there would be if we did not have laws, police, and courts. That has been the situation at the international level until very recently, and Canada must participate in changing that.

Pursuing international justice also makes sense financially. We invest billions of dollars in military missions overseas, and we expend so much time and resources and diplomacy and other responses as armed conflicts and situations of mass atrocities emerge and unfold, as they are right now in Syria, for example. Investing in justice as prevention can, not only reduce the need for financial investments and responses at a later stage, but also reduce the human cost of war, both in terms of the lives of Canadian soldiers and the lives of people in the affected countries.

I highly anticipate that you'll be asking yourselves if I'm really asking the Government of Canada to make the resources available to prosecute the 2,000 alleged war criminals that I said are currently in Canada, when these cases can cost several million dollars. I'm not asking for that. I'm saying that if these two things are done—collaborating to seek justice elsewhere and prosecuting more criminals in Canada—we need perhaps to see only a handful of cases going on at a time. We've had this new legislation in place since 2000 to take on these trials in Canadian courts, and yet we've only had one case completed in the 12 years since it was passed and another now under way in Canada.

• (1550)

I'll just add that I do think if we are seeking justice, both internationally and in Canada, then there might be some circumstances in which deportations are an appropriate response, particularly when that's undertaken in a way that does not violate the rights of the accused.

Thank you.

The Chair: Thank you.

Ms. Rico.

Ms. Loly Rico (Vice-President, Canadian Council for Refugees): Good afternoon, and thank you for inviting me again to come before the standing committee.

I'm coming just to talk a little bit about what I'm doing every day. I work with the FCJ Refugee Centre. We work with women and children, and we accommodate them.

One of the things I'll do is bring you the experience of working with women who have been detained at the immigration holding centre in Toronto. Some of these women have been in detention for 72 hours or even for eight months. The longer they are in detention, the greater we can see the impact, especially if they have children. They show signs of depression, loss of appetite, anxiety, and so on. The children exhibit behavioural problems, and often they have loss of appetite.

I'm telling you this is because I want to bring to you the alternative to detention. After living in detention they come to our agency, and they look much better. Also, they start to establish themselves in English classes, and the children go to school, and they show more signs of integrating into the community.

We are making this presentation because we oppose the detention of refugees, and the alternative to detention is to integrate refugees into the community, especially refugees—

The Chair: Mr. Dykstra has a point of order. Stop the clock, please.

Mr. Rick Dykstra (St. Catharines, CPC): Chair, I have a point of order.

I'm sorry, Ms. Rico; I didn't mean to interrupt your train of thought or speech. I just wanted to get a clear understanding. I'm not planning on taking any time away from your presentation.

Through you, Chair, we're studying safety and security. I'm just wondering, the alternatives to detention or not detention, how do they relate to the study of security?

The Chair: He made a valid point, Ms. Rico. We are studying security, not detention. We're interested in hearing what you have to say, but I'm not sure where detention—

Ms. Loly Rico: I'm sorry, because we received the invitation to talk about the alternatives to detention.

Mr. Rick Dykstra: Who would have sent you an invitation to speak on the alternatives to detention?

Ms. Loly Rico: I received it from the committee.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): I have a point of order, Mr. Chair.

The Chair: Mr. Dykstra, the difficulty is that I don't know who spoke to Ms. Rico. Perhaps it was the clerk; perhaps it wasn't. The topic of detention, contrary to what I just said, is on our list, as approved, as to what we were going to discuss. In fact, we were even planning visits, so I'm going to say that what she's saying is in order.

We'll start the clock, and you have not lost any time. We have these from time to time. Ms. Rico, you may proceed.

Ms. Loly Rico: Thank you.

I came here to talk to you very briefly about the experience with the immigration holding centre and about alternatives to detention.

For 21 years I've worked with women who've come out of detention. When we see them coming out of detention, they're in trauma, in part. They had to flee from their country because they were in a traumatic situation. They had to flee from persecution because of their gender.

I can tell you about what is happening right now with the immigration holding centre. In my organization, for example, we receive referrals of women, those who are pregnant or who have children, to our organization without bond or any bail. Sometimes we do receive referrals from the Toronto bail program. What happens is that when they're out, they start to integrate into the community and into the society.

One of the things we are looking at is inviting the committee... I know you have in your package a study by Janet Cleveland, dated April 2012. The suggestion is that perhaps you can look at some of the alternatives to detention. One in Sweden, especially, is managed by case workers.

What we are doing right now in Toronto—the Toronto bail program with the immigration holding centre—is a kind of pilot project. We are looking to see if we can formalize it and have it as more of a national process for people who don't need to be detained, including women and children and pregnant women.

I can give you an example of a woman who was pregnant. She had contractions because she was detained. When she arrived at Toronto Pearson airport, I was called by the immigration holding centre, and she was released to us. With her, after that, we complied with doing all the paperwork. She was there every time they required her to be there. After eight months, she was accepted as a real convention refugee, and she had her baby outside of detention.

That's one of the things we're looking at and are recommending as an alternative to detention: have an agreement that it is not necessary to detain women and children, and if it is necessary to have more supervision, use the bail programs. They can be present, and we in the community can be involved and help people become integrated into the community.

That's it.

• (1555)

The Chair: Thank you very much, Ms. Rico.

We will have some questions.

Ms. James is first.

Ms. Roxanne James (Scarborough Centre, CPC): Thank you, Mr. Chair.

Thank you to Ms. Stoyles and Ms. Rico. Welcome back for another time at this committee.

Ms. Stoyles, you mentioned war criminals, and you said that you would like to see the government take no more action to prevent more criminals from coming into Canada, even though some people will always slip through the cracks. I'm a little alarmed by that, because in the same sentence you said we should do more to deal with the war criminals who are already in Canada.

It's kind of circular, because if you're not preventing them from coming in, then you have to deal with them after the fact. I just want to give you a chance to comment. You know, if we can prevent war criminals from coming into Canada, that is ultimately the best possible scenario. Then we wouldn't have to deal with the situation thereafter.

Would you agree with that statement?

Ms. Jayne Stoyles: Yes, I think it's a good question.

I don't know a lot about what happens at that end of it, in terms of what's happening in the countries themselves as people are making the applications. But my sense of things is that certainly if there were significant resources to really be able to investigate someone's background and history, and make a decision on that basis, then I understand the idea of trying to prevent more people from coming.

My sense is that at that stage, it can be fairly loose evidence against someone, and that you may in fact be preventing also some of the victims and people who legitimately have refugee claims, and really need to prevent—

Ms. Roxanne James: Thank you.

I think, though, with war criminals, part of this study has to do with biometrics, as well. We want to determine that the person who applies is the person who arrives, and that when people arrive, they are actually the people they said they were.

With biometrics, you're not doing only that; you're also checking the databases of some of our allies around the world. Those types of things, with war criminals and so forth, would be detected. I think that's the real benefit. We want to stop those people from coming into Canada.

I know that you're here to represent the real victims of war crimes and so forth, so I do appreciate your being here.

Just in line with that type of question, our government, actually our Prime Minister, recently set aside \$12 million to prevent human smuggling operations in Southeast Asia. We're actually working with other police and other organizations around the world. We're trying to prevent them from coming to Canada in the first place. This is completely new. I think the majority of Canadians would welcome that.

My question goes to knowing who arrives on your shores. Would you not agree that on exit and entry, being able to know ahead of time who's coming in and who's leaving is something that's very important for the safety and security of Canada and Canadians as a whole?

• (1600)

Ms. Jayne Stoyles: My points, given the mandate of our organization, are more about the issue of justice. I'm sure that there are others who can speak more to what's happening at the border. That's really not our area of expertise.

The point I really want to make is that, in a sense, when someone who's accused of some very serious crimes comes here, it almost presents an opportunity, if there are a few cases that can actually then be prosecuted. My point is about prevention and the opportunity, by having some cases here, to send a message that there really is nowhere to go if there isn't going to be justice in the affected country.

Ms. Roxanne James: I understand. We've heard your opinion expressed.

The point I'm trying to get at is that it's important that we, as Canadians, try to prevent situations from occurring as opposed to dealing with them after the fact. I think you agreed that it's more important to identify people before they arrive in Canada, so I thank you for that.

I'm just going to ask Ms. Rico a couple of questions as well. I know that you're here talking mainly about women and children, and I know that you're opposed to detention.

Do you not think that a woman could also be someone who could present a serious security risk to Canada? I know that you're tending to group everybody in the same bunch, male and female. In actuality, terrorism, war crimes, and so forth are not always isolated to one sex or the other. I would just like you to acknowledge that there is a possibility that women, not just males coming into Canada, could also present a problem. Could I have your comments on that, please?

Ms. Loly Rico: Yes, I understand that. I'm not coming to say that whoever comes here doesn't have a criminal background. One of the things right now in the bill, in the law, is that the minute anyone comes to Canada and claims refugee status, they immediately start doing a fingerprinting process. That's how you find them.

Ms. Roxanne James: You mentioned people being in detention. Why are they in detention?

Ms. Loly Rico: Most of them are in detention because they don't have ID documents. Some of them are there because they are going to be removed.

Ms. Roxanne James: I had another question to ask you specifically.

Obviously, at one time, fraudulent documents meant just passports, but now we're getting into things such as birth certificates, accreditation, diplomas, and so forth. It has surpassed what we're familiar with in regard to fraudulent documents.

Would you not agree that in the best interests and the safety and security of Canadians as a whole, as a government, we must be focused primarily on the safety of our own citizens? If someone comes in with fraudulent documents and we cannot prove one way or another....

I'm alarmed that you think someone should just be released into society. I have to tell you that I'm a mother of two children. I'd be very concerned if that were the rule of law in this country.

Please acknowledge that a government's main priority is the safety and security of its citizens, first and foremost.

Ms. Loly Rico: One experience I have had in my 21 years of working is that I haven't seen any woman who has been involved in criminal acts. Second is that what we know is that most of the refugees, you see, are victims of war crimes. They come—

Let me finish.

The Chair: No, Ms. James. I'm sorry. That's it.

Ms. Roxanne James: Mr. Chair, 41 *Sun Sea* and *Ocean Lady* were inadmissible to Canada, so I'm not necessarily buying that statement.

Thank you.

The Chair: Thank you.

Ms. Sims.

Ms. Jinny Jogindera Sims: Thank you very much.

I want to thank both our presenters for coming and presenting to us.

My first question is for you, Jayne. You have expressed concerns regarding the refusal of the government to make any additional funding contributions to the war crimes program since its inception.

The most recent report from the government on this program, which spans the entirety of the period between 2008 and 2011, states that turning war criminals away at our borders is the most cost-effective means of dealing with war criminals who come to Canada.

Can you explain how other aspects of the program such as the criminal investigation and prosecution of war criminals are important, if the program is to succeed as a doorstep to impunity for war criminals?

• (1605)

Ms. Jayne Stoyles: To give you and perhaps others some details about the program, it was created in 1998 and had a budget of \$15.6 million and that has never been increased. After September 11, a fourth department was added, which was the Canada Border Services Agency, as it was created. That same amount of money, \$15.6 million, went from three departments to four departments. Now CBSA has its own funding and has taken some of that funding as permanent funding. So it's actually down to \$8.4 million, I understand, for the three departments that are left.

It's absolutely right in terms of cost effectiveness, working at the border. It means you can have many more cases where people are then excluded from entering Canada. What we feel is very important, at least in a few cases at a time, is that we do have the resources in Canada to have the RCMP investigate allegations of war crimes and genocide, and to bring some of the cases to trial. We believe strongly that this actually is what sends a message.

The things we do at the border are cost effective, but what do they achieve? They might contribute to the prevention of atrocities by sending a message that you can't go to another country very easily, but if people know they might face a life sentence for the commission of atrocities, that's something we start to see globally. We are seeing that globally. We're seeing many countries throughout Europe and countries in other parts of the world addressing their own history. Then we've sent a message that there will be accountability, and I think, it's very intuitive that we will start to see a lessening of these situations occurring. That's a wise investment.

Ms. Jinny Jogindera Sims: Thank you very much.

You've also talked about the important role that prosecutions for war crimes at a national level play in creating a deterrent for such atrocities.

Can you expand on this for us? Why are national prosecutions important? Can you talk about the message prosecutions send to perpetrators? And what kind of message do national level prosecutions send to victims of war crimes?

Ms. Jayne Stoyles: We are creating in the world a system of international justice. Canada has been very much a leader in that process. It's been under previous governments, but this is really not a partisan issue and should not be a partisan issue. We have the new International Criminal Court. It's widely touted as such a great achievement in providing justice when these crimes occur, when we had nothing in place throughout history, and in giving hope that we will send this message and deter atrocities. But it doesn't have the jurisdiction or the funding to take on more than a handful of cases in any situation that occurs. Its jurisdiction also started only in 2002.

Part of the vision was that we would bring cases forward. Ideally, that would be in the affected countries, but there are many reasons why that is not practical, unless there's been a change of government or unless the legislation exists, etc. Investing in those affected countries and in justice there makes sense, but it's also always been envisioned that countries that don't have a direct connection would also make this kind of contribution. It's only through those kinds of web of accountability mechanisms that we can send this message.

From a victim's perspective, we have people who come forward to us, people who are in Canada who are survivors. There is such a consistent message from people that seeing justice in response to the abuses is so important as a healing tool, to really see that we in Canada take seriously what occurred. It's not about revenge. It's very much about people having a sense that there's justice, just as we feel if we've ever been a victim of any kind of wrong or crime. People express that even if it's not about their own case. It's about other cases related to their home country and others as well.

Ms. Jinny Jogindera Sims: Thank you.

As you said, it is about closure and about truth and reconciliation, and it is one major step to allow human beings to move on. We recognize that when things happen to us, and I think it's a wider recognition of that. I want to thank you for articulating it so clearly.

I have another question, and I'm hoping I still have time.

•(1610)

The Chair: You have about a minute.

Ms. Jinny Jogindera Sims: Okay, that's great.

Can you talk about how a national program like Canada's war crimes program complements and reinforces the work of the International Criminal Court?

You touched on that a bit, but if you could expand on that, it would be great.

Ms. Jayne Stoyles: Yes. I think it is because there are these limits. The ICC's stated policy is to look at the highest level of perpetrators in any situation. If we have an alleged 2,000 war criminals in Canada, and they could be brought to justice elsewhere or one of the people who would be considered the highest-level perpetrator could go to the ICC, that makes sense.

If they are not, and if there isn't an option for justice elsewhere, that's where Canada can really make a contribution by bringing some of those cases.... For example, we've had one completed case, and there is another under way right now related to the 1994 Rwandan genocide. The Rwandan-Canadian community has been very involved in building those cases and very vocal about how important those cases have been.

If we could do more related to some of the other, many, situations of mass atrocities around the world, then we would really be contributing to the success of the ICC and the justice system as a whole.

The Chair: Thank you.

We'll go to Mr. Opitz and then to Mr. Lamoureux.

Mr. Ted Opitz (Etobicoke Centre, CPC): Thank you, Mr. Chair.

Thank you, both witnesses, for being here today. Both of your comments are very interesting.

I will start with you, Ms. Stoyles. I've been around a little bit and have served in the past, and I have seen some really bad guys out in the world—war criminals and so forth.

I think we're in agreement that war criminals need to be prosecuted because of the atrocities they inflict on people around the world and the things that they do and the things they represent. It is reprehensible. We do need to have controls on our borders, and it's things like biometrics that will help us to identify and catch these guys. It's important to do that.

However, I do believe, where possible, we have to extradite these guys to the right places. It's wonderful to say we should do more and we should try more guys, but it's not so simple when the atrocities have happened in another country to get witnesses and that information.

I'm delighted that the Rwandan genocide is being examined in a couple of cases here, but that obviously took some time to do and it is very hard to put together. It's exceedingly difficult to get those witnesses, who may be frightened or scared or in some cases may be criminals themselves. We don't know. That makes it very difficult at the end of the day to be able to do this.

Though the Hague may not always be the fastest solution, it may oftentimes be the best solution. It is better equipped than most places in the world because that's where the subject matter experts and the tools to do the job reside. That's something we have to maintain.

We also have to maintain our information sharing with our allies to be able to get these guys at the borders. It's one thing to send somebody away, but it's quite another to be able to identify somebody and even hold them for extradition if they are sought in other countries.

I would say that is something Canada can do. If we do catch somebody at the border, we can hold them. We can extradite them through the appropriate processes. That person can face justice in the place where he perpetrated those crimes. That is probably most important, because the witnesses and the victims should be able to see justice happen before their own eyes, not necessarily a half a world away. In some respects when you allow that to happen, you then deny justice to victims because they don't actually see the carriage of justice. I'm very concerned about that.

Do you know, by the way, how many persons who have been ordered removed have been removed for criminality or war crimes?

Ms. Jayne Stoyles: I only know what I've been reading in the media. I've seen maybe 13 or 14 from this most wanted list who have been removed.

Mr. Ted Opitz: Mr. Chair, you'd know that in 2008 the Auditor General reported that 42,000 people in this country went missing and 15% of those were criminals. This is the premise of our study on security. We understand very clearly that it is a very disturbing statistic. In this country, we also have to make sure that criminals don't get in.

Ms. Rico, with all due respect, you're a very generous, kind-hearted woman, and I can see that, but you don't let somebody into your own home without knowing exactly who they are. You have to be able to determine who these folks are. When it comes to detention, some of these people are held simply because they're not compliant and don't release their identities and don't cooperate. They could be war criminals, and that could be one of the reasons they are withholding their identities.

It is in Canada's interest to ensure we don't allow anybody into society who could hurt our society. Out of these 42,000 people, the fact that 15% of them have active criminal records is significant. The problem in our country has been that because our immigration system has been so loose at times, repeat criminal offenders and potentially repeat war criminals have re-entered Canada on numerous occasions because we haven't been able to properly identify them, isolate them, hold them, return them, or whatever we needed to do in terms of processing those individuals.

It's very critical to us that we understand who is coming into this country. If it requires we hold them till they either identify themselves or we can properly identify them, I think that's the right thing to do on the basis of the safety of all Canadians.

How much time do I have?

• (1615)

The Chair: You have a couple of minutes.

Mr. Ted Opitz: Okay, cool.

Back to you, Ms. Stoyles. In your opinion, what are some of the specific deficiencies you see that still exist in the measures used to identify foreign nationals who may be inadmissible for, of course, war crimes, health, safety, or security concerns? Do you have any recommendations for CIC or CBSA? Can you provide any assurances that these processes are properly managed?

Ms. Jayne Stoyles: Thank you. You obviously know quite a lot about this issue.

About two or three years ago, I think, there was an evaluation of the war crimes program in particular. One of the key findings was that the RCMP is extremely underfunded, under-resourced, so the RCMP's investigations could potentially feed all these parts of the program, in particular the investigation piece.

One of the points you made was about the importance of extradition, ideally being able to have some trials in the affected countries. If the RCMP had more resources to be able to identify some of the evidence against them, or even without that, the point I was trying to make earlier was that if we have discussions among members of Parliament and their staff, with their counterparts—and at the bureaucratic level as well—in looking at the justice options and negotiating at times for an extradition request, I think that's where the opportunity lies. My concern is that's not what we're seeing. We're just seeing deportations.

The media reports about the cases we've looked at indicate that when they are returned home simply on the basis of a deportation, these people are not being brought to justice. They are just being returned home. There are perhaps some challenges with the way that's happening. If they are implicated in atrocities, we are missing

the opportunity to ensure justice is served. That's where I would like to see some more focus and emphasis and resources.

The Chair: Thank you.

Mr. Lamoureux.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Thank you, Mr. Chair. I thank members of the committee for assisting me in being able to ask my questions. I realize I came a little late to today's committee.

I look to Ms. Rico to provide some responses to concerns I've had with regard to the whole detention process.

Detention is a fairly costly way of keeping someone who might not necessarily need to be kept in detention. One of the things we as a committee want to look at, I believe, is whether there is a better way to accommodate individuals in Canada who might not necessarily have to be held in detention centres?

Ms. Rico, my apologies if you've already provided specific comments on this particular issue. Is there something very specific that you would recommend to the committee as an alternative for some of those refugees?

The other issue I would appreciate if you could comment on, because I think it often gets overlooked, is that there's usually some sort of social cost to many individuals who are held in detention centres for any period of time. Other related issues come because quite often these refugees come from fairly ugly environments, and then they're held in a detention centre. I think some sort of mental or social development issues might come out of that.

I wonder if you could comment on those two points.

• (1620)

Ms. Loly Rico: Thank you very much.

One of the alternatives that we were talking about as an example was what's happening in Toronto with the immigration holding centre, whereby what we call the vulnerable communities—women and children—can be released in the community, in the refugee houses or the shelters. Sometimes they don't need to pay big bonds or any bail. They make sure, working together with the shelters and the refugee houses, that the person goes and reports themselves, and they provide them with the ID documents because the reason that they are detained is that they didn't provide ID documents when they claimed refugee status. This is one of the alternatives that we are putting forward.

The other is the relationship between the immigration holding centre in Toronto and the bail program. The bail program helps with the release, and what happens is that they are not free in society, as mentioned by Ms. James, they have to report themselves to the bail program every week, and in that way they have to continue with all the procedures of the refugee process. We believe that's a way. It's less costly because the person can be in the community, and at the same time they go and report. Also, they go and report to CBSA every month, or every two months, and that's how they are not totally without any reporting as an alternative.

Mr. Kevin Lamoureux: Before you go on to the second question, are you aware of any pilot project, or anything of that nature that would have incorporated modern technology like ankle bracelets as a way to monitor individuals who might be required to be in a certain location? Are you aware of anything of that nature?

Ms. Loly Rico: No, I'm not aware but I know that there is a pilot project. There is a project that is working with the immigration holding centre and the Toronto bail program, so that they release the person who has to present themselves and report. That's one way that they don't need to be in detention.

One thing related to the second point, I was presenting in my opening remarks about all the mental health and all the human cost that the victims suffer, especially if it is a woman and children who are fleeing persecution because of their gender. Sometimes they are women who are pregnant. They are seven or eight months into their pregnancy, and at the moment they arrive and they are detained, they suffer so much emotionally that it causes flashbacks so that they even go into labour. And when they start with that, this is when sometimes they call the refugee council and they release the person with us.

The other is with the children. We have been seeing this with the children, and I believe you have seen the report from Janet Cleveland and Delphine Nakache that the children have behavioural problems when they are released, they've lost their appetite, and I see it with the women when they arrive at the refugee house where I work.

The Chair: Thank you.

Madam Groguhé.

[*Translation*]

Mrs. Sadia Groguhé (Saint-Lambert, NDP): Thank you, Mr. Chair.

My thanks to our two witnesses for being here.

My question goes to Ms. Stoyles. You mentioned the possibility of conducting investigations overseas, in the countries these criminals come from, or to administer justice here in Canada.

Which of those two possibilities should we prioritize, in your opinion? How can we make sure justice is done when people are extradited, for example?

Mrs. Jayne Stoyles: Thank you. I will answer in English so that I can be a little clearer.

[*English*]

On the question about which situations we focus on for cases here in Canada, something that is very important is not just looking at justice in individual cases and negotiating for an extradition request but also investing in the justice processes that are happening in the affected countries. It's really interesting how the existence of the International Criminal Court is really spurring countries around the world to create this legislation to be able to try war crimes and crimes against humanity. Also, for example, as happened in Uganda, there were some cases before the International Criminal Court against the Lord's Resistance Army and others, and those spurred Uganda to really look at putting in place some effective war crimes legislation and to start to train judges and prosecutors to be able to use it.

Some Canadian officials, representatives of the Department of Justice and some other external experts, were involved in that training in Uganda, and some resources were made available for that. So I think we have to look at it holistically, look at building that capacity nationally. Then when specific cases come up, it's just very much on a case-by-case basis being able to know that our RCMP has enough resources to have some sense of the evidence and then there are discussions with national counterparts. We do this with our centre. We talk to our counterparts at the non-governmental level, the victims groups, and the NGOs in those countries about what they know about, what evidence they have, and we actually discuss and negotiate around what's the best justice option, and we have very few resources to do that. Certainly that could happen at the governmental level.

Then when there are no justice options elsewhere, we would look at the possibility of a case here in Canada.

• (1625)

[*Translation*]

Mrs. Sadia Groguhé: Very good, thank you.

In July 2011, Vic Toews, the Minister of Public Safety, published a list of people accused of, or complicit in, war crimes and crimes against humanity. What do you think about that approach?

[*English*]

Ms. Jayne Stoyles: I do think that singular focus on deportations is really the heart of the point that I want to make today. I think that really misses this opportunity for justice, and I think not all of the approaches would cost money to implement.

The things I didn't raise are more from the organizations that are working more closely with immigrants and refugees, but I will say this approach raises some real concerns as well that people are being labelled publicly as being accused of these crimes as though they've actually been through a criminal process, and they haven't. They have been through an immigration approach, which requires a much lower burden of proof than what we have in criminal law. That's a concern about putting this out publicly. I would much prefer that the RCMP had the resources to work with communities and to conduct the investigations without this very public kind of naming and photos.

We're also concerned when people are simply sent back not just because of the lack of opportunity for justice in credible cases but also because they themselves might be subjected to serious human rights violations, made more likely by the fact that they've been given this label without necessarily having had a full investigation against them. It is an approach that certainly has many problems and challenges.

The Chair: *Merci.*

Some of you are watching the clock. We are going to go an extra five minutes, because we started late.

Mr. Weston.

[*Translation*]

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Thank you, Mr. Chair.

[English]

As a Canadian, it's always a matter of pride for me to stand alongside people who stand up for vulnerable people. I really applaud both of you for the work you've done. I've been looking at your biographies while you've been speaking.

I understand that you have a very distinguished background, Jayne, with the Tarnopolsky award to your credit, and even two nominations for a Nobel Peace Prize as part of a group.

Loly, with your background from El Salvador, you have a very powerful story to tell. You know the plight of people who are refugees.

Thanks to both of you for being here and for what you do.

As a lawyer myself, and as someone who's done international law and cares a lot about human rights, I asked myself, what is the most powerful thing we have in Canada in our protection of refugees? I think it may be the trust we have in the system, and that trust is there partly because we know we can be safe.

So I look at the balance, and I say that as long as Canadians are confident that we have safety mechanisms there, then the populace, who are our bosses, we elected representatives, will be onside and will allow us to continue to put our weight behind our refugee program and helping people in the kinds of situations you describe.

Again, I come back to my colleague Ms. James' earlier questions. It seems to me that if we don't have a very effective removal system and a good detention system, then we risk eroding the trust of the populace. Because if we get a few bad situations.... It only takes a few bad situations to come about before people start calling upon all of us, as members of Parliament, to throw down the portcullis and say, "Sorry—no more".

I'd just ask you to reflect on that. Maybe you can each give us a minute on that.

• (1630)

Ms. Loly Rico: One of the things that I'm thinking about your comments is that if you see what we are recommending, we are not saying to give freedom to the bad guys you are talking about. We are trying to be just and fair with refugees. Sometimes we have people in detention who shouldn't be there, just because they need to provide an ID document, and that could be a woman with children or even a family.

What we are looking at is how we can—with the CBSA, the holding centres, the community, and the refugee houses—make sure that these people, who do not need to be in detention, can be integrated into the community. And they can be reporting to CBSA themselves. In that way, you save money, but also we harm people less, because they don't need to be there. Those are the people I'm talking about.

Mr. John Weston: Now, Jayne, I'm also thinking about the screening. It just seems to me to be self-evident that we need to be doing this screening. We need to identify in advance. We need to keep people out. Otherwise, we'd lose the whole system that we crave to keep protecting.

Ms. Jayne Stoyles: Yes, and I certainly wouldn't say that the screening should not be happening and that there should not be some effort to take a look at whether there are these allegations against war criminals. Because then, of course, we'd have more people who are the victims living in Canada in the same communities as the perpetrators. That's not a situation we want to see.

I think, as you say, though—understanding that I'm not sure you're going to prevent all cases with whatever system you have in place—it is really about looking at the removal system and knowing that there will be some situations where it's appropriate to use it.

I guess that in terms of the trust, one of the things that crossed my mind is that for us, as victims rights advocates—to sort of turn it the other way—if we see our government officials really taking a holistic approach to this, really making a commitment to justice and negotiating that, and supporting the kinds of things that I've seen, then we also would feel more inclined to say, yes, absolutely, there are situations where deportation is appropriate and needs to be done, situations where that's the only option. We'd absolutely support that.

We get into a situation of wanting to really oppose it because we're not seeing a holistic approach being taken.

The Chair: Thank you, Mr. Weston.

Mr. Zimmer, welcome to the committee. You have three minutes.

Mr. Bob Zimmer (Prince George—Peace River, CPC): Mr. Chair, I'll make it a good three, I hope.

I just wanted to speak to you and thank you for coming today. As my colleagues also have mentioned, we have compassion for immigrants as well. My grandparents were immigrants. I'm sure most of ours were at some point, so we come at it with that in mind. We're not against that.

The question I have for you today is specific to electronic travel authorization and the fact, as my colleague Mr. Weston has stated, that this system that people want to come to, we want to preserve that. We want to preserve the good part that is Canada, and doing so with an authorization that's preventative, so that they don't show up on our shores and we then have to send them back, essentially, or we capture them before they get here.

I just wanted to know your thoughts on that. Do you not see that as a good option?

I'll ask both Loly and Jayne.

Ms. Jayne Stoyles: In a way what I was going to say is that it's not really my area of expertise. I'm sure there are others who have a better sense, really, of what's happening in terms of the various specifics around how people are tracked and identified. We work more at the stage of, when people have come here, what we would like to see. I'm probably not in the best position to comment.

Ms. Loly Rico: My comment will be that sometimes our way of protecting ourselves is leaving out some people who need to be protected here in Canada. I can bring it up because I also work with victims of human trafficking. Sometimes if you stop them when they are in a country, like in a South Asian country, and they stay there, these people will come here in another way, which is by trafficking. That's our concern.

If we are too rigid or put in too many obstacles, it will be more difficult for the real victims—as you know, the UNHCR has said the number of refugees has been increasing—to look for protection. They will be trapped with the smugglers and with the traffickers. That's my reflection.

• (1635)

Mr. Bob Zimmer: I'll actually defer to Mr. Dykstra for the rest of my time.

The Chair: You have one minute.

Mr. Rick Dykstra: Claudette Deschênes was actually here. We talked a little bit about the whole issue of identification. For one of the issues she brought forward, her quote was the following:

In the majority of cases we anticipate that applicants would receive confirmation of their travel authorizations within minutes. The U.S. has already successfully implemented a similar system whereby over 98% of applicants are automatically approved for travel, and we anticipate the ETA system will be in place in Canada no later than 2016.

This provision will actually also prevent unnecessary detentions of war criminals and people who are actually inadmissible in Canada because of a serious criminal conviction. I suppose a lot of this gets at what you're talking about, Jayne, in terms of identifying, as quickly and as early as possible, whether or not the individual faces a longer detention period, potentially, or a detention because of lack of identification.

I'd like to hear whether or not you're both supportive of the biometric aspect of this. I know that the Auditor General, when he was—

The Chair: That was one minute to ask and answer, not one minute to ask the question. Maybe she could give her answer.

Ms. Loly Rico: At the CCR, we don't have a position on biometrics. I cannot speak to that. One of the things I can say is that as soon as possible the person can be identified, the more easily they can be released. That's not the problem.

The Chair: Unless it's very brief, Ms. Stoyles.... Thank you.

Mr. Rick Dykstra: I'd like a response to that. I'd be happy to give an extra minute or two so she could respond. I will not ask any more questions.

Ms. Jayne Stoyles: I can be extremely brief, then, because it's really not my area of expertise. I'll just also say that I do think anything that contributes to really identifying people who are in fact war criminals, which would facilitate an investigation or other remedies, is certainly positive.

The Chair: Thank you very much, on behalf of the committee, Ms. Stoyles, Ms. Rico, for coming and giving your comments to us. It's been most helpful.

Before I adjourn, for obvious reasons the meeting on Thursday will be cancelled, so the next meeting will be in a week.

This meeting is adjourned.

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