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# Standing Committee on Citizenship and Immigration

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EVIDENCE

**Wednesday, October 31, 2012**

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**Chair**

**Mr. David Tilson**



## Standing Committee on Citizenship and Immigration

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•(1555)

[English]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** This is the Standing Committee on Citizenship and Immigration, meeting number 56, Wednesday, October 31, 2012. This meeting is televised. The orders of the day are, pursuant to the order of reference of Tuesday, October 16, 2012, Bill C-43, An Act to amend the Immigration and Refugee Protection Act.

I'm sorry, ladies and gentlemen. We are late because of votes. We're going to divide up the time between the two groups. We have two guests.

From Amnesty International, we have Alex Neve, the secretary general of Amnesty International Canada, and I assume Anna Shea is with you.

We have by video conference from Regina, Saskatchewan the president of the Canadian Police Association, Tom Stamatakis.

Mr. Neve, you're first.

**Mr. Alex Neve (Secretary General, Amnesty International Canada, Amnesty International):** Thank you, Mr. Chair.

I'm pleased to be here with you this afternoon and to have this opportunity to share Amnesty International's concerns and recommendations with respect to Bill C-43.

Amnesty, for well over 25 years now, has been actively commenting upon and making representations to Parliament regularly with respect to reforms to Canada's immigration and refugee laws. Our focus, of course, has always been to ensure that those laws conform with Canada's international human rights obligations, be that with respect to refugee protection, the ban on torture, the rights of children, equality and non-discrimination, fair trials and due process, and other fundamental rights that are enshrined in international law.

We certainly recognize there are always challenges and tensions that arise in ensuring human rights are fully protected in law, in policy, and in practice when it comes to immigration and refugee matters, be it the tension between speed and efficiency versus fairness and justice, or as arises with Bill C-43, by responding to concerns about criminality and security, but doing so in full compliance with important human rights norms.

Amnesty International is of course a human rights watchdog. We're not an organization with a particular mandate with regard to immigration or refugee policy or law enforcement and criminal justice. Our role is to remind governments, including the Canadian

government, of those binding human rights obligations and the absolutely essential need to ensure they are upheld.

Amnesty International certainly accepts that it is not only permissible but often essential for the Canadian government to use immigration law to exclude and remove from Canada individuals who pose threats to the country's public security or national security, including when there are concerns about serious criminality, terrorism, and related threats.

Today I would like to share with you our concern that the approach to this that we see reflected in Bill C-43, some of which builds on or adds to provisions that are already part of Canadian immigration law, raises a number of real and pressing human rights concerns in three principal areas: accountability, protection, and access to justice. Let me turn briefly to each.

With respect, first, to accountability, Amnesty International has frequently, for well over a decade now, raised concern that when Canada is faced with the attempted entry or the presence of an individual in Canada against whom there are credible allegations of potential responsibility for serious crimes under international law, such as genocide, war crimes, crimes against humanity, torture, terrorism, overwhelmingly, immigration remedies such as denial of entry or deportation are used to deal with the case.

The end result very often, therefore, is the serious human rights accusations against the individual are not dealt with in a way that will ensure justice, namely, that the person would be perhaps turned over to an appropriate international tribunal, extradited to face justice in another country, or investigated and prosecuted within Canada. That runs counter to numerous international obligations that require Canada to ensure that such individuals do in fact face justice, including under the UN convention against torture and the Rome statute of the International Criminal Court.

We are concerned that the provisions in Bill C-43, be that clause 8 significantly broadening ministerial discretion to keep people out of Canada, or the restrictions of humanitarian and ministerial relief and appeal rights in clauses 9, 10, 18, and 24, will serve only to increase dramatically the propensity for immigration remedies to dominate. If it is even easier and faster to deport, the chances of a case being properly considered from an international criminal law perspective will be that much less.

There is nothing in Canadian law at this time that operationalizes and formalizes the legal obligation to pursue extradition and prosecution over such possibilities as barred entry and deportation. We strongly believe it is time to do so. It is too important to be left to policy and budgetary decisions. Our brief, which we'll be providing to the committee after the hearing—it's not yet available in French—proposes an addition to the bill establishing a clear obligation to pursue extradition or prosecution in appropriate cases, in compliance with international legal requirements.

● (1600)

Let me turn to our concerns about protection. Bill C-43 restricts or removes a number of appeal and relief mechanisms which, at present, serve as a final opportunity or last resort to address concerns about human rights violations that may be associated with an individual's removal from Canada. These may be concerns that the individual will experience torture or other serious human rights violations in the country to which he or she is being deported. They may be concerns about the best interests of children left behind or about the disruption and separation of families that will arise because of the deportation.

All of these are fundamental human rights obligations, not just policy aspirations or social matters. These are human rights obligations found in such important international treaties as the refugee convention, the convention against torture, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child, all of which are binding on Canada.

Canadian court decisions have affirmed that Canada must take account of these international obligations in its immigration laws and practices. Restricting or taking away these appeal and relief options significantly increases the likelihood that these sorts of concerns will not be addressed.

The importance of keeping open these appeal and other relief avenues is all the more important when we consider the wide sweep of these exclusionary provisions. The elimination of humanitarian relief, in clauses 9 and 10, for terrorism, violating human rights, or organized crime may well apply to individuals who have never even been charged, let alone convicted, of any crime, and may extend to individuals who do not themselves pose a danger or security threat.

The Canadian Council for Refugees, in some of its past research, has highlighted ways in which these kinds of provisions have impacted on past members of the African National Congress and on individuals who are members of groups that opposed repressive governments, such as the Gadhafi regime in Libya and the Pinochet administration in Chile.

The appeal right restrictions in clause 24 extend to permanent residents who have been sentenced to six or more months in prison

in Canada or who have been convicted of an act outside Canada that could be punishable within Canada by a maximum term of at least 10 years. It is a very low threshold. As such, this extends to such crimes in Canada as growing as few as six marijuana plants for trafficking, making a recording in a movie theatre, or injuring cattle. When considering crimes committed abroad, it, of course, gives rise to concerns about unfair and politically motivated charges and trials, the use of torture, and other serious shortcomings that are endemic in the justice systems of many countries.

An appeal hearing is the avenue that can consider all of these dimensions: the nature of the accusations; the seriousness, or lack thereof, of the crime; the unfairness of foreign convictions; and human rights violations that will occur if the deportation goes ahead.

Amnesty International's strong recommendation, therefore, is that clauses 9, 10, 18, and 24, which propose restrictions on and removal of humanitarian relief, ministerial relief, and appeal rights, all be withdrawn. They are an indispensable means of ensuring that human rights are protected, but they also ensure and leave open the possibility that serious concerns about criminality and security will be addressed.

The last point I would briefly like to raise is the issue of access to justice. Removing these avenues for appealing or seeking relief from a deportation order are essential in that they are a means of protecting individuals from human rights violations, as I've just laid out. What they represent, which is access to justice, is also a human rights concern in and of itself. International law has long recognized that deportation is no casual matter. While it may not be tantamount to criminal sentencing, it certainly carries a similarly strong message of punishment and societal disapproval, with tremendous consequences for the individual.

● (1605)

As such, internationally and nationally, it has long been recognized that there must be sound procedural protections associated with deportation. The UN Human Rights Committee, which is the expert UN body charged with overseeing and implementing the International Covenant on Civil and Political Rights, has stressed that this means that anyone facing deportation should have an opportunity to appeal the deportation order, unless there are "compelling reasons" of national security.

The wide sweep of the clause's restricting relief and appeal opportunities in Bill C-43 go far beyond compelling reasons of national security.

**The Chair:** Could you wind up, sir. Although we're having technical difficulties, you may be able to go on forever.

**Mr. Alex Neve:** I only have one sentence left.

**The Chair:** Then please do.

**Mr. Alex Neve:** These provisions should therefore be withdrawn for this additional reason, the fact that they violate important internationally recognized rights related to access to justice.

Those are my comments.

**The Chair:** Thank you, sir.

Mr. Stamatakis, can you hear us?

**Mr. Tom Stamatakis (President, Canadian Police Association):** Good afternoon. Yes I can.

**The Chair:** Excellent. I was worried.

You have up to 10 minutes, sir, to make your presentation. Thank you for taking the time to speak with us.

**Mr. Tom Stamatakis:** Thank you, Mr. Chair, and members of the committee.

It's my pleasure to appear before you today in support of Bill C-43, the faster removal of foreign criminals act. I'm appearing today in my role as president of the Canadian Police Association, an organization that represents over 50,000 front line law enforcement personnel from across Canada, serving in over 160 different police services. Our members include police officers from federal, provincial, municipal, and first nations police organizations.

While I understand that Bill C-43 has a number of wide-ranging provisions, I'd like to focus my brief opening statements on the sections of the legislation that deal specifically with the streamlined process for removing serious offenders from the country and why this is an obvious priority for our organization.

On the night of June 16, 1994, Toronto Police Service Constables Todd Baylis and Mike Leone were on foot patrol in a public housing complex on Trethewey Drive in west Toronto when they encountered Jamaican-born Clinton Gayle. Gayle was a 26-year-old veteran drug trafficker who had with him a fully loaded nine millimetre handgun and pockets filled with bags of crack cocaine. Clinton Gayle struck Constable Baylis and attempted to flee the scene. He was caught by the two young Toronto officers and a gun fight erupted. Tragically, Constable Baylis was shot in the head and killed in the line of duty, after only four years' service, leaving behind family, friends, and colleagues who continue to honour his sacrifice.

Unfortunately, this is one of the very real dangers that face our police personnel every day. What makes this case so particularly tragic and why I am here before you today is that this case was entirely preventable, if only the provisions within Bill C-43 were in effect then.

Clinton Gayle had been under a deportation order because of a number of criminal convictions he had on his record for various serious issues such as drugs, weapons, and assault. Despite these convictions, Clinton Gayle had used his time in prison to appeal his deportation order. At the conclusion of his sentence in 1992, he was

allowed to go free by an immigration department official after posting a meagre \$2,000 bail.

We now know that between 1990 and 1996, the government had made a number of efforts to deport Mr. Gayle, efforts that ultimately proved to be unsuccessful, and that red tape and abuse of the system by a known criminal is what led to the tragic murder of one of our colleagues, Constable Baylis, as well as serious injuries to his partner, Constable Leone.

Let me be absolutely clear. Canada as a nation is a stronger country because of immigrants who come here to enrich our communities through a shared culture. Police services across Canada, from Vancouver where I serve as a police constable to Halifax and all points in between, count among our members a number of first and second generation immigrants who serve their adopted country with honour and pride every day, and I'm one of them.

Unfortunately, there are those that come to Canada and choose not to respect and follow our laws. In fact, I was surprised to note, in preparing for my appearance today, that since 2007, according to the Department of Citizenship and Immigration, there have been an average of 900 appeals of deportation orders filed per year by serious criminals, over 4,000 in total. Surely, we can agree that our communities would be safer, and our police would be helped by streamlining this process in removing these security concerns as quickly as possible.

Under the current regime, criminals who are currently serving a sentence of less than two years are eligible to file an appeal to the immigration appeal division. The CPA entirely supports the measures contained within this bill to reduce that time to sentences of less than six months. We also support the new measures that would make it more difficult for criminals, who have been sentenced outside of Canada to access the immigration appeal division.

These are common sense solutions that are necessary to help our members protect their communities. The problem has become that the criminals we catch are becoming increasingly aware of ways to game the system, abusing processes that were put in place with the best of intentions.

Once again, Mr. Chair, and members of the committee, I appreciate the invitation that you extended to allow me to speak to you today regarding the tragic circumstances of Constable Baylis' death. I would be happy to try and answer any questions you might have regarding the Canadian Police Association or our support for this proposed legislation.

Thank you.

● (1610)

**The Chair:** Thank you, sir, for your presentation. The committee will have some questions.

Mr. Opitz.

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

First, Mr. Neve, Bill C-43 doesn't change Canada's commitment to remove people from the country, or to a country rather, to countries where they're going to face persecution, so I think you might be wrong to suggest that. Also, what I got out of your presentation is that you were talking mostly about the rights of criminals. I haven't heard you say anything about the rights of victims of these criminals.

Sir, what I'd like to know is, what is Amnesty's view on the right of Canadians not to be victimized by criminals, such as Mr. Stamatakis has just outlined?

**Mr. Alex Neve:** Clearly, governments are not only entitled but obligated, it's absolutely essential that governments take firm action through criminal law processes, and yes, also through immigration law processes, to respond to concerns about criminality: to prevent crime, to respond to crime when it has happened, and to tend to and deal with the needs of victims of crime, absolutely. Amnesty International, in its human rights work over decades all around the world, has laid out important recommendations as to ways in which governments need to do that.

At the same time, there are other human rights issues that are at stake in these kinds of cases. Amnesty International is by no means saying that serious criminals should remain in Canada. I didn't say that in my submission now; we don't say that in our brief, and we have never suggested that.

What we have suggested and endorsed is that appeal procedures or humanitarian relief mechanisms are an important avenue to ensure that there is an independent and thorough opportunity to examine the totality of a case, to ensure that, yes, the concerns about serious criminality are understood and addressed, but also to understand, if perhaps it's a case in which the concerns about criminality aren't so serious, there may be other very countervailing serious human rights concerns that need to be taken into account.

**Mr. Ted Opitz:** When you were a member of the IRB did you recommend the return of serious criminals?

**Mr. Alex Neve:** I was a member of the refugee division, not the immigration appeal division, so I was making decisions about whether or not people should be granted refugee status. I wasn't dealing with deportation affairs.

**Mr. Ted Opitz:** Very well.

Mr. Stamatakis, according to the IRB, there's an average of 850 serious criminals who appeal to the IAD every year to delay their deportation. Would you say that this number is significant? How does this number concern you? Again, it was on average 850 serious criminals.

**Mr. Tom Stamatakis:** I think the number is significant in the context of my submission and the provisions around what defines a serious criminal. I think that in this country anybody who receives a custodial sentence of six months would have had to commit a serious crime.

As a front line officer, whether you're talking about a criminal act where innocent citizens in our country are being victimized by violence or other activities like that, or about a white-collar crime, where you have people who are losing life savings and having their entire lives destroyed, where there is a custodial sentence of a

duration of six months, I think somebody has committed a serious crime, and I think 800 is too many.

**Mr. Ted Opitz:** I hear what you're saying, by the way. A lot of my personal friends are police officers, and I've been on ride-alongs with them. I know what they face, especially in some of the tougher areas.

Now, sir, I was shocked to learn that for several years criminals who have been inadmissible on the most serious grounds, and that includes people such as war criminals, human rights violators, and those in organized crime, have been able to delay their deportation from Canada by simply applying on humanitarian and compassionate grounds. This is in fact contrary to Canada's no safe haven policy.

I have a three-part question, but I'll do them one at a time.

Do you agree or disagree with the provision in Bill C-43 to no longer allow these most serious criminals to use humanitarian and compassionate grounds to delay their deportation? We'll start with that one. Would you like me to repeat that?

•(1615)

**Mr. Tom Stamatakis:** Are you directing the question to me?

**Mr. Ted Opitz:** Yes, sir.

**Mr. Tom Stamatakis:** Yes, I would agree. Obviously I'm assuming there would be the appropriate regulations and processes in place to ensure we're dealing with legitimate information with respect to that, but I would agree with that statement.

**Mr. Ted Opitz:** What impact do you think this has on law-abiding individuals who are applying for humanitarian and compassionate grounds in good faith and for genuine reasons? By mixing serious criminals in with the ability to apply for H and C, do you think it's going to impact and affect people who are decent, hard-working folks looking to start a new life and who are applying for the same type of program or the same provisions through H and C?

**Mr. Tom Stamatakis:** I am by no means an expert, but I would say that based on my experience in the criminal justice system, when you have people appealing, and consuming capacity in the system, perhaps it means that law-abiding people legitimately seeking refugee status or access to immigration to this country may have their applications delayed. The other effect that can occur is on the one hand you may be dealing with a serious criminal and then the next file comes along and it's a person who is legitimately seeking the opportunity to come to this country. It sets a bit of a tone that could perhaps negatively influence a legitimate claim.

**Mr. Ted Opitz:** I'm sure as a police officer you'll be well aware. What impact does this have on communities, for example, where victims of these war criminals reside? To a particular community, could there be intimidation? Could there be some coercion of communities because people of this type are among those communities? Have you had that experience?

**Mr. Tom Stamatakis:** Sure. If you have dealt with outreach from communities, when they learn, in some cases, that a convicted war criminal from another part of the world is arriving in our country and in some cases even living in that neighbourhood, it causes a lot of angst in that particular community or neighbourhood for sure.

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

Ms. Sims.

**Ms. Jinny Jogindera Sims (Newton—North Delta, NDP):** Thank you very much. Thank you to both of you for your presentations.

At the last meeting on Monday, the committee heard testimony from Mr. Andrew Brouwer. He's a representative from the Canadian Council for Refugees. Mr. Brouwer expressed his deep concern over many aspects of Bill C-43, including provisions that would leave people considered inadmissible on grounds of security and human or international rights violations without a mechanism to establish their innocence or to have their compelling personal circumstances considered on humanitarian and compassionate grounds.

This question is for you, Mr. Neve. Could you please share with the committee how you think the proposed amendments to eliminate access to an appeal process for people considered inadmissible on grounds of security or human rights violations could impact refugees and permanent and temporary residents in Canada?

**Mr. Alex Neve:** Often there is a tendency to view appeal provisions and humanitarian relief provisions as something that delays the inevitability of a deportation, and therefore it's slowing down a necessary end result. It's also important, though, to recognize that these truly are safeguards to ensure that the proper decision about deportation is being made, be it the appeal before the immigration appeal division or be it the humanitarian relief possibilities that are open through other avenues.

It is an opportunity, often the only opportunity, to ensure that very compelling personal circumstances, many of which often involve binding international human rights obligations, concerns about being returned to torture, concerns about minor children being separated from parents, and concerns about failure to properly protect the best interests of children, and other kinds of issues get taken into account and are properly assessed. Therefore the right decision about removal, taking into account the totality of the circumstances, is reached.

By taking away those appeal or humanitarian relief mechanisms and the ability to do that, those human rights safeguards are no longer present in the Canadian system. That will have a very serious detrimental impact on large numbers of permanent residents and other individuals who are not citizens, and their families as well. I think we have to recognize the impact and consequences of these removal appeal and relief mechanisms goes far wider.

• (1620)

**Ms. Jinny Jogindera Sims:** Thank you.

Bill C-43 also stipulates that permanent residents who commit a crime for which they are sentenced to six months' imprisonment or longer lose the right to appeal. This is a right they have right now, the right to appeal their removal order to the Immigration and Refugee Board of Canada.

We have heard testimony from various groups in this committee that various circumstances warrant a stay of a removal order, even for residents convicted of crimes. These circumstances include when the resident has lived most of their lives in Canada and has weak or no connections to their country of birth; the resident is suffering from mental health problems that have contributed to their committing the crime; and the resident's family's circumstances in Canada warrant a conditional stay of the removal order based on humanitarian and compassionate grounds.

How does your organization view the elimination of appealing a removal order for residents sentenced to imprisonment for six months or longer? Should the law give all permanent residents, including those convicted of crimes, the right of appeal to the IRB?

**Mr. Alex Neve:** In our view, the answer to that is yes. The hallmark of a strong justice system is access to justice, and appeal procedures are an essential safeguard. This is not about keeping serious criminals in Canada. It's not about looking for ways to delay their deportation. It's about ensuring that the right decision gets made, taking into account all of the circumstances that you've highlighted and perhaps others.

I think it's very notable, the first point you've raised, in particular the issue of individuals who have lived not only the majority but sometimes almost the entirety of their lives in Canada and for a whole variety of reasons have never obtained citizenship, have run afoul of the law and do have a criminal record. To assume that it is somehow the country of origin's fault, and it isn't a matter that Canada itself as a nation bears responsibility, is very problematic. To take away appeal provisions in those circumstances is very troubling.

**Ms. Jinny Jogindera Sims:** Thank you very much.

There are some concerns when we're hearing about operational errors, as well as problems with the administration of the current laws, that can actually undermine the safety and security of Canadians. When the minister came last week, he mentioned operational errors that contributed to the delays in removing Clinton Gayle, who then went on to kill Constable Todd Baylis. What he did not mention was the serious nature of those errors, which included the loss of Gayle's files and, when officials found him and tried to expedite his removal, they did not provide the requisite travel documents but, rather, told him to visit the consulate in Toronto and get them for himself. Of course, he then went underground.

Would you agree that better administration of our current immigration laws would help protect Canadians and help prevent future crimes? Do you have any recommendations on this point?

**Mr. Alex Neve:** I think that's a very important point, not only in this area but in all sorts of areas. There is an easy temptation to assume that toughening up laws is the panacea that will solve whatever concerns we have. Often, it's actually not about the legal provisions. The law is already there, and there are all sorts of legal provisions, of course, that make it very clear that serious criminals should be removed from Canada.

It comes down to the operationalization. It's what resources are provided, and what ongoing evaluation and assessment of systems are being made to ensure that operational problems are identified when they happen, and remedied.

There is important work that has been done over the years, including auditors general reports, and other ways in which light has been shed on some of those operational challenges.

• (1625)

**The Chair:** Thank you.

Mr. Lamoureux.

**Mr. Kevin Lamoureux (Winnipeg North, Lib.):** Mr. Stamatakis, I have a question in regard to a comment you made and a comment that was made by the Minister of Immigration when he was before the committee about there being 850-plus criminals seeking appeals annually.

Part of the concern I have is about the wording and the spinning that's going on in this bill. What happened to Constable Baylis is very tragic. I think all Canadians from coast to coast to coast would be very upset with what took place, and our hearts and prayers go out to the family of the constable.

Having said that, reference to 850 serious criminals is made all the time. Have you received a breakdown at all as to the makeup of those 850 criminals? What kind of serious criminals are we really talking about?

**Mr. Tom Stamatakis:** No, I haven't, and I would be interested to see it. Depending on what definition of a serious criminal is being used, in my comments, I'm using the definition of a serious criminal in the proposed legislation and also the pre-existing one.

If we're talking about people who have been imprisoned or sentenced to custodial sentences of six months or even two years, that's where the figure of 850 becomes a huge issue. We can talk about crime in communities across this country and clearly demonstrate that it's a very small percentage of people who commit those crimes. But if we're talking about people who have received custodial sentences, even of six months' duration, in my experience as a front line police officer, that means these are people who are committing hundreds of offences.

The figure of 850 could actually mean a significant amount of offences, if we're talking about serious criminals. That's why I say, from a front line policing perspective, it's a big number. We can see in even large cities very small numbers of people engaged in chronic criminal activity who are victimizing Canadians over and over again, because they're committing crime after crime. When they go before a judge, charged with sometimes more than 100 break and enters, for example, there is a conviction on a few of them, some negotiation in terms of sentencing, and often it's not even a custodial sentence. It might be some term of probation or conditional sentencing, so that—

**Mr. Kevin Lamoureux:** I'll stop you there because I have only a couple more minutes.

Given the nature and the number of serious crimes the minister has reported on, do you think there should be an obligation for the minister to provide that background information as to the types of serious crimes, whether it's to this committee or even to someone

such as you, given the position you have? Would there be benefit in terms of knowing what those 850 crimes are like, or even possibly if there's a concentration in certain areas? Is there a benefit for the minister to make that known to the committee?

**Mr. Tom Stamatakis:** I'm not sure I'm in a position to comment on that. I think the more information you have, including on the kinds of crimes that are being committed by these individuals, it would better inform not only the committee but also everyone else who's been discussing Bill C-43 or other issues related to immigration policy.

**Mr. Kevin Lamoureux:** Mr. Neve, I want to quickly go to you. Family members who are not allowed to acquire visitors visas from abroad because their spouses, for example, might be involved in a criminal organization are being penalized, even though they could be wonderful, outstanding individuals in and of themselves. Do you have any thoughts in terms of how this bill is going to make that into a reality, if it passes?

**Mr. Alex Neve:** That is one of the many concerns that has been flagged, as people have tried to imagine the ways in which this isn't just theoretical but would actually play out in real lives, in real ways, for people. That particular example, which I've heard referred to previously, is a very good one. It underscores why the importance of having some sort of discretionary relief open in a circumstance like that is an admirable and necessary goal. It ensures that we're not seeing injustices or unfair decisions that are made in cases like that, with no ability to rectify it or remedy it.

• (1630)

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

Ms. James.

**Ms. Roxanne James (Scarborough Centre, CPC):** Thank you, Mr. Chair. Welcome to all of our guests.

Mr. Stamatakis, thank you very much for coming today. I'm very glad that you touched on Constable Todd Baylis. My father was a police officer, who now is long retired, so that particular incident hit home with me. I grew up in Toronto. As much as I know how it impacted me and my family, I can't imagine what it did to his family and his fiancée. I really thank you for bringing that to the attention of this committee.

You mentioned that Mr. Gayle had been a drug dealer. Todd Baylis was unfortunately in the process of disrupting a crack cocaine drug deal. I want to thank you very much for bringing that information to the committee.

I am going to come back with a question in a moment, but I want to direct my question, first of all, to Mr. Neve.

In your opening remarks you mentioned that you were against this bill. One of the reasons was that it could mean deportation of someone for a crime as low as having six marijuana plants. What you left off is that it's not just the possession; it's with the intent of trafficking drugs.

My question for your is this: Do you believe drug trafficking is a serious offence?



**Mr. Alex Neve:** Certainly we do. I actually did have “for the purposes of trafficking” in my notes. If I didn’t mention it when I actually spoke, it was an oversight. It certainly was in my notes.

Yes, we do understand that drug trafficking is a serious offence. What we were focusing on there was not so much the drug trafficking piece but rather, in that instance, the very low threshold of having six marijuana plants.

That’s not to suggest—

**Ms. Roxanne James:** For the intent of drug trafficking.

**Mr. Alex Neve:** Yes, but I just want to clarify. We’re not necessarily saying that means that whoever was convicted of that offence shouldn’t be deported, but that having relief mechanisms and an appeal process to ensure that the circumstances are well looked at is essential.

**Ms. Roxanne James:** That’s a good point. I just wanted to point out that the person who is prosecuted for drug trafficking, whether it be crack cocaine or marijuana possession, and so forth, for the purposes of drug trafficking, actually has an appeals process through the judicial system. People have the right to appeal a conviction if they feel like they were falsely accused or something went wrong in the court.

You’re aware that there is a judicial appeals process. Correct?

**Mr. Alex Neve:** I’m very aware. I am a lawyer.

**Ms. Roxanne James:** Thank you very much.

**Mr. Alex Neve:** This is a very different issue, when we’re talking about deportation as opposed to the sentence.

**Ms. Roxanne James:** Thank you.

I’m going to direct this question to Mr. Stamatakis.

You mentioned the crack cocaine drug dealer. Could that very well have been a marijuana drug dealer, with regard to—

**Mr. Tom Stamatakis:** Certainly in my view it could have been—

**Ms. Roxanne James:** It could have been someone in the midst of a drug deal, who was growing six marijuana plants with the intent of drug trafficking, and killed a constable. Drug trafficking is drug trafficking. Is that correct?

**Mr. Tom Stamatakis:** Drug trafficking is drug trafficking. We’ve had police officers who’ve been either seriously injured or killed on duty or in the line of duty by people who aren’t even involved in criminal activity at the time.

The issue for me as a front line officer and what I get from my members is this. I support fair process. It’s obviously an important piece of our society and what Canada stands for, but you have to balance the rights of Canadians to live in their homes and not be afraid of being victimized against the rights of people who were convicted of serious criminal offences and whom we see all the time, particularly on the criminal side, continuing to commit offences while they’re appealing. I say we shouldn’t use Canadians as an experiment.

**Ms. Roxanne James:** Thank you.

Our other witness here, Mr. Neve, somehow implied that better administration might have protected Todd Baylis.

From my knowledge of the criminal justice system, someone who’s caught drug trafficking serves a term, a sentence, and then is eventually released. In your opinion, would a drug dealer who is capable of killing a police officer still be capable of such a crime once they’re released back into society?

• (1635)

**Mr. Tom Stamatakis:** Yes, very capable, and we see that occur on a regular basis. I think it’s correct to say there were administrative issues with Mr. Gayle and how his deportation was processed. But I’m going to argue that the longer people have to appeal and the longer the appeal goes on, the greater the likelihood you’ll see those kinds of administrative problems that allow people to fall between the cracks.

**Ms. Roxanne James:** May I ask how long I have?

**The Chair:** You have one minute.

**Ms. Roxanne James:** Obviously, since you’re with the police association, you’re very familiar with statistics and crime and so forth. At the end of the day, does Canada really need another drug dealer?

**Mr. Tom Stamatakis:** No, we have enough of our own in this country. I don’t think we need them to come from elsewhere.

**Ms. Roxanne James:** Thank you very much.

I have one last question; I’m running out of time.

Mr. Neve, you talked about protecting individuals and the safeguards. With regard to this aspect of the bill, we’re talking about war criminals, terrorists, and human rights violators. I’m just wondering when protecting our own Canadian citizens and our own borders comes into play. I’m just wondering, for you, when Canada becomes more important.

**Mr. Alex Neve:** I first would like to correct the record. I didn’t say anything about Mr. Gayle’s case. I’m not at all familiar with the circumstances. I think that came up in some comments from one of the NDP members.

I did note that it has been clearly established that operational challenges have often explained why there have been delays in enforcing deportation orders, but I don’t have any knowledge about Mr. Gayle’s case.

**Ms. Roxanne James:** Are you able to answer the question? When do you think Canadians become more important?

**Mr. Alex Neve:** Yes, I just wanted to correct the record.

I don’t think it’s about anyone becoming more important, it’s about ensuring that our human rights obligations are protected. Amnesty has a very strong agenda with respect to war criminals, individuals who’ve committed crimes against humanity, and others. I referred to that at the beginning.

Our concern is that this overreliance on deportation as the way to deal with that does not serve justice. If we are faced with individuals who have committed those kinds of serious crimes, deportation, if anything, increases the chances that they’re going to get away with it. We should be having—

**Ms. Roxanne James:** Do you believe that it’s Canada’s responsibility to—

**The Chair:** I'm sorry. We have to end.

[*Translation*]

Ms. Groguhé, you may go ahead for two minutes.

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

I want to thank our witnesses for being here today. Mr. Neve, I don't have a lot of time, so I am going to keep it brief.

According to the government, one of the things Bill C-43 seeks to do is make it easier to remove dangerous foreign criminals. Do you think a foreign criminal's ability to access his or her rights under the charter represents an abuse? Is it possible to reconcile respect for fundamental rights and the use of accelerated deportation when it comes to criminals? And if so, how?

[*English*]

**Mr. Alex Neve:** Neither the Charter of Rights and Freedoms nor any of the international human rights treaties I've referred to in my presentations are, by any means, instruments that should be seen as somehow avenues of abuse. These are some of the most fundamental documents that exist within our legal system and the international legal system. All our laws should be enacted in ways to ensure that those norms will be fully protected at all times, even in difficult cases where we may have someone accused of a serious crime or security concerns. That's when those kinds of norms are the most tested, but it is not the time to shut them down.

[*Translation*]

**Mrs. Sadia Groguhé:** Removing one avenue for people found inadmissible on grounds of security, human or international rights violations, or organized criminality to potentially remain in Canada makes it more likely that these individuals will be deported. Should the government take into account the effect on receiving countries when such individuals are deported?

• (1640)

[*English*]

**Mr. Alex Neve:** No, clearly not. We need to ensure there are avenues in place, remedies, to ensure that a decision to send someone back, in violation of their rights, will be overturned and won't go ahead. That's why we need those remedies.

**The Chair:** Thank you.

I'm afraid our time has expired. I apologize, Mr. Neve and Mr. Stamatakis, for the short time we had, but we had to vote.

I want to thank both of you, and your colleague, Ms. Shea, for appearing before us and helping us better understand this legislation.

We will suspend for a few moments.

• (1640)

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

• (1640)

**The Chair:** We are reconvening, so could I have some order, please. Could you please take your meeting outside. Thank you.

We have two guests here, and we're running a bit behind schedule. Mr. Bissett and Ms. Rosenfeldt, thank you for coming.

Mr. Bissett, who's appeared before us many times, is with the Centre for Immigration Policy Reform. Good afternoon, sir.

**Mr. James Bissett (Board of Directors, Centre for Immigration Policy Reform, As an Individual):** Good afternoon.

**The Chair:** Ms. Rosenfeldt, you're famous, so I don't know whether I've seen you before or whether I've seen you here, but you are with Victims of Violence, and I'm pleased that you're here as well.

**Ms. Sharon Rosenfeldt (President, Victims of Violence):** Thank you.

**The Chair:** You each have up to 10 minutes to make a presentation.

We'll start with Ms. Rosenfeldt.

**Ms. Sharon Rosenfeldt:** You can tell my age; I was wondering where my glasses were and they're on my head.

Good afternoon, ladies and gentlemen of the standing committee. I wish to thank you for inviting our organization, Victims of Violence, to present to you today.

We are here appearing in support of Bill C-43, An Act to amend the Immigration and Refugee Protection Act, or the short title, the faster removal of foreign criminals act.

I will briefly tell you about our organization. Our mission is to promote a more balanced justice system through legislative action and public awareness.

Victims of Violence was founded in 1984 to advance the rights of crime victims and enhance the safety of all law-abiding Canadians by addressing problems in Canada's criminal justice system.

Through the tireless efforts of many volunteers, most of them victims of violent crime, much progress has been made toward fulfilling our mission. Victims of Violence has worked with government for three decades to ensure that public safety and the rights of victims receive due consideration.

Victims of Violence has worked with hundreds of individual victims, helping them navigate through the bureaucracy to find justice in the criminal justice system. Our work on behalf of victims of crime sometimes overlaps into different ministries such as the case today.

The government's action to date is that they have indeed listened to victims and to law-abiding Canadians who want our laws to differentiate between the majority of offenders for whom rehabilitation is a realistic option and the repeat offenders for whom the justice and correctional system is a revolving door, which does include foreign individuals who repeatedly break our laws.

We feel that in the long run the measures in Bill C-43 won't put more foreign criminals in jail, but rather they will keep the right people in Canada. That is what crime victims have been asking for.

Is Bill C-43 the be-all and end-all to society and immigration and refugee problems? Of course not. Is this all that victims want or need? No, but it is one necessary and important part of the equation.

Building an effective immigration system is a key component of any and all safe communities in Canada. Therefore, power must be exercised usefully, that is, to promote the greatest well-being of its citizens.

We feel that reasonable laws enhance the good of all and they serve the interest of all, while unreasonable laws are biased and they give all possible power of rights to a small part of the population while leaving all the misery and suffering to the other persons. Today we call those other persons victims as it relates to foreign individuals committing serious crimes in Canada.

Traditional justice systems invariably have not been ideal from the point of view of the victim; however, modern society has sought to provide extended protection to the victim through criminal laws and systems of social security.

We see Bill C-43 as a long-awaited piece of legislation which in part is designed to facilitate and make easier the entry into Canada for legitimate visitors and immigrants, while giving government stronger legal tools to not admit into Canada those who may pose a risk to our country. Most important to crime victims is the removal from Canada of those who have committed serious crimes and have been convicted of such crimes by our fair judicial system.

We agree with Minister Kenney, who states that the vast majority of new Canadians will never commit a serious crime and they, therefore, have no tolerance for the small minority who do, who have lost the privilege to stay in Canada.

We also agree with Minister Kenney on due process and natural justice in the rule of law. We also agree with Minister Kenney that even serious convicted foreign criminals should get their day in court and that they should benefit from due process.

He agrees, as we do, that they should not be deported without consideration by the Immigration and Refugee Board. However, Minister Kenney does not agree that they should get endless years in court and be able to abuse our fair process.

Victims of Violence is in agreement with the minister. With this bill, an end would be put to that abuse.

We feel that this bill sets a clear agenda to act decisively, as it is the right thing to do for our country and its law-abiding citizens. It sends a message that the rules of engagement have changed in Canada, and it won't be business as usual for individuals to come to Canada and break our laws.

• (1645)

I wish to bring to the attention of the committee an issue that has not been addressed in any of the research that I've done in relation to Bill C-43.

I would like to ask the committee to consider the costs that crime has on victims. The costs of violent and serious crime not only consists of taxpayers' dollars but the loss of human life, loss of family, loss of law and order, and the loss of faith in the criminal justice system.

In 2008 the Department of Justice released a report which estimated the costs of crime. The report stated that the tangible costs of crime, which included police, court, corrections, health care,

victims' costs, etc., were approximately \$31.4 billion, while the intangible costs, which included pain and suffering, loss of life, etc., were over double that, at \$68.2 billion.

If I may, I wish to seek permission from the committee to table the report. I do not have it with me, but I will ensure that the clerk will receive a copy to be distributed.

In closing, we believe that Bill C-43 provides Canada's immigration system the vehicle to address the very real and immediate needs now facing the Ministry of Citizenship, Immigration and Multiculturalism, and to prepare the system for possible new challenges anticipated in the future. We strongly believe that if all the amendments in Bill C-43 are supported and implemented, the safety of Canadians will be further enhanced.

All Canadians have a right to live in safe communities. Threats to that right should be addressed swiftly and effectively by the Ministry of Citizenship, Immigration and Multiculturalism.

Thank you very much.

• (1650)

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

Mr. Bissett, welcome back to the committee. As you know, you have up to 10 minutes.

**Mr. James Bissett:** Thank you very much, Mr. Chairman. It's always a pleasure to appear before the committee.

I've had a lot of experience in immigration and refugee issues, almost 36 years. The most difficult area of immigration management has always been enforcing laws relating to the apprehension and removal of those who enter the country illegally, or remain here after their legal status has expired, or they have been convicted of serious crimes.

I believe the measures in Bill C-43 should receive full support. It's a long overdue and modest first step, I would say, toward reform of a system of removal that has proven to be quite ineffective. I have many examples of this, but perhaps the most recent one has been the Rwandan who was removed from Canada just this week, accused of genocide and crimes against humanity. We first found out about him in 2002, and it has taken since that time to finally remove him after many reviews of his case and many appeals.

The most glaring example of abuse of our system is the case of Mahmoud Mohammad Issa Mohammad. I think I've mentioned him before in front of this committee. He was an assassin and a terrorist for the Popular Front for the Liberation of Palestine. He attacked an Israeli aircraft that was on the tarmac in Athens and used a machine gun and threw grenades. He killed a Jewish businessman and wounded a stewardess before he was overtaken. He came to Canada in 1987. When we found out he was here, we ordered his deportation. He is still here. His case is still before the courts.

A *Globe and Mail* report a couple of years ago indicated that so far his case had cost Canadian taxpayers \$3 million. I doubt very much if we'll ever get rid of this guy. This is not a suspected terrorist. This is a convicted terrorist.

We should put Bill C-43 in the context of an immigration system that currently is undermined by the difficulty to remove people who have been ordered deported, and indeed to keep out some of the really bad guys who get into the country. There are a number of reasons for this, and I'll mention a few of them in the time I have.

Part of the problem, unfortunately, relates to section 7 of the Canadian Charter of Rights and Freedoms, which indicates that everyone is entitled to due process. It makes no distinction between Canadian citizens and legal residents. Anyone who arrives in the country or even in our international waters gets charter protection.

Charter obligations however well meaning they might be, certainly inhibit the fast removal of foreign criminals and security risks ordered deported, since all of these people have a recourse to a variety of reviews and appeals. They can keep their cases going not only for months, but for years, in most, if not all, cases at taxpayers' expense.

As Mr. Neve mentioned previously, we have obligations under the UN convention with regard to removing people to countries where they might be mistreated or tortured. This is another instrument that prevents us from removing some of the very bad people in the country who should be removed. Germany and the United Kingdom have overcome that by entering into an agreement with the source country to ensure that consular officers from Germany or England can visit the jails and ensure that these people are not being mistreated.

Another factor is the high volume of immigration that we've been receiving in the last 10 or 15 years. It means that very few immigrants are even seen or interviewed now by these officers overseas. It's all done on paper. Many of the immigrants who are coming here are coming from countries where fraud, deception and forgery are almost endemic, so we're letting in a lot of people who probably shouldn't be here.

We also have an asylum system that's unique in the world, that allows anyone from any country in the world to simply walk into the country and claim persecution. All they have to do is claim it and they are automatically admitted. They are then entitled to a quasi-judicial tribunal that sometimes might take two to three years to take place. If, by chance, they are refused—they have to be real refugees—the difficulty of removing them is really immense.

• (1655)

The last report of the Auditor General indicated that there were over 40,000 failed asylum seekers, their whereabouts unknown.

Under-resourced enforcement personnel is another factor. There simply aren't enough enforcement officers in the Canada Border Services Agency to track down some of these very serious cases. They do their best, but there are few resources devoted to that. In the past, the enforcement of immigration has not been something that has been vigorously pursued in the country.

In the last few years, we've also had a very high volume of foreign temporary workers entering Canada. Most of them are not given a criminal check. They simply come in. Most are not interviewed. There simply are too many of them. On December 31 last year, there were over 300,000 temporary foreign workers in the country. If they leave their employment, nobody knows their whereabouts or what

they're doing. That's another weakness in our system. We have no exit system, no exit control, and no system to track people who come into the country as temporary workers or visitors, as many countries do. That makes the enforcement of immigration laws very problematic.

I'm going to end by saying that immigration, in my view, is one of the most important issues Canada has to face. It's one of the great and important issues of our time, not only for Canada but for many other countries in the world. There are mass migration movements taking place. Millions of people are on the move, and they are going to keep moving. Indeed, that whole migration movement will increase if climate change and violence continue in many parts of the world. We have to be in a position to deal with that and to manage the numbers effectively.

It's an iron rule of migration that people will move if they want to improve their standard of living, flee violence, or have a better future for their children. But if it's done in a chaotic manner, and the wrong people are let into the country, the whole system can be undermined.

In my view, if we can't determine who should get in, who should be kept out, and who should be removed, in effect, we have lost our sovereignty. That's why Bill C-43, despite its failure to address many of the issues I have raised, is, I hope, a first step in a basic reform of the system so that we can let in the people we want, keep out the people we don't want, and remove the people who have committed crimes or security violations in our country.

Thank you.

**The Chair:** Thank you, Mr. Bissett. The committee has some questions for both of you.

Mr. Weston.

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

As a fellow parent, Ms. Rosenfeldt, I want to thank you for being here, and more importantly, for your service to our country. Congratulations on your recent recognition in receiving the Queen's Diamond Jubilee Medal. It's an honour to have you with us today.

Mr. Bissett, thank you for coming back and for your very clear testimony. It's been useful for us to hear.

Let me first touch on the use of humanitarian and compassionate grounds, which have been used to shelter people who come to Canada as war criminals and are able to use that shelter to delay their deportation.

Can you comment further on the provision in Bill C-31 that is designed to remove the ability for someone who is an acknowledged war criminal to delay deportation?

• (1700)

**Mr. James Bissett:** I don't think there's any question that it is used to delay deportation. It's one of the factors this bill is hoping to overcome.

In the case of the Rwandan who was removed this week, he has a wife and children here. One could argue that it's inhumane to remove him, but where is the balance? Here is a man who was involved in genocide. He is accused of crimes against humanity. We're removing him to his own country. Why should we allow him to remain here?

Yes, for every removal, there are humanitarian and compassionate factors involved. But in my view, they have to be overcome for the protection of Canadian citizens and to ensure that Canadian citizens are not harmed by these people repeating their crimes.

**Mr. John Weston:** Thank you.

[Translation]

If someone commits a crime and receives a 10-year sentence or more in his or her country of origin, that person can still immigrate to Canada. Would you agree that Bill C-43 changes that practice?

[English]

**Ms. Sharon Rosenfeldt:** From my understanding from reading the bill, I believe it would, and rightly so.

**Mr. John Weston:** Do you agree with that?

**Ms. Sharon Rosenfeldt:** I do agree with that, by all means.

**Mr. John Weston:** Mr. Bissett.

**Mr. James Bissett:** I agree entirely with that.

The problem is, if they appear at a port of entry claiming to be persecuted in their own country, we have no idea that they've been convicted and sentenced to 10 years' imprisonment. No criminal check would have been done. They just arrive at the port of entry and claim persecution, so we let them in.

If the board found that they were in fact a genuine refugee, then the process would start for their landed immigrant status. Then we might discover three or four years later that this is a person who in fact has a criminal record, and a very serious one. Then we would start the deportation proceedings.

Again, unless Bill C-43 passes, this person would have full access to appeals and humanitarian review and could seek leave to appeal to the Federal Court and do what many others have done to stall and delay.

**Mr. John Weston:** You've touched on a matter that you've discussed before when you have been in front of this committee and which you touched on earlier in your testimony, and that is the question of interviewing people. You mentioned several things, including the fact that the large volume makes it hard to interview all of those who would immigrate to Canada.

As someone who has practised law, I was really surprised that in fact we couldn't compel people who were considered to be a security risk to be interviewed by CSIS.

Would you like to comment on the fact that Bill C-43 will make it possible for the first time to compel someone already flagged as a security problem to have a CSIS interview?

**Mr. James Bissett:** I would agree entirely with that. Another weakness in our system is that you can't compel someone.

These are serious issues. Fortunately, Canada has not had a very serious terrorist incident as they have had in the United States, Spain

and England. But until such time as that happens... I think Canadians very often don't take terrorist acts very seriously, because there hasn't been one at home. We should remember that it can happen and could possibly happen.

**Mr. John Weston:** What I'm hearing from each of you, as persons who certainly support our very generous immigration and refugee systems and as persons who understand the importance of due process, and to use your words, Ms. Rosenfeldt, is that to allow people to enjoy the safety and security of their homes and to trust that they live in safety, these are common sense measures that shift the balance in the direction of common sense, logic, security, and safety.

Do you want to comment?

• (1705)

**Ms. Sharon Rosenfeldt:** Certainly, I, too, was surprised as I was doing some research into Bill C-43. I was very surprised at how lax the whole process has been over the years. I definitely would agree that through Bill C-43 we would definitely reap the benefits, as law-abiding citizens of Canada.

I think that's why a number of immigrants choose to come to Canada, because it is a very safe country. Despite the many times I have appeared before committees and talked about violent crime and such, we do have a lovely country, and that is what attracts immigrants to Canada.

I would certainly not like to see the provisions in Bill C-43 not taken seriously.

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

Ms. Péclet, welcome to the immigration committee. You have up to seven minutes.

**Ms. Ève Péclet (La Pointe-de-l'Île, NDP):** Thank you, Mr. Chair.

Thank you very much to the witnesses for their presentations.

I will start by talking about priorities: security and resources. It was part of your presentation.

My question is for Ms. Rosenfeldt. There are two parts to it.

First of all, the government has not respected its promises made in 2006 to put more police officers on the ground and in the streets to make our communities safer. Maybe the government should prioritize security and protection, instead of attacking the law. That is not the core of the problem right now. I would like your comments on this first part of my question. We're talking about crimes that are committed in communities, so maybe the solution would be to prioritize security and to put more officers on the ground to protect Canadians from crimes.

Here is the second part of my question. When speaking at a federal inquiry related to the Clinton Gayle file, the then associate deputy minister of immigration stated, "Quite simply, the system failed". He went on to explain that the departmental priority at the time was to target unsuccessful refugee claimants who were on the run, rather than criminals, because that way the deportation numbers were higher.

Can you share your thoughts on this priority? Would you agree that resources should be allocated to finding criminals and focusing on their deportation rather than targeting unsuccessful refugee claimants?

**Ms. Sharon Rosenfeldt:** Yes. My answer to that would be that this is why, in my presentation, I mentioned the \$31.4 billion. That takes into account court costs, police, and on and on. In our organization's estimation, if we had stricter laws and deportation orders, some of that money could go toward possibly providing more police in our country.

We have to look at a balance. I do not understand your feeling that it would be a saw-off to not seriously look at the deportation orders and send foreign criminals back after they have committed crimes. I must stress that we do support due process. We're talking about convicted foreign criminals. We're not talking about people who are charged with an offence, or who haven't gone to trial, or anything like that. We're talking about the convicted.

We have worked with victims where the crime that has happened to them was done by individuals who have committed some very serious crimes and are open to deportation. The whole process takes so long. We've had victims who have had to go into domestic violence shelters. We've had victims who have had to move out of Canada. There are all kinds of problems caused within Canada by convicted foreign criminals.

• (1710)

[Translation]

**Ms. Ève Pécelet:** In actual fact, the legislation already exists. But if certain people were not able to apply it, that's another matter. In any case, I am going to switch gears.

In explaining the rationale for the bill, the government cited a number of high-profile cases to instill a sense of fear in the public. We absolutely agree that those cases are appalling. However, they do not reflect the whole reality, in other words, the overall state of affairs. What the government is doing is unfortunate.

We're dealing with the immigrant community and refugees. And I can tell you that, over the past seven years, 250,000 immigrants have come to Canada each year, totalling some 1.75 million people. The cases you referred to in your presentation, the same ones cited by the government, are only a drop in the immigrant bucket, so to speak. These people are members of our communities and contribute to our economy and our culture. I think the minister and the government would do well to remember that a mere drop in a bucket does not justify an entire bill, especially when the measures already exist.

I'd like to hear your comments on something the minister said about Jackie Tran. It's fascinating what you see on a blog. I am going to read you a statement made by Raj Sharma, a former immigration officer who is now a partner at an immigration law firm in Calgary:

[English]

Notwithstanding the general relief felt by (apparently) most Calgarians, Tran's deportation does not actually make them any safer, or any less susceptible to the increasing levels of gang violence in Calgary (the fact of the matter is that most criminals are Canadian and therefore cannot be deported). Moreover, Tran's removal had less to do with his criminal record and more to do with his unpopularity and the fact that he had somehow become the public face for organized crime in Calgary.

[Translation]

I would like you to respond to that comment and tell us how you believe deporting an individual like that makes Canadians safer.

[English]

**The Chair:** Thank you, we're out of time.

Mr. Lamoureux.

**Mr. Kevin Lamoureux:** I want to pose a question and maybe both presenters could respond to it.

I always wonder about the title of the bill, the faster removal of foreign criminals act, because it does speak volumes. There are about 1.5 million permanent residents, and that's really what they're talking about. The foreigners they're referring to are permanent residents, 1.5 million of them. Of that, thousands have been living in Canada for 15-plus years and, for whatever reason, were not able to get their citizenship. Maybe they couldn't pass the test because they were hard at work. In other words, there are many outstanding residents who at times, like the rest of the population, make mistakes. Any law that is broken can be a serious crime, given a certain situation, but ultimately they could be deported. Why? Because they never got their Canadian citizenship.

I'll give you an example. If a 23-year-old man is caught growing six marijuana plants, he is going to be deported without appeal, even if his parents came to Canada 15 years ago. His parents get to stay but he will be deported. He's a student and maybe he went to the United States or another place on vacation, maybe to celebrate his graduation from university. He will find himself in a situation where he will not be able to receive an appeal because he happens to not be a citizen, but just a permanent resident.

I agree about the severity of the crimes, like the five examples that the minister always gives, and I think most Canadians would agree, but there's the other side. The other side is that there are a lot of good people in Canada in that 1.5 million who will make some mistakes. Should they be treated differently? If they've been in Canada for 15 or 20 years and have been contributing to our economic growth, our social programs and so forth, should they be deported without the right to appeal, because of a stupid mistake?

Does that come across as being fair?

• (1715)

**Mr. James Bissett:** I'm sure it doesn't seem to be fair to many people, but on the other hand, those kinds of cases that you've described—and there have been some; I've been personally involved in them—are very few indeed. It is a misfortune, in many respects. As I mentioned before, there isn't any case I know of when you're removing someone from Canada that people aren't hurt by it. However, if you're a 23-year-old man and you know you might be removed if you're convicted of an offence over six months, then you shouldn't commit the crime.

Remember, these people who have been charged with a crime, the sentence for which would be more than six months, have the right of appeal to the courts. We're not sentencing them to jail. In most cases we're sending them back to their own country. We're not doing anything except removing them from our country because they haven't lived up to the obligations they should have.

The removal of these people does serve as an example to the rest of the immigrant community that some of these bad actors that put their own community in a bad light should be removed; they're sympathetic with the removal of criminals.

**Mr. Kevin Lamoureux:** Ms. Rosenfeldt.

**Ms. Sharon Rosenfeldt:** Do you know how much marijuana comes from six marijuana plants? It's quite a bit. I think what you failed to mention is the law would take into consideration if the six marijuana plants were used for trafficking.

I have a 16-year-old grandson. I certainly don't want people who are trafficking. I don't care if they're 23 or 45 or if they're a Canadian resident or if they're not.

Once you break the law in Canada, the process that we have in Canada is very fair. What would have to be taken into consideration by the judge, which most judges do, is: is this their first offence or is this their fifteenth offence? Lots of people come before the courts when it's their fifth or sixth offence. The judge has discretionary powers on a first offence to ask if they would prefer to go into treatment—

**The Chair:** Thank you.

**Ms. Sharon Rosenfeldt:** —and that would definitely be taken into consideration and weigh differently on the sentencing.

**The Chair:** Sorry, Ms. Rosenfeldt, we have to move on.

Mr. Holder, welcome to the committee.

**Mr. Ed Holder (London West, CPC):** Thank you, Chair.

I'd like to thank our guests as well for attending today.

I'm in this curious place where I'm not sure whether I would rather respond to some of the comments from members opposite which, quite frankly and with respect, seem quite ludicrous, or get some very legitimate testimony from you as well. I'll try to mix the two.

From my perspective this works from a fairly simple premise: people who are convicted of committing serious crimes are bad, and innocent victims of crime are good. I think there's a basic premise of right and wrong here that doesn't seem to come across around the whole table, and I just don't know why, but the clear divide on this can't be more obvious.

I think there's a really easy answer, from what I've heard in your testimony so far.

If people don't want to be deported, don't commit the crime. Don't traffic in drugs. Don't steal. Don't use firearms. Don't rob. Don't rape. Don't kidnap. Don't assault. Don't harass. Don't utter threats. Don't murder. Don't break our laws. That's what I've heard you say so far, and that's what I heard from the president of the Canadian Police Association earlier as well. That's pretty basic stuff. This is not complicated.

It strikes me again that there's another premise—and I thought I heard this from you, Ms. Rosenfeldt—that people who come to this country with the long-term intention to stay are guests of our country. Living in Canada is a right, it's not a privilege, and I think you have to earn that right every day, and I certainly got that from your comments.

Ms. Rosenfeldt, can I say this? You lost a child who was 16, and if you don't mind, you've been very public about it, you and your husband created Victims of Violence as a way to probably, in some ways, provide your own support and bring meaning to your son's death at the hands of Clifford Olson. While I would like to say I can't relate to it, having lost a 14-year-old boy I can relate to it. I extend to you my heartfelt sympathy and my thanks to you and your husband for what you've built and what you've tried to do to try to make a difference in this country. I honour you. I know people around this whole room honour you for the work you've done

Here are my thoughts on a couple of things.

You made the comment that “all Canadians have a right to live in safe communities”, and I was very touched by that. You also made the comment that “we're talking about convicted foreign criminals. We're not talking about people who are charged with an offence, or who haven't gone to trial”.

Could you elaborate on that for us, please?

• (1720)

**Ms. Sharon Rosenfeldt:** As I said, what we are talking about is criminals, whether they're Canadian criminals or foreign criminals, people coming into Canada from other countries. I believe that we have a very, very good judicial system in Canada, but there are a number of wrongs. There are a number of flaws which we have taken part in trying to correct; however, it's a very giving and fair judicial system.

What I'm talking about is people who come into our country and break our laws, who have gone through the fair judicial process with the right to appeal. I think we have to make an informed and firm decision on what Canada expects from people who come into our country and eventually break our laws. As I said in my presentation, I think it should be loud and clear that the rules of engagement are changing in Canada, and that we are not going to put up with it.

Something else that I would like to add is that all we're talking about is shortening the length of the appeals process for people who are convicted. Whether you grow six marijuana plants or whatever, that makes no never mind to victims of crime. If you are breaking the law, then you should not be in our country.

**Mr. Ed Holder:** Thank you for that.

I heard Mr. Neve earlier and some members opposite talk about the concern about process, but we do have a process, it's called the court of law—

**Ms. Sharon Rosenfeldt:** Yes.

**Mr. Ed Holder:** —and there is an appeal that goes with that as well. Quite frankly, the abuses that happen are unimaginable when we think about them.

I heard our friend opposite talk earlier about how the problem seemed to be like a drop in the ocean. I don't know what I want to say to Mr. Baylis' family about a drop in the ocean. That's just not it.

Mr. Bissett, you said earlier that immigration is the most important issue of our time. Why do you feel so strongly about that?

•(1725)

**Mr. James Bissett:** I feel strongly about that because from 1985 on there's been a fairly mass migration movement, perhaps the biggest in history, that's taken place from countries in the developing world into the industrialized world of western Europe and North America. For the most part, that's been an irregular movement and, in particular in the case of Europe, an unwanted one.

It took place first in the 1960s. It began in the 1960s with guest workers coming into European countries on a temporary basis, but none of them ever went home, and that has continued with asylum seekers.

I think last year some 500,000 asylum seekers came into western Europe and North America. These are people on the move, and you can't blame them. But if the movement is irregular, and these people are not welcomed, and they're not in any way managed, and they're not helped in any way, they undermine the confidence of the source countries.

**Mr. Ed Holder:** Mr. Bissett, if I could ask you, we heard from Mr. Stamatakis, who said that foreign criminals, and frankly, criminals period, but foreign criminals, particularly, take up capacity in the system which delays opportunities for legitimate foreigners who come to this country and want to make a better life. We honour those people, and that's the greatest majority.

Have you ever looked at the economic cost at the taxpayers' expense of keeping these foreign criminals in this never-ending cycle of appeals?

**The Chair:** Unless there's an answer in seconds, that's....

**Mr. James Bissett:** No, I haven't, but I have done some cost benefit analysis on other areas, our asylum seeker system, for example. I would estimate it costs the Canadian taxpayers \$2 billion to \$3 billion a year.

**The Chair:** Thank you.

Madam Groguhé.

[Translation]

**Mrs. Sadia Groguhé:** Thank you, Mr. Chair.

I want to thank our witnesses for being here today.

Obviously we can never do enough to prevent crime. We all agree on the importance of measures to both prevent and tackle crime. Equally important is the need to consider and promote victims' rights, which are paramount. We must never lose sight of the fact that victims have rights. Our government must equip itself with the tools to support them after the crime and to give them solutions that enable them to rebuild their lives.

Mr. Bissett, you lamented the lack of resources preventing immigration officers from interviewing immigrants who come here. Do you see the new measures to centralize application processing in Ottawa, on the basis of document and form analysis, as an appropriate solution?

[English]

**Mr. James Bissett:** No, I don't think it is.

Personally I think that any immigrant coming to Canada should clearly be interviewed by experienced Canadian visa officers before they get here. At one time all immigrants were interviewed abroad. Not only were their documents checked and the reliability of their claims to be an experienced carpenter or engineer or whatever assessed, but they were given counselling before they came here. They were given good advice about where to go in Canada to get a job. They were told about things to avoid upon arrival. They were much better prepared to come as a result of that interview. If during the interview the officer felt that the person couldn't meet the selection criteria but was someone who clearly showed initiative at the interview and displayed self-reliance, the officer had the discretion to let the person in.

The point of the selection system was to select people who could become established on their own within a year without government assistance. That prevailed. The immigrants who came prior to 1990 have done extremely well. The record of those who have come since then, because they're not being seen, they're not being interviewed, and their documents aren't being checked, has been much less favourable.

**The Chair:** Ms. Sitsabaiesan, you have less than three minutes.

**Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP):** Okay, thank you very much.

Thank you both for being here.

Ms. Rosenfeldt, I myself have been a victim of a serious crime and can understand and relate to you and many members of your organization.

I'm going to ask a question about functionality.

We know from multiple Auditor General's reports that over and over again, in both CIC and CBSA auditors general have highlighted a lack of training, resources, integration of information, and monitoring of technologies. We're also seeing funding cuts now to the Canada Border Services Agency. I think all of these problems put Canadians at risk.

In response to the Auditor General's recommendations, the minister said that the department accepts the recommendations and will implement the recommendations that were made by the auditors general. We have not seen them in Bill C-43. It seems to me that providing CBSA with the training and tools they need is actually to provide preventive methods to keep us all safe.

Would you agree that allocating resources to CBSA and CIC allows them to do their jobs with the utmost success they could achieve to keep us all safe?

•(1730)

**Ms. Sharon Rosenfeldt:** I agree to a certain point.

I mentioned in my brief the amount of \$31.4 billion. What I might suggest is to take a look at how many individuals are coming into our country and offending and reoffending, which is quite a high number, and look at the breakdown financially. What Bill C-43 would do is definitely strengthen that process and possibly free up some of the money that is going into protecting them from deportation and it could be used for training.



**Ms. Rathika Sitsabaiesan:** Right, but what we're seeing from auditors—

**The Chair:** I'm sorry, but time has expired.

Do you have a point of order, Mr. Dykstra?

**Mr. Rick Dykstra (St. Catharines, CPC):** Yes. There was a request by Ms. Rosenfeldt that she submit a report to the clerk. I just wanted to make sure that we had it.

**The Chair:** We have it, sir.

**Mr. Rick Dykstra:** Thank you.

**The Chair:** I want to thank both of you for coming and helping us with this bill. Thank you very much.

This meeting is adjourned.

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