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Ms. Lysane Blanchette-Lamothe

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•(1145)

[Translation]

The Chair (Ms. Lysane Blanchette-Lamothe (Pierrefonds—Dollard, NDP)): Good morning everyone.

I call to order the 74th hearing of the Standing Committee on the Status of Women.

Before we begin, I want to see whether the members of the committee are in agreement to extend the meeting by 15 minutes, that is to say until 1:15 p.m., and share the time fifty-fifty between the two panels we will be hearing today.

I see that I have unanimous consent. Thank you very much.

I now turn to our first witnesses. First, on behalf of the committee, I want to apologize for having made you wait. The reality of the House being what it is, we were delayed because of votes. And so we are going to change our schedule a bit and grant 45 minutes to this panel we have with us today.

We welcome the Assembly of First Nations, represented by Ms. Jody Wilson-Raybould, who is the Regional Chief for British Columbia, and Ms. Karen Campbell, who is the Director of Research and Policy Coordination. We also welcome the First Nations Lands Advisory Board, represented by Mr. Robert Louie, who is the Chairman Chief of the Westbank First Nation, Mr. Austin Bear who is the Director for the Prairie region and Chair of the First Nations Resource Centre, and Ms. Leah Georges-Wilson, Director for British Columbia and Co-Chair of the British Columbia Summit.

Thank you for being here with us. Each group will have a maximum of 10 minutes for their presentation. We will then have a question period.

I now yield the floor to Ms. Wilson-Raybould, from the Assembly of First Nations.

[English]

Ms. Jody Wilson-Raybould (Regional Chief, British Columbia, Assembly of First Nations): *Gilakasla*. Good morning, members. Thank you for having me here.

My name is Jody Wilson-Raybould. I am the regional chief for British Columbia. I am appearing here today along with Karen Campbell from the Assembly of First Nations and as the portfolio holder for first nation governance.

I want to also acknowledge Chief Louie and my colleagues on the First Nations Lands Advisory Board who are here as well.

Let me turn to Bill S-2.

Canada's intention to enact legislation in the area of matrimonial property is of course not new. I have presented twice at the Senate's committee on human rights, once on Bill S-4 and now on Bill S-2. While Bill S-2 contains positive changes from previous iterations, the overriding concerns that I raised previously remain.

Before I discuss these concerns with the committee, let me first say that Bill S-2 should not be characterized as a bill dealing with women's issues and probably should not be before this committee, with all due respect to the members of this committee. This is because these matters are not simply women's issues. For my husband, who is in this room and who lives on our reserve, it is his issue as well.

It has also been suggested that some of those who have spoken out against the bill or are behind the opposition to it are somehow trying to prop up a system that is unfair and that benefits some at the expense of others. While there may be individuals who are content with the status quo, this is certainly not the case for me nor for the organizations nor for the chiefs I represent. We all appreciate that there is a legal gap in the Indian Act that needs to be filled. We all know that many citizens or their spouses may be left at a disadvantage when it comes to settling a divorce, when their spouse passes away, or when they seek access to the family home.

Our criticism of the federal government's approach in Bill S-2, as in other federal bills, is not of the intent to fix the problem but rather of the government's considering it acceptable to design our post-colonial governance for us. Our contention with Bill S-2 is not about the need to fill a gap in the law but rather about who is filling the gap and with what rules.

Family and divorce law, wills and estates, and land law generally are complex at the best of times. When applied on reserve and governed under the Indian Act, they become even more complex. When considered in the light of indigenous legal traditions and our challenges with decolonization, the issues become even more so. Ideally, matters such as matrimonial property rights and interests should not be considered in isolation from other areas of interrelated law but should rather be addressed comprehensively when our nations are rebuilding comprehensive governance reform and moving away from the Indian Act.

Having said this, I appreciate that the federal government wants to do something about filling the gap with respect to matrimonial property. This is not without risk, as the federal government is walking a legal tightrope by making laws in areas that many people, including legal scholars and our leadership, assume are a part of a nation's inherent right of self-government and are protected in Canada's Constitution. Also, it is doing so without our free, prior, and informed consent as articulated in section 19 of the UN declaration.

In the past, and despite its best intentions, I have called the government's current approach to legislation neo-colonial. I know others do not see it this way. There certainly seemed to be a number of conflicted senators, when I presented on this bill at Senate committee, who on the one hand wanted to fill the gap but on the other hand were concerned about being paternalistic. This work is not easy.

For our part, dating back to 2006 the AFN has coordinated a number of dialogue sessions with our first nation citizens on how to approach the division of matrimonial property. There were three main issues that came forward: one, recognition of first nations' jurisdiction; two, access to justice and dispute resolution and remedies; and three, addressing underlying issues, such as housing shortages and the lack of access to temporary shelters. These have since been reiterated in resolutions from our chiefs in assembly.

With respect to jurisdiction, the promise of rights recognition and reconciliation in section 35(1) of the Constitution should require, for legal certainty, the explicit recognition of first nations' inherent right of self-government as part of any legislative solution in which such powers are not delegated. This should include recognition of the full range of powers necessary to effectively govern matrimonial property. Bill S-2 goes part of the way in this direction by recognizing the jurisdiction of first nations to make laws in the area of matrimonial property. However, the bill is not optional and until such time as first nations exercise their jurisdiction, provisional rules designed by Canada will apply.

• (1150)

Under Bill S-2, one of the most significant changes between Bill S-4 and Bill S-2, and something that we requested, is that the provisional rules will not come into force for one year, giving our nations a chance to develop their own laws before the provisional rules apply. I note we had asked for a longer period of time.

Assuming the bill becomes law, it is our intention to do whatever we can to assist those nations that want to enact their own laws before the provisional rules apply, and if not by then, as quickly as possible thereafter. Unfortunately, in the absence of comprehensive self-government options, our nations will have the same challenges as Canada had in developing the provisional rules when trying to figure out how to fit the round peg of a matrimonial property law into the square hole of the Indian Act. These challenges include reconciling the system of land tenure under the Indian Act with the extralegal, the informal rules for customary interests in land that exist outside of the Indian Act, the challenges of wills and estates, and trying to harmonize a nation's law with applicable provincial family law that may be at play at the same time.

With respect to recognition of broader jurisdiction and implementing the inherent right of self-government, we will continue to develop and advocate our own comprehensive governance solutions that support our nations in moving beyond the Indian Act, not simply the piecemeal or stovepipe approach the government is currently following. Where our nations have made matrimonial property laws, they have done so either under a land code made in accordance with the Framework Agreement on First Nation Land Management or under self-government arrangements, where the various aspects of the law can be considered in the broader context of self-government.

With respect to the second point, access to justice, dispute resolution, and remedies, there is no question that figuring out the provisional rules, seeking an order and then enforcing that order, will be a challenge for many of our citizens. Seeking a remedy in court under Bill S-2, will, we believe, be more expensive than for persons living off reserve. Due to significantly lower levels of income on reserves, it will, therefore, be more difficult for many couples to access the new remedies. Legal aid systems across Canada are chronically underfunded and are not meeting current needs, let alone the future demand created by the potential adoption of this legislation.

The remedies with respect to the provisional rules rely on access to provincial courts. The general assumption of access to provincial courts is unfortunately not practical or realistic in many parts of the country. Furthermore, with respect to enforcement, the preliminary research we have uncovered shows a correlation between increased harassment and threats of violence against women who file for protection orders in instances where there are issues with their enforcement. We question the capacity and ability of such orders to be effectively enforced, particularly in remote communities with limited access to police services. A law—any law—is only as good as the ability to enforce it.

The problem of access to courts, and appropriate dispute resolution and enforcement generally, has been one of the impetuses for first nations to develop their own justice systems. It is important to empower our nations in doing this work themselves, particularly given the opportunity for success in enforcing their own laws. While Bill S-2 is explicit on the authority of provincial courts to hear disputes in relation to the provisional rules, it is not as clear with respect to the access to justice for first nations under their own matrimonial property laws, both with respect to the extent of the first nation's jurisdiction and how a first nation could rely on the provincial or federal courts to enforce its laws if it so desires.

The bill would have been stronger had these concerns we raised previously been addressed as previously discussed. At some point, we must tackle this issue. Pushing forward this legislation in absence of a more comprehensive approach—

• (1155)

The Chair: Sorry, Chief Wilson-Raybould, can you conclude in ten seconds, please.

Ms. Jody Wilson-Raybould: Certainly.

The third concern that was raised, a fundamental concern, looks to addressing the issues that lead to the situations in the first place, the underlying issues, which I can speak more about in questions.

In closing, I wanted to make note of the work that has been done by the Canadian Bar Association. It has made a number of recommendations with respect to this piece of legislation as it was then, Bill S-4. I would recommend that the committee consider looking at these and other recommendations.

Further, Bill S-2 can and should only be viewed as an interim step, which unfortunately may prove to have more limited benefits than its strongest advocates would suggest.

The Chair: Thank you, Chief Wilson-Raybould. I'm sorry I have to stop you here.

I'm turning now to the First Nations Lands Advisory Board. You have a maximum of 10 minutes, sir.

Chief Robert Louie (Chairman, First Nations Lands Advisory Board, and Chief, Westbank First Nation): Thank you, Madam Chair.

Honourable members of the committee, thank you for providing me, as chairman of the First Nations Lands Advisory Board, this opportunity to respond to Bill S-2.

The Lands Advisory Board is very supportive of aboriginal communities addressing the topic of matrimonial real property on their reserve lands. This topic has been a critical component of the Framework Agreement on First Nation Land Management from the beginning. In fact, to ensure that everyone would be aware of this opportunity for law-making with respect to matrimonial real property rights, we added clauses 5.4(a) to 5.4(f) in our framework agreement.

The Lands Advisory Board has more than 10 years of experience actively dealing with law-making for matrimonial real property rights on reserve. For example, since 2001, the board assisted 23 operational first nations in completing their matrimonial real property laws, 14 other operational first nations with drafting their matrimonial real property laws, and 30 developmental first nations with planning for their matrimonial real property laws once they have ratified their land codes.

The framework agreement signatories include the only first nations in Canada who presently have laws dealing with matrimonial real property on reserve that are enforceable in the courts. Furthermore, the framework agreement is the only existing mechanism that provides the signatory first nations with the opportunity to address matrimonial real property rights in unique ways, consistent with their own community policies and traditions. I can use as an example communities that choose not to use the certificate of possession system as set out in the Indian Act. They must accommodate their own traditions and not someone else's view of what their traditions and customs ought to be.

I anticipate that the framework agreement signatories will be unaffected by the proposed legislation since most, and hopefully all, of our first nations will have their matrimonial real property laws in effect within three years after royal assent is given to Bill S-2.

The Lands Advisory Board is, nevertheless, concerned about the potential impact of the proposed legislation on the 68 first nations that are presently waiting to become signatories to the framework agreement, and the other communities across Canada. They are very likely to be caught up by Bill S-2 before they have the opportunity to sign the framework agreement.

Based on the Lands Advisory Board's experience and success with matrimonial real property laws under the framework agreement, we would make the following observations concerning Bill S-2.

With respect, the provisional federal laws will apply, by default, to most first nations, due to the challenges entailed in developing their matrimonial real property laws. Successful enactment of these laws by framework agreement signatories has invariably been the culmination of a multi-year, community-driven, consensus-building process addressing values, principles, practices, and procedures related to the governance and management of rights and interests in reserve lands.

Successful enactment of these laws by framework agreement first nations has always been a community-led priority and has required significant external legal and technical advisory support. It is unrealistic to assume that those first nations for whom land governance and management has not been given a priority will be able to expedite development of their own custom matrimonial real property laws in time to be exempt from the provisional federal rules. Community leadership will be sorely challenged in attempting to build a consensus reconciling their matrimonial real property laws and community customs with provincial laws of general application that also come into play in the event of separation and divorce. We know this can be done, but it takes time.

The complexities of these laws on reserves include the need to address and resolve a host of other local governance issues related, for example, to the appropriate balance between individual and collective rights, claims of rights to reside on reserve, housing policy, and distinctions between individual, common, and estate lands. Bill S-2 makes no provision to compensate first nations for the extensive and unavoidable legal and administrative costs entailed in development, enactment, and administration of their own, unique first nation matrimonial real property laws. This lack of resourcing will be fatal to the efforts of many communities to enact their own matrimonial real property laws. Essentially, Bill S-2 is not about community governance at all, because of this forced imposition.

● (1200)

Provinces may be reluctant to participate in adjudication under the provisional federal rules. Through experience with the Lands Advisory Board and the framework agreement, first nations have found provincial governments to be uninterested in assuming any roles with respect to monitoring, dispute resolution, and/or enforcement with respect to first nation land laws generally. Provincial governments cite concerns related to lack of capacity to accommodate the current workload of their judicial systems, uncompensated costs they would incur, and the risk of attracting liability. Bill S-2 does not address, much less resolve, these issues.

The impact of Bill S-2 may be much more extensive than has been anticipated. Canada appears to be working on the assumption that the primary focus of cases subject to the legislation will be a small subset of the 100,000 dwelling units on reserve for which formal land tenure arrangements are in place, pursuant to sections 20, 28(2), 53, or 58 of the Indian Act.

However, the provisional federal rules proposed in Bill S-2 open the door for provincial judges to interpret the definition of a family home, and for the subsequent accumulation of a body of case law that may interpret these laws very differently and more expansively than intended. The definition of a right or interest in a family home on reserve could well be extended through case law to include the right to occupy band-owned housing, which would have implications for housing policies and perhaps financial costs to first nations.

If this were to happen, many more cases could be anticipated. A provincial court could attach a monetary value to the right to occupy band-owned housing, free of rent or other charges, for the rest of the life expectancy of the occupants. The net present value of this stream of housing benefits, calculated like the net present value of an annuity, could amount to several hundred thousand dollars per family home, which would have to be paid to the departing spouse. In many cases, the alternatives of sale or sublease of the property would not generate the funds necessary to meet the award. Such precedents would create significant liabilities to be borne by either the first nation member spouse who retains the family home, or more likely in practical terms, by the first nation.

Based on the Lands Advisory Board's experience and success with the framework agreement, we respectfully suggest that the committee consider the following recommendations regarding Bill S-2.

I have six recommendations. Given the timeframe I will list the headings, and I'm certainly prepared during the answer period to go into more detail, Madam Chair, if that's proper.

The first recommendation, remove the mandatory timeframe and make Bill S-2 optional. The second recommendation, address first nations' jurisdictional concerns. The third recommendation, identify resources for first nations. The fourth recommendation, provide for a transitional first nations mandated agency to support communities. The fifth recommendation, apply the principles of proportionality and reasonableness. The sixth recommendation, respect freedom of contract.

Madam Chair, thank you very much. I wish I had more time to elaborate further, but perhaps I can during question period. I'm certainly going to be assisted by my very experienced colleagues here.

●(1205)

[Translation]

The Chair: I thank all of you for your testimony. We would certainly have liked to have more time at our disposal to hear more from you.

We will now move on to our question period.

Ms. Truppe, you have seven minutes.

[English]

Mrs. Susan Truppe (London North Centre, CPC): Thank you, Madam Chair.

I'd like to thank you for coming today. It's important that we hear from you. I'm sorry we were late, but we had a vote.

I want to ask Chief Wilson-Raybould and Chief Louie for the record, have you read Bill S-2 in its current form?

Ms. Jody Wilson-Raybould: Yes.

Chief Robert Louie: Yes.

Mrs. Susan Truppe: Thank you.

Chief Wilson-Raybould, I want to ask you this question too. Bill S-2 is about fairness, equity, and providing protections and rights for residents on reserves. We acknowledge that the bill is not going to, nor is it intended to address the broad issues of poverty or housing shortages on reserves.

We heard stories a couple of meetings ago from women who have lost their homes because the men were able to retain ownership, despite the fact that the woman had financed the entire building of the home and renovations. What would you say to these women who have gone to court to obtain ownership of a home they built, only to find it's not possible because the rules didn't apply on the reserve?

Ms. Jody Wilson-Raybould: Well, again, I would reiterate my earlier comments about the reality that this isn't simply a woman's issue. In my testimony, I did recognize that the intent is to fill that gap of which you speak. The reality is that it's one instance that you're speaking about, and the situations and the conditions on our reserves are very different.

Looking at the imposition of a law on our first nation communities is challenging at best. Certainly, in terms of moving forward and addressing and making social progress, it's fundamental for our nations to have an understanding of what those laws are, but most importantly, to be able to see those laws as legitimate.

The major concern here, as my friend Chief Louie articulated, is that there is an imposition on our first nations' governments in terms of this particular law when the provisional rules apply. The challenge here is to balance the intent—or what some have called the paternalism—against the empowerment of our own communities to address these issues themselves, based upon the reality that they know best in their communities how to do most appropriately.

●(1210)

Mrs. Susan Truppe: Thanks.

Do you think that ensuring men and women have equal legal rights to the family home is the right thing to do?

Ms. Jody Wilson-Raybould: I think we all agree on equality. I will submit that certainly the provisional rules within this legislation don't address the issue in the comprehensive way in which it needs to be addressed.

Mrs. Susan Truppe: Thank you.

Chief Louie, thank you for your comments on the bill. Our government understands that first nations are best placed to develop their own matrimonial real property laws that reflect the uniqueness of each first nation's tradition and that require only an agreement between the members of the first nation and the first nation's government.

Correct me if I'm wrong. I think you said that 23 had completed matrimonial rights, 14 were in process, and 30 were just starting. Refresh my memory about the 30.

Chief Robert Louie: Yes, you're correct on the first two. The 30 that we have are in the developmental phase and are having those discussions right now. We're assisting in that planning to be incorporated into their land codes, either now or within a one-year period.

Mrs. Susan Truppe: That's great. Can you outline for us how some of your communities have addressed the issue of matrimonial real property in their own codes?

Chief Robert Louie: Yes, and I think we have some very good experience here at the table.

Again, each of the first nations is unique. There are no identical land codes, nor are there identical matrimonial real property laws, and each of the communities has a different situation. Some are band lands only. Some are a combination of band lands and certificate of possession lands. There is a mixture. Some have many non-native spouses or partners who reside in the community. Some do not.

There is quite a divergence in the occupation of homes on reserves and in the communities themselves, so each of the laws reflects that sort of difference. It's important that the community do that, because if a community is not considered in its diversity and you have one overall regime that covers everything, you could encounter problems. That's what we would fully suspect would happen.

Ideally, the situation is to have the first nation develop its own matrimonial real property laws, have it dealt with in the community, take into account all of the contingencies involved, and I think you're going to have a much better form of dealing with this issue.

Mrs. Susan Truppe: Thank you.

What would you say has been the greatest challenge in supporting the FNLMA first nations in the development of their own matrimonial rights legislation?

Chief Robert Louie: I think the most significant thing is probably the timeframe. In our rules, when we adopted this and agreed to it, we felt initially that one year would be sufficient to develop these matrimonial laws. Through experience, we found that for many communities it simply wasn't possible. It takes a lot of community input and a lot of community meetings.

If anything, I would suggest that there be a longer timeframe, because you have elections that come into place with governing councils. Sometimes you have two years, sometimes three years, and for larger communities especially, there's a lot more communication involved. Even a one-year timeframe for us is a very short time, and some of our communities have not yet been able to finalize their matrimonial real property laws.

The Chair: You have 40 seconds.

Mrs. Susan Truppe: Forty seconds, okay.

What has been the response from the first nations that have begun to be involved in this process? Have they begun to inquire, as a result of the experience, with other first nations? How are they determining what they're doing, or are you walking them through everything?

• (1215)

Chief Robert Louie: Well, we're finding that the first nations that developed matrimonial and real property laws have been very successful at the implementation. We've had very good results.

My colleague here, Chief Austin Bear, could certainly elaborate on that, if the committee wishes, because I think there have been some specific examples that might at least benefit the understanding.

[*Translation*]

The Chair: Unfortunately, I must interrupt you.

Thank you, Ms. Truppe.

I will now give the floor to Ms. Ashton. You have seven minutes.

[*English*]

Ms. Niki Ashton (Churchill, NDP): Thank you very much, Chief Wilson-Raybould and Chief Louie, for joining us.

Not only is it unfortunate that we had the votes, it's even more unfortunate that you don't each have an hour to present to us—and not just an hour but beyond an hour—because we realize that the concerns you're raising are not just key but that you also represent, certainly, in the case of the AFN, the stakeholders who are most impacted by Bill S-2. I'm very proud of the fact that our side expressed real opposition to the fact that there hasn't been enough time to hear from the key stakeholders.

I have a quick question. Will Bill S-2 save lives? Maybe we can start with Chief Wilson-Raybould.

Ms. Jody Wilson-Raybould: You're looking for a quick answer, but the reality, too, is that the intent behind the legislation is something else. There is certainly no direct correlation between passing this legislation and saving lives. The bill deals with the division of property upon the dissolution of the marriage, marriage breakdown, or death.

The reality that we found through meeting and speaking among our chiefs is that this bill doesn't address the underlying issues or the ancillary issues that go along with marriage breakdown, or the reality of the current housing shortages that exist on many reserves. It does not address in a significant way the challenges that we have in terms of access to justice and many other issues, which have been raised by the Assembly of First Nations and our leadership, that fundamentally need to be addressed outside of legislation in order to ensure that there are the necessary protections, not only for women but for all of our citizens on reserve. This is something that we're looking to the government to commit to. Not necessarily will these issues in any way, shape, or form be addressed by this piece of legislation that is being moved forward.

Ms. Niki Ashton: Chief Louie, do you have anything to add?

Chief Robert Louie: Yes. I can say that, from experience in dealing with matrimonial and real property laws and understanding and hearing from first nations across the country that have, in fact, implemented matrimonial and real property laws, it's been a good thing.

Whether it's saved lives, I don't know. I think it's avoided problems. I think that members in various communities understand, because they're involved in the development of what it is that they want in the community. They understand fully that, if there are disputes or if there are matrimonial issues or things of significance that affect the matrimonial home or the children, these matters have to be appropriately dealt with.

So whether it saves life, I guess that's a very debatable question. I think you'll want to avoid controversy and have a process and procedure that's at least accepted by the community, and know that at the outset.

Ms. Niki Ashton: I appreciate that feedback, because, unfortunately, the debate around Bill S-2 has been reduced to some pretty outrageous statements. Unfortunately, we hear from both of you and certainly your colleagues who are with you, that there are some real concerns and there are ways of getting around these concerns. But by bringing closure to the debate and by preventing the key stakeholders from speaking to us, we are unable to make those changes, and certainly we're keen to see if the government will continue that stand over the next week.

Going back to the limited capacity or no capacity that many first nations face in terms of implementation, I'm wondering if you could speak to that, Chief Wilson-Raybould.

Ms. Jody Wilson-Raybould: Thank you for the question, and the previous question.

I certainly recognize the intent here is to fill a gap. As we all know, the legislation is part of the solution moving forward, but it's not the entire solution. I think having my colleagues here—and I'm also a director on the Lands Advisory Board—to reflect an option that first nations have undertaken, in terms of broader land management powers.... One of the obstacles for first nations pursuing those broader land management powers and removing themselves from 25% of the Indian Act is that the federal government is currently playing gatekeeper to the numerous first nations that want to enter this process—some 68 in number—because there aren't the dollars in order for them to do that. That's one example. Beyond the 23 matrimonial property laws under the framework agreement, there are numerous other MRP laws in comprehensive self-government arrangements, as well as those traditionally enacted by various first nations.

So, you know, I think that it's important to look at this issue in that broader context of nation-building, and what communities are actually doing, and the opportunities that they have.

• (1220)

The Chair: One minute.

Ms. Niki Ashton: In terms of the funding capacity, what are first nations working with, by and large, to be able to implement or tackle Bill S-2, if comes down?

Ms. Jody Wilson-Raybould: As I understand it, there's been some discussion around a centre of excellence that was proposed to support first nations in developing capacity. But I think my colleague here quite clearly articulated the challenges, not only in terms of their resources but in terms of the community engagement that is required to look to in passing a law. The support that is needed is not necessarily articulated in terms of being an addition or something that has been considered in conjunction with this law being passed.

Ms. Niki Ashton: Maybe just quickly, is there a trend here that is problematic? We're dealing with a number of bills on first nations. This bill should be in the aboriginal affairs committee. There are other bills that are coming through there where there are real concerns around consultation and listening to the concerns of first nations.

The Chair: Very quickly, please.

Ms. Jody Wilson-Raybould: Absolutely. This piece of legislation, in its fourth iteration, is one of a number of pieces of legislation that are being put forward, as I mentioned, by this government. They seek to tinker around the edges of the Indian Act and deal in a stovepipe or compartmentalized way with specific jurisdictions without the fundamental need to have that broader discussion among our communities about comprehensive reform—

The Chair: I have to interrupt you. Sorry, about that.

I'm turning to Madam O'Neill Gordon, for a seven-minute round.

Mrs. Tilly O'Neill Gordon (Miramichi, CPC): Thank you, Madam Chairman.

I'll be sharing my time with Roxanne James, and she will be starting.

Ms. Roxanne James (Scarborough Centre, CPC): Thank you, Tilly, and also, Chair.

Welcome to our guests.

I actually had a question. I'm going to direct this question both to Chief Wilson-Raybould and Chief Louie.

In both of your opening statements—and I'm just going to try to quote this as best I can—when speaking about the legislation, I know that Chief Wilson-Raybould, you did give some recognition to the government for allowing first nations to implement their own legislation first, but you said the problem is that it's not optional.

One of the recommendations, Chief Louie, that you had indicated—and it was the first one, actually, you made it very clear—is that we should remove or modify the timeframe or allow it to be optional.

I'm just trying to understand—maybe you can help me with this—which first nations? Who would not want to implement matrimonial real property laws on reserves? Who would not want to, and what would the reason be?

Chief Robert Louie: I don't think that there is a first nation that doesn't want to. I think it becomes one of timeliness and the time it takes to do it properly. I think everyone wants to. We all take matrimonial legislation very seriously. It's a very serious issue. It's a very serious matter, but it takes time. In some communities we find that it takes a longer time than others. The cost of and the burden of doing it properly varies from community to community and this is an issue, I think, that has to be considered.

A centre of excellence that will be a resource body may help, but even if it does come into existence, then it has to be properly resourced and there has to be involvement of first nations in the design of that.

Ms. Roxanne James: Thank you.

When you say optional, you didn't really mean to opt out?

Chief Robert Louie: No.

Ms. Roxanne James: Okay. Thank you.

Chief Wilson-Raybould, could you comment on that too? Because I find that when I hear the word "optional", it's like I'm hearing that there is no need for it. I wonder if you can think of any first nations across Canada that would feel that the equality of women with regard to MRP legislation should be something that is optional and is something they would want to opt out of.

I wonder if you could comment on that.

• (1225)

Ms. Jody Wilson-Raybould: I agree with Chief Louie. I know that all of our nations see this as something that is a priority that needs to be addressed, and we have, in various ways across our nations, been addressing that issue, whether that be through self-government agreements or in the framework agreement. Those are options that first nations can enter into to develop their laws, but it is their option to do so.

The problem or the challenge here is that when legislation is imposed upon our first nations, our nations know that we have the inherent right to self-government and to be able to exercise jurisdiction in accordance with the priorities and the traditions and the cultures of our communities. The provisional rules that will come into play one year afterwards do not recognize that jurisdiction, but the federal government grants it or provides it.

Ms. Roxanne James: Thank you.

So you really don't mean that the problem is with "not optional" either.

Ms. Jody Wilson-Raybould: We want to avoid the imposition of somebody else's laws on our own first nations that are in the process and that want to do that themselves.

Ms. Roxanne James: I know you're concerned about the timeframe and about one year maybe being not long enough. I know you're probably aware that there have been four iterations of this particular bill. The planning actually began way back in 2000 or 2001, but consultations across this country started in 2006. I believe there were over 100 consultations spread over 76 different sites.

I just wonder if the reason the timeframe isn't long enough, even given an additional 12 months after this legislation is actually

approved or receives royal assent, is that some of these first nations were maybe not in the initial consultations or they have never heard of this. I'm just trying to get an understanding, because some of us around this room.... In fact Mr. Langtry from the Human Rights Commission was here yesterday, and he described this issue of matrimonial real property as an urgent human rights matter.

He said:

Both international and domestic human rights standards call for the equal treatment of women under the law. These same standards also call for the protection of women and their children against violence.

When I hear the word "urgent" and I think that the legislative gap for this has been 25 years and it is growing, and I think of the consultation process and the planning, and we're talking about an additional one year to actually implement your own legislation...I'm having a difficult time understanding why there hasn't been enough time.

But I just want to switch over to something else at this point. It has to do with something I believe you mentioned, Chief Louie. You were concerned about leased property on reserves. I don't know exactly what you said, but there was some concern that the leased property would not be kept up or there could be a problem with that. I wonder if you're aware of the clauses within the bill with respect to leases.

I just want to read something, and I want to make it very clear that where a spouse or common law partner or survivor is granted exclusive rights to a leased premise and is not actually named in that original lease, the provisions deemed in that original lease apply to the person who now becomes the lessee. I know you said something and there were some concerns about someone maintaining or keeping up the property, and I just want to clearly indicate that this bill, Bill S-2, actually covers that, and it should not necessarily be one of the major concerns that you did forward today.

Madam Chair, how much time is left?

The Chair: You have one minute.

Ms. Roxanne James: Okay. There is actually one other point I want to make on that.

Hon. Carolyn Bennett (St. Paul's, Lib.): Madam Chair, I tend to be the one who will be given only two minutes after the Conservatives have had two full sessions. This is really not the way the time should be divided at this committee.

The Chair: I think we have a point of order here from Madam Bennett.

Hon. Carolyn Bennett: I would like the member to at least stop now and bring us closer to what would be the appropriate time. That means that the time has not even been divided equally between the opposition and the government.

The Chair: I hear your point, Madam Bennett. You know the rules and we have those rules installed so that we each have seven minutes, and this is the round that is installed in this committee.

The more time we take now, the less time you will have for your questions, so I suggest we continue.

Is there any—

Hon. Carolyn Bennett: We did assume there would be time on both sides when we agreed to divide it equally.

The Chair: We can look in the blues. What I said is that we would extend our meetings 15 minutes and divide the time in half between the witnesses. That brings us to 12:30.

• (1230)

Hon. Carolyn Bennett: At no time did we think that the government should have more time than the opposition.

The Chair: It is about the time we gave to this committee to hear those witnesses.

Hon. Carolyn Bennett: But Madam Chair, we expect you to impose some fairness on this committee and to make that crystal clear before you give the government more time than the opposition. The purpose of committee is to hold the government and the government bill to account, not to have cheerleading from the other side.

The Chair: I hear what you're saying, and I'm in the hands of the committee. We have some rules. If we want to change those rules, we need a motion and we need a vote on it. I haven't heard a motion yet. Is it a point of order from this side?

Ms. Roxanne James: It is a point of order.

The Chair: We'll turn to your point of order.

Ms. Roxanne James: Thank you, Madam Chair.

I want to point out to the member opposite, Ms. Bennett, that the official opposition in this committee is actually the NDP. Representation by the questions that we have in this committee is based on the number of members at this committee. Right now, as you can see, the government has more members. As you pointed out very clearly on our original guidelines for this committee, this is the rotation.

The Chair: Sorry, Madam James. You can continue.

I hear no point of order so far. If you have a point of order, come to it please.

Ms. Roxanne James: I was helping clarify your point as well that the guidelines for this committee were set at the start of this committee, and I respect that the member is not actually a member of this committee.

The Chair: Thank you, Madam James. I need no help in clarifying my decision.

Is there any other point of order?

Madam Crowder, go ahead.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Perhaps it's too late at this stage, but I want to support Ms. Bennett's statement.

Normally, committees look for a balance in the questioning of witnesses. Perhaps we naively assumed that there would be some fairness. This is not a criticism of the chair. When we were dividing the time half and half, half the questions would go to the government and half the questions would go to the opposition. Yes, we are the official opposition, but it's important that the opposition has two turns in questioning the witnesses.

The Chair: What I can do from your point of order is to see if I have the unanimity of the committee to extend the seven-minute

round of Madam Bennett, which will cut seven minutes from our other witness group.

Do I have the unanimous consent of the committee?

Ms. Roxanne James: No.

The Chair: I see that I don't have the unanimous consent of the committee, so I cannot change the rules that are in front of us.

Is that another point of order, Madam Crowder?

Ms. Jean Crowder: Yes, Madam Chair.

I wonder if the committee would entertain, at least in the next round, that we reduce the questioning round to five minutes so that there are opportunities for two members of the opposition to get on the record for questions.

The Chair: I hear that we try to come to an agreement to have more fairness, to make sure we hear each party for this period of time. To make sure we hear everyone, do I have unanimous consent to have a five-minute question round for the next round? If we still have time, we can maybe go back to the government for the time left.

Is that an agreement we can come to?

Mrs. Susan Truppe: No, we're not changing times half way through this thing. I would make a motion that we return to the witnesses.

The Chair: You cannot have a motion. I'm just looking for unanimity right now.

Mrs. Susan Truppe: Okay. No, we don't. I'm sorry.

The Chair: There's no unanimity so far to change the timeline and the time for the turns. I'm sorry about that.

We will now go back to Madam James. You still have 45 seconds.

Ms. Roxanne James: Thank you very much.

On behalf of the committee, I wish to apologize for interrupting your time here as well. I know that we had votes, so your time was cut short.

I want to go back to Chief Louie.

I was talking about the provisions under Bill S-2 that deal with one of the issues you spoke about. It had to do with leased property on reserves. There was some concern that if it automatically changes to someone else who wasn't named on the original document, perhaps the upkeep of the home was not going to be there and there were going to be some other issues.

Were you aware those provisions to deal with that specific issue were actually in Bill S-2?

The Chair: We don't have time for an answer, the seven minutes are over.

Thank you to everyone. Once again, thank you to witnesses. I'm sorry we have cut this so short.

I will ask for the collaboration of everyone in the room to switch places as quickly as possible to ensure we have as much time as possible to continue our hearing.

•(1230) _____ (Pause) _____

•(1240)

[*Translation*]

The Chair: We are resuming this meeting of the Standing Committee on the Status of Women. May I remind you that we have unanimous consent for the committee to sit until 1:15 p.m.

We welcome Mr. Jeffrey Cyr, who is the Executive Director of the National Association of Friendship Centres. Through videolink we have with us Ms. Deborah Campbell, from the Young Women's Christian Association. Thank you very much for being here.

Before we begin, I see that Ms. Ashton has a point of order.

[*English*]

Ms. Niki Ashton: Thank you very much, Madam Chair.

I wanted to share that I'm really very concerned about our first panel session. I understand that a number of the witnesses felt put in a very difficult position. They were under the impression of having seven-minute Q and A. Questions and comments were directed at them that they had no chance to challenge. Some of the statements that were made were not factual.

My concern is that not only are we not splitting the time equitably, but on such a serious issue we are asking people to travel across the country and speak to this issue, with all the greatest respect, yet we don't give the time—

The Chair: Madam Ashton, could you get back to your point of order, please? I don't hear a point of order.

Ms. Niki Ashton: My point of order is that we should make sure we split the time equally and that we make sure that witnesses in the seven minutes have time to respond to comments that we direct to them.

The Chair: I didn't hear any point of order here.

I can say to our witnesses, however, that each of you has up to a maximum of 10 minutes. If you could make your statements shorter than that, it would help give every member their time, but I cannot force you to do that. You have 10 minutes to use at your discretion.

[*Translation*]

I apologize, but I simply want to correct a mistake.

Through videolink we have with us Ms. Kim van der Woerd, who is a member of the board of the Young Women's Christian Association. Ms. van der Woerd is going to have to leave us at 1:10 p.m. If you have any urgent questions to put to her, you should thus do so before her departure.

Without further ado, I yield the floor to Mr. Cyr.

[*English*]

Mr. Jeffrey Cyr (Executive Director, National Association of Friendship Centres): Thank you. I'll try to be as succinct and brief as I can so that everyone gets their time.

Colleagues on the video conference, Madam Chair, distinguished members of the Standing Committee on the Status of Women, thank

you for the opportunity to present on what we consider to be a very serious issue.

I wish to also acknowledge the traditional lands of the Algonquin nation where we are meeting today.

For your edification, my name is Jeff Cyr. I'm a Métis from Manitoba and the executive director of the National Association of Friendship Centres. This is my first appearance in front of your committee. As such, I'll provide some background as to who we are as an organization, what we do, and why that's relevant to the issue at hand.

The National Association of Friendship Centres is a national aboriginal organization comprised of 119 friendship centres across the country, from coast to coast to coast. That includes seven provincial and territorial organizations.

The early history of the friendship centre movement in Canada is found in the cities of Toronto, Winnipeg, and Vancouver. It was started in the 1950s, by aboriginal people, for aboriginal people. The history and evolution of the friendship centre movement is reflective of the modern history of aboriginal people in Canada. Our history is one of continual growth and continual expansion as we seek to meet the health, social, economic, safety, educational, and transitional needs of first nations, Métis, and Inuit peoples in the urban centres of this country.

For over 60 years we've been front and centre in assisting aboriginal people to become fully acquainted with urban life, maintain their culture as an anchor, and utilize services available to them as they adjust to life in the city.

Friendship centres not only provide invaluable services to urban aboriginal people who utilize these programs; the movement also provides employment. There are currently 2,600 people employed through friendship centres, and 72% of them are women. We are also community anchors and we're hubs for social innovation in urban centres.

In my notes I have a list of programs and services that we provide. I'm going to be very brief with this: prenatal, healthy babies, head start, youth care, housing, mental health and wellness, diabetes, drug and alcohol, youth programs, employment services, and on and on. Issues of violence and youth at risk for sexual exploitation and crimes are also areas of high priority for our movement, along with protecting women and children from harm and family violence.

While friendship centres have had long-term success in offering and delivering these vital services, there are many challenges that we confront. Some are forced by demographic realities while others pertain to organizational capacities. As you know, the urban aboriginal population in Canada continues to increase. In 1996 it was 47%. In 2006 it was 54%. Today it is over 60%. In some metropolitan areas, over 80% of the population lives in urban areas. Of course, that population is overwhelmingly young, under the age of 25.

These demographic realities place strong pressures on the human and fiscal capacities of our centres. We can talk later about how our centres are funded, if it comes up in questions. I'm going to move on so that we can get to the point. Throughout our history, friendship centres have been places that aboriginal peoples seek out as they move to urban areas for a variety of reasons.

Now we come to the issue at hand: matrimonial real property and its effects. It is abundantly clear that MRP is a serious issue, a serious human rights issue, and it needs to be dealt with. When women and children leave their community as a result of these issues, where do they go? Where do you think they go? On the whole, they end up in cities. They look for services, and they end up at the friendship centre door.

As the National Association of Friendship Centres, we need there to be awareness of the social complexities of these issues that have been wrought in the off-reserve environment. The presentation earlier today by AFN and the other presenter spoke to some of those social complexities.

I want to commend, first of all, the lands modernization unit of Aboriginal Affairs, who approached us to discuss this issue well over a year ago—not on a legal basis but on a service basis, because what we're talking about is people's lives—on who helps those affected while the legal realm gets sorted out.

● (1245)

With very limited funding, we as an organization created a searchable online database that provides information on over 6,000 service agencies, aboriginal and non-aboriginal alike, where our friendship centres are located. It includes contact information on programs and services related to health, housing, education, justice, culture, child care, community support, and government support.

We created this database as a means of providing information directly into the hands of aboriginal people, and in particular first nation women, who need this information for their transition from reserve to a city. This website, which will be launched later this month, is called *New Journeys*, and other than the thousands of service organizations and agencies it lists, the site also contains transitional planning guides for women, students, and families. There are safety features on the site that include an erasable search history to safeguard women who may be experiencing domestic violence and are making plans to relocate to a city.

This project began in 2011 when we did an environmental scan and some research. There are a few things we learned during that process. Aboriginal people are likely to face multiple barriers when they first arrive in the city, including poverty, lack of education, unemployment, lack of adequate housing, racism, and a sense of social exclusion.

Many will face difficulties navigating multiple systems in jurisdictions while attempting to locate programs and services. Easy access to services upon arrival in the city is essential to ensuring a good transition, however some aboriginal people are unaware of available programs and services. Moreover, agencies are also often unaware of available services.

There was a need for a system to address the immediate transition issues of newcomers to ensure that their adjustment to city life is a

positive one. There are only a handful of organizations that offer services that are specific to supporting aboriginal people who are newcomers to the city. There was a need for collaboration between first nations and urban aboriginal organizations in program delivery, and such cooperation will result in a more seamless transition to city life.

I want to draw the attention of the members of this committee to the reality of how socially complex issues such as MRP play out on the ground, and to who supports those who need help. I believe we need to engage and support organizations such as ours, and friendship centres, in a more robust manner to be that bridge between emerging issues and innovative solutions. It serves Canada better to do so.

Right now we have created a set of tools. We have taken a nickel and stretched it to make a dollar, which is really what we're good at actually. But eventually we'll need to look behind the veil and we'll ask: how are we supporting aboriginal women in Canada in the long term?

Changes to matrimonial real property and the legal infrastructure in Canada are, in my opinion, long overdue. As Canada's largest aboriginal service infrastructure, the friendship centre movement will continue to be central in addressing issues related to MRP and be that vital resource to women and children relocating to urban areas.

But it goes beyond legislation. We need your assistance, we need your deep engagement, we need your recognition of our services and our partnerships, and we need to move beyond project-driven funding and build real capacity in our organizations.

This is an added comment to my notes. This is incredibly important. When we bring in pieces of legislation, they have far-reaching implications. That won't be done within one year. When people are seeking services, they're going to seek them in the urban environment and they'll be at our door, and we won't necessarily have the resources to answer all those questions. We can't do it on a project-driven basis, it's too difficult.

I'm going to cut my comments short.

Thank you, *meegwetch*, to all of you for your attention. I look forward to more dialogue on issues affecting urban aboriginal life.

● (1250)

[*Translation*]

The Chair: Thank you, Mr. Cyr.

Without further ado, I now yield the floor to Ms. van der Woerd.

[*English*]

Dr. Kim van der Woerd (Board Member, Metro Vancouver, Young Women's Christian Association): Good morning. *Gilakaslala*.

Thank you, Madam Chair and other members of the standing committee, for including our testimony on Bill S-2. Deborah Campbell sends her regrets; she's not able to make it this morning. I too would like to acknowledge the Algonquin nation, with whom you're meeting today, for having you on its territories.

My name is Kim van der Woerd. I'm a member of the 'Namgis First Nation from Alert Bay, B.C. My traditional name is T,lalisam, which is from the killer whale clan. I also serve on the board of directors with the YWCA in metro Vancouver and I'm here today to represent the YWCA.

I was speaking with my grandmother in Alert Bay about Bill S-2 and asked her if she was familiar with it, and she said she was. She told me about many situations in our community where women were removed from their homes and had nowhere to go with their children. She said that sometimes they were able to deal with this when they had family who could take them in and support them physically, mentally, emotionally, spiritually, as well as the financial support.

I asked her about what life was like in our community before there were rules and laws around property and housing. She told me about life when she was growing up, and she told me stories that her father would tell her. She said children grew up learning and knowing that they would build their own homes as young people and that they did not rely on government for housing. She spoke about how we were all independent before many of the laws of the Indian Act and that we were able to be independent because of the support from our communities and that the provisions were in place to be independent.

I would first like to acknowledge and recognize the positive intent with the proposed changes to this bill and the intention to improve the lives of aboriginal women. We appreciate, applaud, and respect the efforts made in this regard, and what we would like to share with you today is the YWCA's perspective on provisions that would make Bill S-2 successful.

We understand that the purpose of Bill S-2 is to provide powers to enact laws relating to the use, occupation, and possession of family homes on reserves. The bill and any resulting legislation would apply to all first nations and be implemented within 12 months of enactment. While changes to the bill have been positive with this fourth iteration, we find that there are still factors that need to be addressed.

We understand there has been opposition in the following areas that have been mentioned, from what we've been hearing already. First is the lack of first nation consultation. We recognize that we're currently in a round of consultation, but going forward we recommend open and meaningful engagement in this process. We understand that there has been opposition around jurisdiction with first nations' governments, and issues related to provincial courts and the Indian Act rules. We understand there are issues around community capacity to implement, which my colleagues have been discussing. We also recognize that there are burdens on citizens and safety considerations. Opposition to the bill highlights the complexity of violence in aboriginal communities and the need for comprehensive responses.

With respect to burdens for aboriginal women and families, the bill does not address the following considerations. There is a lack of access to emergency shelters, both on and off reserve. There is limited access to nearby and cost-appropriate legal services. There is a lack of adequate housing on reserve. There is limited access to counselling and other support services, and there is a need for

infrastructure and human capacity investment that benefits aboriginal women.

I will now briefly speak about what we know about aboriginal women in Canada with respect to the experience of violence, housing, migration off reserve, and access to legal and emergency services. In 2011 the YWCA Canada commissioned a report, "Aboriginal Women's Initiative", and some of the key findings are as follows. With respect to violence, aboriginal women experience spousal or partner violence at a rate three times higher than non-aboriginal women. With respect to housing, aboriginal women are more likely to experience homelessness than aboriginal men, and this homelessness is often related to their experience of violence and escape from violence.

●(1255)

We know that many aboriginal women leave reserves and our research tells us that they leave reserves because of experience of violence, difficulty in accessing services and supports, lack of housing, and discrimination in legislation around aboriginal women's rights on reserve. Many reserve communities are not located near legal services or emergency support services and this report summarizes the need for 24-hour services, increased community awareness, emergency support, and the need for transition and support services for aboriginal women and single mothers.

The YWCA is committed to ensuring that women and children are able to live safely and securely. The YWCA is the single-largest provider of shelter services to women and children fleeing violence and provides holistic programming that reaches out to more than one million women and children in Canada.

The YWCA Canada recognizes the rights of aboriginal communities to self-government. The YWCA Metro Vancouver has a long history of supporting aboriginal women and children in our community by providing tailored programs such as infant development, violence prevention, legal education, financial literacy, FASD awareness, housing, and mentorship. We have served tens of thousands of women through these programs.

The YWCA Canada is currently working with 10 member-associations on an access to justice project for aboriginal women dealing with violence. That's just under one-third of our membership. Each of these 10 member-associations have service populations of 65% aboriginal women or higher.

The YWCA Canada identifies interlocking advocacy priorities for women that complement the analysis of Bill S-2 as it applies to aboriginal women who experience domestic violence on reserve, including ending violence against women and girls, access to affordable housing, and achieving women's economic security.

Based on our services, advocacy, and research, the YWCA has the following conclusions and recommendations for ensuring the effective implementation of Bill S-2 to fully support aboriginal women and children. YWCA Canada understands that there needs to be a comprehensive response to Bill S-2 to go beyond the jurisdictional issues and address burdens for aboriginal women and families. YWCA Canada emphasizes the right of aboriginal women on and off reserve to have access to safe and secure housing and shelter, and advocates for a national housing strategy to raise awareness and support for the provision of affordable housing.

The YWCA recognizes that Bill S-2 has the following provisions. In cases of death of a spouse or partner, occupation can be granted for 180 days from the date of death, and in cases of domestic violence, the person who applies for access can be granted 90 days of occupation without the offender in the home. Our research and experience in delivering services with the YWCA finds that 90 days is not sufficient time for a woman to develop and execute a plan to lead an independent life. This is of course in the cases where the women does not hold the certificate of possession. We recommend a review of this timeframe to accommodate the complex needs of women leaving abuse. However it is appreciated that this provision can be modified on a case-by-case basis. We do note the potential additional burden for aboriginal women applying for these additional days.

The comprehensive recommendations advanced by the Assembly of First Nations and the Native Women's Association of Canada overlap with the YWCA's stated positions on violence against women and economic security. Responses must be comprehensive and consider family support services, emergency support, shelters, effective cross-jurisdictional policing, services to prevent child welfare interventions, and increased awareness of and support for affordable and appropriate housing.

Finally, we note the emphasis on legal remediation—

• (1300)

The Chair: Madam van de Woerd, you have a bit less than a minute to conclude, please.

Dr. Kim van der Woerd: Great, I'm almost done.

We note the emphasis on legal remediation within Bill S-2 is in keeping with the mission of the YWCA on ending violence against women and girls. We advocate for the recognition of, and need for, prevention services and programming to work toward eradicating violence on reserve.

To conclude, YWCA Canada recognizes the positive intent of the changes within Bill S-2 and advocate for sufficient and appropriate provisions to be in place to support aboriginal women and children and ensure the efficacy of this bill.

Thank you.

The Chair: Thank you, Madam van der Woerd.

Before we'll continue, I want to thank all the members of the committee who allowed us the flexibility to make sure every party around the table will have at least seven minutes before we end this session. That also means that we might continue to 1:30 or 1:35,

depending on when we finish. If there's anyone who needs to leave the session before the end, we understand.

Madam van der Woerd, when do you have to leave?

Dr. Kim van der Woerd: I leave in seven minutes.

The Chair: Okay. So we will make sure that if we ask questions, we will make them short.

Thank you.

I'm turning now to Madam O'Neil Gordon for her seven minutes.

Mrs. Tilly O'Neill Gordon: Thank you, Madam Chair. I want to thank the witnesses for being here today.

I want to also assure you that our government has always sent a clear message that violence against women, violence among families will not be tolerated.

As you know, I have had many consultations during our study on this, over the process of Bill S-2, and we have namely had 103 at a cost of \$8 million. Now, having taught on a reserve, I have witnessed issues and seen the need to act on this and how important it is to stop violence against children, stop violence against men and women as well. That is the aim of our study and our government and our status of women committee. We need to see this proceed and carry on.

You also mentioned at one point that the emergency days cannot go beyond 90 days. I want to cover this before your time is up, Kim. This has been changed, and those 90 days can go on to whatever is decided in the court. So that is an important change, and it's important we all know that.

You also mentioned that you were speaking with your grandmother, and I was also at this point wondering if you have spoken to any other women and what was their comment. They must see some good issues in this.

This is to Kim.

• (1305)

Dr. Kim van der Woerd: Thank you for your comments. I am pleased to hear that there is that flexibility to have the additional days, should that be required, when it's required.

I have spoken to many women about this, and we actually were able to do some work on the first nation market housing fund, and that was a concern. Real property came up and then also another round of the bill, in its earlier iterations, came up as a concern in movement toward marked-based housing.

In my community and in other communities that we work in, we have had comments to the effect that it's very challenging for the chief and council to make decisions on housing around the certificate of possession. I have heard of many instances within my family and within my communities about removal from the home and the challenges that this led to.

Mrs. Tilly O'Neill Gordon: Okay, thank you.

Are you familiar with the purpose of the section on divorce proceedings pending in subclause 43(2) in Bill S-2?

Dr. Kim van der Woerd: No, I'm not.

Mrs. Tilly O'Neill Gordon: This clause allows a court that is already hearing the spouse's divorce proceedings to address the items outlined in Bill S-2 at the same time as the divorce proceedings, and then this way spouses who are already going through a divorce will have the option to include the legal discussion and the vision of their matrimonial real property as well as the determination of the final occupation of the home. This will not create further visits to the court. The goal is to simplify the process wherever possible so that a full slate of services can be provided with one visit. I'm wondering whether you think that men and women going through a divorce should have the option to legally divide their matrimonial real property and determine who will occupy the house.

Dr. Kim van der Woerd: In understanding the context for this bill, I was recognizing that there is a gap within the rules that are governed in the Indian Act. There are rulings in the Constitution around the division of properties, so I was reviewing that in preparation for coming today, and I don't see why we shouldn't have that opportunity to have that discussion. The points that they include in the Constitution around the division of property and divorce proceedings states that the division of property is based on a number of factors, which should be taken into consideration where one member in the relationship is generally disadvantaged, and in this case, it's predominately the women. So they should have access to an equitable settlement in this case.

Mrs. Tilly O'Neill Gordon: Thank you for your comment.

I'm wondering, have you discussed with your membership the factors that must be considered before the granting of an exclusive occupation order as laid out in clause 20 of Bill S-2?

If so, what was their comment, their reaction?

Dr. Kim van der Woerd: I haven't had the opportunity to have more in-depth conversations.

My role was to represent the YWCA this morning and emphasize the point on the need for sufficient provisions to have an effective implementation of this bill. So I have not had that opportunity.

• (1310)

Mrs. Tilly O'Neill Gordon: Have you read the bill in its current form?

Dr. Kim van der Woerd: I've read a summary of the bill in its current form.

Mrs. Tilly O'Neill Gordon: A summary.

Now, I congratulate you on the work you would be doing with the YWCA, and for sure, you would certainly have had lots of opportunity to see what violence does cause and the effect it has on children. One of the items that is in this bill is that we consider "the best interests of any children who habitually reside in the family home, including the interest of any child who is a First Nation member to maintain a connection with that First Nation".

That seems like a very important aspect, and I'm wondering what you have to say about that.

The Chair: A very short answer, please, Madam van der Woerd.

Dr. Kim van der Woerd: I'm sorry, could you repeat the last part?

Maintain connection with...?

Mrs. Tilly O'Neill Gordon: The best interests of any children, in other words, should be considered as a result of a divorce. That's one of the factors in Bill S-2, and I'm wondering what your comment is on that. Do you consider that as an important factor?

Dr. Kim van der Woerd: Child protection is a very important factor, and children should have the opportunity to remain with their family whenever possible.

The Chair: Thank you very much.

I'm turning now to Madam Ashton, for seven minutes.

Ms. Niki Ashton: Ms. van der Woerd, just to double-check, do you have time? I was under the impression that you had to leave.

Dr. Kim van der Woerd: I do have to leave.

Ms. Niki Ashton: Sure.

The Chair: Thank you very much for being here with us.

I'm sorry for the delay. We had votes, and we needed to delay our meeting.

Thank you very much for being with us, and we'll let you go.

Ms. Niki Ashton: Thank you very much, from our side, Ms. van der Woerd. It's unfortunate that we didn't have the time to ask you questions, and so many important points were raised.

Mr. Cyr, there's no question that the friendship centres do really critical work with aboriginal women, men, and youth in many communities. I'm very proud for the chance I've had to work with friendship centres in the area that I represent. However, I've been concerned at times when the government hasn't been there to support the critical work, particularly with young people, for example.

Recognizing that this legislation is about on-reserve first nations, I think has somehow been lost in the fray. We've spent quite a bit of time hearing from the Congress of Aboriginal Peoples, who don't represent on-reserve first nations. We've heard a lot of rhetoric. The reality is that we have to be clear about who this pertains to.

Now I'm wondering, in your experience in working with the friendship centres, in terms of bringing an on-the-ground perspective, could you speak to us about some of the reasons why people leave first nations, whether it's in Manitoba or across the country?

Mr. Jeffrey Cyr: The reasons make a pretty long list, but we'll try to put some of it in plain speak.

People have been migrating to cities from rural areas and reserves at a fairly rapid pace for the better part of 50 or 60 years. This is not a trend unique to Canada. It's happening around the world. People migrate for a couple of key reasons, usually it's driven by economics. You want a certain level of education, or you want a certain level of access to employment. As you well know, around the country, around certain reserves and rural communities, for Métis or Inuit as well, that opportunity doesn't exist. So you need to travel. You may come back to your community, but you need to travel to find those opportunities.

There are other reasons as well: health care. Where do you have access to health care and access to services more generally? This refers directly to Bill S-2 because people leave divorce and separation situations for a variety of reasons when they occur, and they need services. I know this. I was divorced six years ago. I went through the process, and it's not fun. There's not a lot of guidance, even if you're not aboriginal and aren't dealing with the complexities of a first nation's law or Indian Act law on reserve, and the complexities of inter-working that with provincial law as well.

For this committee, the problem exists of access to services for those people affected by Bill S-2, or affected both before and after Bill S-2's potential passing, and it's going to exist for a long time. One of the reasons is that it takes a long time to resolve marital and other spousal disputes on or off reserve. It takes years, and in those years you need service. Ninety days is nothing; 180 days is nothing in that situation.

So what do those people do? Their home community, whether it's a reserve or not, may not be a friendly place to be for 180 days.

• (1315)

Ms. Niki Ashton: I think you're painting a picture that certainly those of us on the ground, who know first nation people who live on reserve.... Is one of the reasons that people leave the lack of housing? Even in marital breakups, or whatever breakup—family, children, adult children—do they come to friendship centres and urban centres seeking help? We're talking about the ones that friendship centres deal with, in part because they don't have anywhere to live on their reserve.

Mr. Jeffrey Cyr: Absolutely. I don't have specific numbers of those seeking housing, but a great majority of them come to friendship centres because in some areas they provide housing or they know where it's provided, and they act as a navigator for people in urban centres. So, yes, they come for housing. They may even come to ask where to get legal access, how to navigate the system, what to find for their kids: where is the child care, where can they go to school, what can I do? Housing has a whole bunch of ancillary things that go with it when you move.

Ms. Niki Ashton: Do you have questions around where women can access shelters or counselling?

Mr. Jeffrey Cyr: All the time. What I tried to get to in my comments, though probably a little more generally, is that people who live on reserve, whether facing issues of matrimonial real property or not, come to urban centres and ask where they do these things and how the city works. It's like a foreign country. It's like moving to Paris. Where do I get my basic services, and how do I live? That is not always crystal clear. There aren't always service centres where you can go and figure it out. That's what friendship centres were originally there to do. The original concept of a friendship centre is a familiar face with a familiar language who says you need that, you need to go over here, even if you're pointing at a United Way service, or a government service, or whatever it is. So it's that ability to help those who need help when they need it. That's why it's called friendship.

This is really a point about long-term planning. Legislative changes are fine, and I won't speak to the law and the legalities of Bill S-2 and how the bill is written. What we're speaking of here is

the planning that comes both before and after that. How do we pick up the pieces?

Mixing social issues is very complex in the urban environment. I would suggest a lot of thinking has to go in as implementation happens about where people are going to get service. If you have a year's waiting period, that's going to be a busy year, I bet, for people to figure out how they are going to do this. Yes, a legal centre of excellence is proposed for first nations to access, and that's great, but there's a human component that I want to talk about, and that human component needs to figure it out. They're going to ask what happens in one year.

The Chair: Thank you very much.

I'm turning now to Madame Bateman for her seven minutes.

[*Translation*]

Ms. Joyce Bateman (Winnipeg South Centre, CPC): Thank you, Madam Chair.

[*English*]

Thank you so much for being here with us, Mr. Cyr.

I can speak first-hand, as a former school trustee, to the importance of your organization in Manitoba. We served many of the same children and families. You were the point of reference; you were the guiding hand. You often connected young women in distress and with young children to the Winnipeg school division, and I thank you very much for that.

The housing piece has been spoken of. Since 2006 we've put more than a billion dollars into aboriginal housing through Aboriginal Affairs and Northern Development Canada. In 2009 through to 2011, we increased that by an additional \$400 million. There was another Aboriginal Affairs allocation of \$150 million. There was a CMHC \$150 million allocation in that period of time, and about \$143 million is spent annually by CMHC to support specific needs of aboriginal households off reserve. As well, the Canadian economic action plan put another \$200 million into this. So there is money going into houses.

But in your remarks, sir, you made the comment that people are escaping domestic violence. Regardless of the house, if you have no rights to stay in that house with your children, if you're thrown out of the house as a result of a conflict, organizations such as yours are crucial in the urban setting.

You've talked about how you are reaching out to these people, and another witness, who has gone now, earlier talked about aboriginal women being three times more subject to domestic violence. This is what we're trying to help with. This is what we're trying to achieve, and it seems to me that you are, too. You're supporting these people.

How do we best work together on this?

• (1320)

Mr. Jeffrey Cyr: Thanks for the question.

Unfortunately, I return to the issue that there are many complexities.

Ms. Joyce Bateman: Oh, I really do respect that.

Mr. Jeffrey Cyr: There are some resources. I don't think there are enough, whether on the housing side.... Especially in the off-reserve setting, I think there is more work to be done. Although some investment has happened over the last number of years, I think we may just be shaving off the tip of that iceberg. I think there's a lot more that needs to be done in an urban setting for affordable, sustainable housing for low-income families.

Ms. Joyce Bateman: What we're trying to address is the challenge that, on reserve, women do not have rights.

I just had a conversation with my son last night. He's 21. I told him what we were working on. He was incredulous that women in this day and age do not have matrimonial property rights. He said, "I hope you can fix that, Mom." Well, we all hope we can fix it.

But you are talking about the need for off-reserve help. We're talking about ensuring that these women and children don't have to have their lives disrupted, that they get to stay on reserve, if that is their choice. The fact that their marriage breaks up—this happens in the world—doesn't mean that they have to become homeless.

Quite frankly, you and I both know that some of these young women have turned to prostitution just to survive when they go to the city.

The Chair: I have a point of order being raised.

Ms. Niki Ashton: On a point of order, with all the greatest respect, we just had witnesses earlier who talked about matrimonial property arrangements on reserves where women—

Ms. Joyce Bateman: Well, I'm talking to this witness—

Ms. Niki Ashton: No, statements such as, "Aboriginal women don't have rights" are egregious.

The Chair: Madame Ashton, I hear debate. I don't hear a point of order. Thank you.

Madame Bateman, it's your turn.

Ms. Joyce Bateman: Thank you, Madam Chair.

That, of course, is a fact. They don't have matrimonial property rights.

An hon. member: That's not true.

Ms. Joyce Bateman: They have them on 22 reserves. There are more than 631 in Canada. There's a home there; they don't get to stay.

Mr. Jeffrey Cyr: Maybe it's best that I return to your original question about how we do better. That's a really key question.

I think a lot more effort has to be put in by governments, federal and provincial, on the coordination of services and on investing in organizations to provide a human capacity to help human beings. Websites only do so much; referral services only do so much. We need to look at where the majority of people facing the issue—whether of violence or not—of leaving reserves get services.

Ms. Joyce Bateman: Can I just clarify something? Did you, in your testimony, say that you have just invested in a new website?

Mr. Jeffrey Cyr: Yes.

Ms. Joyce Bateman: Why would you do that, if it's not an effective way to reach people and help people?

Mr. Jeffrey Cyr: There's not a service like it that exists. It's a way to refer people to programs and services that are out there.

● (1325)

Ms. Joyce Bateman: So it's useful, then.

Mr. Jeffrey Cyr: It's useful to a degree. But you're running a website, and if you are facing issues—you're leaving, you're transitioning, and it's urgent for whatever reason—at the end of the day, having a human service at the end of it.... All the website does is refer you to where the people and services are. The website is only as good as the services that are there. What I'm saying is that there's not enough investment in the services on the ground.

Ms. Joyce Bateman: But the woman who gets thrown out of her home with her children, who goes to Winnipeg, turns to prostitution, tries to get your help and the school division's help to get her children into a proper placement.... Could that not be avoided with this legislation?

Mr. Jeffrey Cyr: I don't know in that specific case whether it can be avoided or not. There are many reasons that—

Ms. Joyce Bateman: Well, she would still have access to the house, with this legislation. She wouldn't get thrown out. Her children wouldn't become homeless. This is the issue we're trying to address.

Ms. Niki Ashton: [*Inaudible—Editor*]...friendship centre.

Ms. Joyce Bateman: I'm sorry, you were interrupted, sir. There's noise in the background.

Mr. Jeffrey Cyr: I think changes to the human rights issue that surrounds matrimonial real property are overdue. I said that at the beginning. As to the way they get to be implemented, I'm not a legal expert. I deal with people getting services in cities.

The Chair: Thank you, Mr. Cyr. I'm sorry, but I need to interrupt you. The time is over.

Mr. Jeffrey Cyr: That's okay. That's essentially the point.

The Chair: I'm turning to Madam Bennett for seven minutes.

Hon. Carolyn Bennett: Thank you for addressing the complexity of this and making the point that without core funding, project-by-project piecemeal ways will never put in place the kinds of programs that you know need to be there.

Would you agree with Wendy Grant-John, who wrote the original paper for the minister, that without these kinds of supports from the federal government, matrimonial real property protections will simply not be accessible to the vast majority of first nation people?

I think what she's saying is that at the beginning, the viability and effectiveness of any legislative framework will also depend on the necessary financial resources being made available for the implementation of non-legislative measures, such as the programs you deliver.

Mr. Jeffrey Cyr: I agree. I agree that with every piece of legislation, this is the way. That's what I talked about: looking at the complexities, how legislation is brought in. It has far-reaching implications that sometimes are not thought of.

On the human services side—those things that allow people to properly access the changes that are going on—in Bill S-2, which I don't necessarily disagree with, there are still a whole bunch of services that need to happen and there still needs to be a way to access them.

Yes, there needs to be a greater acknowledgment of that.

Hon. Carolyn Bennett: Madam Chair, seeing that I was unable to ask the AFN... As you know, I do believe that this bill was sent to the wrong committee. Without the expertise, the knowledge about the collectivity of first nations, and seeing this is a bill of the Minister of Aboriginal Affairs, as well as what we've seen today even in the way the panels are structured—to not have a full hour for the AFN—this has caused huge problems in terms of the way that we need to proceed.

I would ask the chair if the clerk could ask the AFN to table the research—which would have been my question—about how, without adequate policing, emergency protection orders can actually increase the violence and decrease the security of women, who have to flee to organizations like Mr. Cyr's in town because they cannot be safe in their own home. I would like the clerk, if she would ask, first, for the regional chief to table the full set of remarks as well as provide the research that showed that emergency protection orders, without adequate policing, don't actually save lives and may actually make things worse.

Secondly, because I didn't get to ask Chief Robert Louie, I'd like the financial impact on first nation band-owned homes, if a provincial court decides that the band needs to pay the spouse who will not remain in the home; how that could impact on the financial stability and responsibility of first nations; and whether that burden would meet a test in court if indeed it is enacted. I'd like to know what that could mean to first nations in terms of band-owned homes.

I guess we have an ongoing conversation, Mr. Cyr, about how we fulfill the concern. We on this side, I believe, think that it's irresponsible to proceed with the bill until the other things are in place. Because what we're hearing from first nation women across the country is that it does not do the trick of increasing their safety, unless you have the resources to meet those needs and first nations on reserve have the ability to meet those needs.

Are you comfortable going ahead with this bill, without the things in place that Wendy Grant-John suggested were necessary?

• (1330)

Mr. Jeffrey Cyr: I don't think my comfort is really at issue.

I appreciate the question, but I don't think it's about the friendship centres and our level of comfort. I leave it to my first nation brothers and sisters on reserve—those chiefs, those councils, those bands, and the AFN—that have to deal with the ramifications at home where they are.

Hon. Carolyn Bennett: They've been pretty clear. They don't like it.

Mr. Jeffrey Cyr: I think they speak for themselves, and I don't pretend to do that.

I would suggest that there are ramifications in dealing with it, which many people have hinted at, that will come out of this piece of legislation. Any piece of legislation that's new has ramifications. It takes time for Canadian society to absorb it: what does that mean? There are all kinds of little things we didn't think of as we went through these processes.

I think that services need to be looked at and need to be enhanced in the urban environment for aboriginal people, without a doubt. We've always maintained that. These situations will create a new demand, or an enhanced demand, on those services. They're not going away. They may have remedies now, legally, within a piece of legislation, but it may take time to see those remedies through, and it's the time that becomes critical between seeking your remedy—whether it's an injunction, or an order, or whatever it is—and actually being back in a home, or in a home where you can take care of yourself or your children.

It's that time and it's that gap. It's not a comment on the legal proprietariness of the bill itself—it is what it is and the consultation process is what it is—it's what will happen, or what happens now, that concerns us as an organization. It seems to concern the YWCA as well, because they end up in our centres, and then what do we do?

[*Translation*]

The Chair: Thank you, Mr. Cyr. Thank you, Ms. Bennett.

This concludes this meeting of our committee.

Mr. Cyr, on behalf of the committee, I would once again like to thank you for having taken part in our meeting. The clerk will follow up on the questions Ms. Bennett raised.

Thank you, everyone.

The meeting is adjourned.

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