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# Standing Committee on Citizenship and Immigration

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**Tuesday, April 8, 2014**

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**Chair**

**Mr. David Tilson**



## Standing Committee on Citizenship and Immigration

Tuesday, April 8, 2014

•(1530)

[Translation]

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe (Pierrefonds—Dollard, NDP)):** Good afternoon, ladies and gentlemen. We can begin the 20th meeting of the Standing Committee on Citizenship and Immigration.

Today, pursuant to Standing Order 108(2), we will continue our study on strengthening the protection of women in our immigration system.

[English]

Today, for the first part of our meeting, we have with us by video conference the Ministry of Business, Innovation and Employment of New Zealand.

Thank you very much, Mr. Fraser Richards, Madam Lynda Byrne, Madam Christine Hyndman, and Madam Phillipa Guthrey for being with us. It is a pleasure that you accepted our invitation.

I will give you the floor for approximately 10 minutes for your opening remarks.

[Translation]

**Ms. Christine Hyndman (Manager, Immigration Policy, Ministry of Business, Innovation and Employment of New Zealand):** Thank you, ladies and gentlemen.

[English]

Thank you for inviting us again to appear before you. I have about 10 minutes worth of notes. After the meeting, we will send you a fuller document with the details so you don't need to take notes. People who are watching—

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Okay. I would ask you to wait a bit. We just lost the video conference. We'll suspend the meeting for a minute or two while we try to reconnect with our witnesses.

We'll be back as soon as possible.

•(1530)

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

•(1535)

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Can you hear us? Everything's good?

Let's continue. Sorry about that.

You have the floor.

**Ms. Christine Hyndman:** No problem, thank you.

I'll run through partnership policies, domestic violence policies, and will comment on our culturally arranged marriage provisions and the work going on to combat forced marriage. I will talk a little about our prostitution legislation as well.

As an overarching statement, our partnership policies, along with all of our other immigration policies, are not prescribed in legislation. We have framework legislation and we then have certified immigration instructions, which the Minister of Immigration authorizes. This means that our immigration system is quite flexible and it means therefore that we can change policies reasonably quickly. We're reviewing our partnership policies at the moment and this might result in changes, possibly next year.

So, partnership.... For residents, the partnership residence policy allows partners of New Zealand citizens and residents to apply for a residence class visa to live with their partner in New Zealand. Its objectives are to strengthen New Zealand's families and communities, contribute to our social cohesion and development, and attract and retain skills of New Zealand citizens and residents with non-resident partners. To be granted a residence-class visa, applicants must satisfy an immigration officer that their partnership is genuine and stable, that it is exclusive, and likely to endure. The immigration officer must also be satisfied that they have been living together with their New Zealand partner for 12 months or more. That's the case whether they are married, in a de facto relationship, or have a civil union. If they have not lived together for 12 months we have deferral provisions to enable the qualifying period to be met.

Unlike Canada the New Zealand partnership policies do not have a sponsorship element. This is something we're looking at in our review, though. Another difference between New Zealand and other countries is that New Zealand does not have a probationary period for residence visas for partners of New Zealanders apart from the temporary visas that may be granted to enable them to make the 12-month living together requirement.

The number of residence-class visas granted on the basis of partnership in the 2012-13 year was 10,039. This was about 30% of all residence visas granted that year. Each year around 60% of partnership applicants are women. We give priority in processing, so decision-making for residence applications made under the partner of an expatriate category, in this case a supporting partner must be a New Zealand citizen or resident who has been absent from New Zealand for at least two years. These applications are allocated to a case officer within 10 working days. They will usually be decided within two to three months. The reason for this is that we have a very big expatriate population. Many New Zealanders live overseas so it's an attraction-retention mechanism for our skilled New Zealand citizens.

For a New Zealander to be eligible to support a residence-class visa application under partnership policy they must not have been a partner in more than one previous application, so there's a maximum of two foreigners who can be brought to New Zealand under this policy; not to have been a partner in a successful application in the previous five years; not to have been the perpetrator of domestic violence resulting in a domestic violence visa for a previous partner; and they must meet certain character requirements, including not having a conviction for sexual or domestic violence offences.

Under our temporary policies we have a number of temporary work visas available for partners: partnership for partners of New Zealand citizens or residents, which was around 13,500 approvals last financial year; partner of a worker, approximately 12,000 approvals that year; partner of a student, approximately 1,500. For the purpose of inclusion in a temporary application or residence application, it's a person who is legally married, a person who is in a civil union relationship, a person who is in a de facto relationship, which means living together. They must all be in a genuine and stable partnership. There are no duration requirements for the temporary entry visas, however.

• (1540)

Partnership fraud is presenting a serious and increasing challenge for New Zealand. Immigration officers report that partnership-based applications are extremely difficult to decline, even if there are suspicions that they may not be genuine. There are high levels of approval, over 95% in the last financial year. Challenges from lawyers and immigration agents were noted by immigration officers as the major reasons not to try to decline suspicious cases, or not to decline them, in any case.

Immigration officers say they can find it difficult to assess whether a relationship is genuine or not, despite the fact that under our immigration instructions the onus of proof is on the couple, rather than on Immigration New Zealand, with regard to proof of the relationship being genuine and stable.

The fraud branch reports that approximately a quarter of the referrals to it are partnership fraud. While the majority of this fraud is ad hoc and individual family-based, there are indications that organized partnership fraud is a growing problem. While the majority of partnership fraud cases involve both partners being complicit in the fraud, Immigration New Zealand is also finding an increasing number of cases in which the supporting partner—the New Zealand partner—is being, or has been duped.

The level of partnership fraud is impossible to quantify. This is not peculiar to partnership fraud of course. On the one hand, referrals are often malicious, but on the other, even if it occurs, neither party will report it, as potentially both could lose their immigration status if both of them are foreign. It is also hard to get convictions. Prosecution is unlikely to be successful, as it is very difficult to get witnesses to testify.

In regard to victims of domestic violence, only partners of New Zealand citizens and residents are eligible for the domestic violence policy provisions. We don't have any policies for partners of temporary visa holders when the relationship breaks down through domestic violence and they're both in New Zealand on temporary visas.

We have two types of visas available under the policy: a work visa and a residence visa. For the work visa, the applicant must be in New Zealand, be or have been in a partnership with a New Zealand citizen or resident, and have intended to seek residence in New Zealand on the basis of their partnership. The partnership must have ended due to domestic violence by the New Zealand partner or a family member, and the applicant must show a need to work to support themselves.

An open work visa can be granted for six months. This can be extended to nine months if the applicant applies for residence, which does imply.... You can see that the residence application decision will be quite quick once it's made. Applications are determined by immigration officers who have received specialized training, and they are prioritized for processing.

For the residence category visas, the applicant must have intended to seek residence on the basis of a partnership with a New Zealander, and the partnership must have ended through domestic violence. Further, the applicant must be in New Zealand and then must be unable to return to their home country. This can be because of social stigma that they would endure if they had to return. The applicant must meet standard health and character criteria, although waivers can be considered, particularly for health conditions.

In 2012-13, 62 people applied for residence under this category, and of those 41—which is 66%—were approved. Each year, over 95% of applicants are women, but not—obviously—exclusively women.

For evidence of domestic violence, applicants can provide a conviction of the partner, a protection order against the partner, a complaint of domestic violence investigated by the police where police are satisfied that domestic violence has occurred, or a statutory declaration from the applicant and two independent, qualified people—these can be a social worker, a doctor, a nurse, a women's refuge staff member—stating that domestic violence has occurred.

In terms of culturally arranged marriages, people intending to marry New Zealand citizens or residents of New Zealand may be granted a visitor visa for up to three months. For this they must satisfy an immigration officer that the marriage follows a cultural tradition where the arrangements for the marriage—including the selection of the persons to be married—are made by people who are not parties to the marriage.

● (1545)

The immigration officer must be satisfied that they intend to marry within three months and that the intent is that the marriage will be maintained on a long-term and exclusive basis. Otherwise, normally we will not permit people to come to New Zealand to get married, if they have not met their New Zealand partner.

Holders of this visa may be eligible for an initial 12-month work visa as the partner of a New Zealand citizen or resident after the marriage has taken place. This will enable people to satisfy their living together requirements so that they can then apply for permanent residence. In 2012-13, 116 applications were received under this category. Of these, 57 or only one-third were approved.

There have been concerns that this policy may be used to enable forced marriages. There are protections in place to ensure the consensual nature of marriage. Other than two exemptions, which are for Quakers and one small Christian church, all marriages must be conducted by an approved and listed celebrant. A celebrant or registrar must not knowingly marry someone under age 16 or under 18 without parental consent. Registrars or celebrants must refuse to issue a licence or solemnize the marriage if they believe the marriage is not consensual.

Concerns have been raised about so-called cultural marriages that take place without a licence or approved celebrant. This suggests that those who conduct forced marriages do so outside the law, which may happen in New Zealand or elsewhere. The New Zealand government monitors the number of marriages involving people under the age of 18. In 2013 there were 57 marriages involving a person under 18.

Concerning forced marriage, concluding observations made by the United Nations Committee on the Elimination of Discrimination against Women in 2012—the last time we were examined—expressed concerns about reports of forced and underage marriage in New Zealand. While the issue of alleged forced marriages has been periodically raised, there hasn't been any actual evidence of its taking place. The government remains aware that it's a potential issue.

A letter of agreement on forced marriage signed last year outlines the governmental multi-agency response to any reports of forced marriage. Immigration New Zealand is a signatory to the agreement and is committed to work with individuals who approach it for immigration assistance, to treat inquiries confidentially, and to work closely with the external partner agencies to determine any immigration-related issues and to treat any applications as a priority.

Government agencies are working to increase the understanding of forced marriage and to raise public awareness, including, obviously, of its illegality. New Zealand police deliver training for staff on forced marriage and the types of violence commonly

associated with forced marriage. Specialist police staff are available to investigate cases of forced marriage, and they're engaging with local communities to build trust and confidence.

As part of the migrant and refugee resettlement strategy, the Mangere Refugee Resettlement Centre in Auckland provides education on forced marriage to all people resettled in New Zealand under the refugee quota. So all of our quota refugees get specific information about forced marriage and its legal status in New Zealand and our extreme desire to prevent it from occurring.

I'll conclude with just a little comment on our Prostitution Reform Act. It was passed in 2003 and it decriminalized prostitution; however, it includes protections for people who are not New Zealanders. Specifically, no one can provide commercial sexual services or in fact invest in commercial sexual services or manage commercial sexual services, unless they're either a citizen or a permanent migrant without conditions on their visa. The aim was to put the legislation through with a harm minimization focus. It was considered at the time that people who were in New Zealand on temporary visas and who possibly did not speak English very well were at high risk of victimization.

● (1550)

I'm finished now.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you very much, Madame Hyndman.

[*Translation*]

We will now move on to the question period, which will end at about 4:20 p.m. to allow the next witnesses to join the meeting.

Mr. Menegakis, you have the floor. You have approximately seven minutes.

[*English*]

**Mr. Costas Menegakis (Richmond Hill, CPC):** Thank you very much, Madam Chair.

I'd like to thank our witnesses for appearing before us today from beautiful New Zealand. I also want to thank you for the early time at which you went into the office today to participate in this meeting. I know that it's about eight o'clock Wednesday morning there. You should know that here in Ottawa, Ontario, Canada, it's just before four o'clock p.m. on Tuesday. So we're even meeting on different days, if you will.

We have decided in our deliberations to do a study on strengthening the protection of women in our immigration system. As you may know, Canada is one of the most welcoming countries in the world. Unfortunately we have seen repeated cases of abuse of our spousal sponsorship program in our immigration system.

Last week, for example, we had a witness appear before us named Salma Siddiqui, who discussed various cases of fraud that she has experienced, some of a nature personal to her and her family. She shared with us a story of a recent trip she took to Pakistan. She visited an immigration consultant there, posed as a single Muslim woman, and asked for advice on what some options would be. The advice she was given, surprisingly, was to engage in a paper marriage and go to either Canada or Australia, believe it or not.

Is this a problem you've seen in New Zealand?

**Ms. Christine Hyndman:** It's a problem we are aware of. I'm not sure that it's a very large problem as yet. I think the fact that people are being given advice to go to Canada or Australia and that New Zealand is not on the list is an issue for us with regard to skilled migrants, but probably much less so in the case you describe.

We've always been aware of it as an issue. I remember that when we introduced the domestic violence provisions that we have, we had quite big concerns at that point that they might be exploited by people particularly from eastern Europe, because there's quite a large industry, which is developing as the Internet develops, of organized crime from eastern Europe either moving people, which is a big issue for immigration, or simply taking money from lonely people in the west who think they are looking for love.

**Mr. Fraser Richards (Senior Solicitor, Corporate and Registries, Ministry of Business, Innovation and Employment of New Zealand):** In terms of the evidence for these false paper marriages, we often see this as a last-ditch effort to remain in New Zealand. A person will have come to the end of their normal work visa or visitor's or student visa and then enter into a relationship for the purpose of trying to obtain a further work visa on the basis of that partnership. This is the way I've become aware of the paper marriages being entered into, when the person is already present in our jurisdiction.

**Ms. Phillipa Guthrey (Manager, Immigration International, Ministry of Business, Innovation and Employment of New Zealand):** As Christine mentioned in the speech she gave before, it's incredibly hard to actually prove. If you have half an ounce of sense, it's not necessarily that hard to stage a relationship that, to all extents and purposes, looks genuine. It's an issue that we're aware of and that is ongoing.

**Mr. Costas Menegakis:** Thank you.

Could you share with us how you in New Zealand combat marriage fraud or fraud or residency fraud that is based on a false relationship? Perhaps you can expand on the wide range of anti-fraud measures you've put in place, whether there are any fines involved in the process, and so forth.

**Mr. Fraser Richards:** We can talk briefly about the residency application itself or the temporary visa. There is a range of measures or a toolkit that immigration officers have for determining the genuineness of the relationship, which will often involve interviews with the partners together and with both separately. It can involve site visits to visit their dwelling and make sure that they appear to be living together.

• (1555)

**Ms. Christine Hyndman:** Sharing a bedroom....

**Mr. Fraser Richards:** Sharing a bedroom...and they will examine evidence provided, but it is difficult to disprove the genuineness of the relationship. After the fact, as we've spoken about, it's very difficult to re-examine a case or reopen that and prove that fraud is actually taking place because often it is the word of one aggrieved party against another. It's a he-said-she-said situation often, and difficult to prove. If we can establish fraud, and sometimes we can trace money changing hands, there are significant fines and imprisonment for providing false and misleading information to an

immigration officer. Up to seven years in prison, a \$100,000 fine, or both is on the table certainly for the courts. We have to get you some figures—I don't have them on hand—but I do not think it's very common for us to proceed with fraud prosecutions in these cases, just due to the difficulty in obtaining viable evidence and simply the court process itself.

We also tend to focus on systemic fraud in terms of large, wholesale organized fraud such as false job offers, etc. That's our priority rather than these one-off individual cases of fraud.

**Mr. Costas Menegakis:** Thank you very much.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you, Mr. Menegakis.

Mr. Sandhu, you have the floor.

**Mr. Jasbir Sandhu (Surrey North, NDP):** Thank you, Madam Chair.

Good morning to our witnesses from New Zealand, and welcome to this committee. We appreciate your time this morning.

I have a general question for anyone on the panel there. In Canada we have a two-year conditional requirement for a person or a marriage spouse to get a permanent residency after they have arrived. I understand that in New Zealand a one-year live-in situation is required for the person to apply after they have lived there one year.

What impact does it have on a spouse if there is spousal violence in that particular marriage? How does it impact that person?

**Ms. Lynda Byrne (Senior Advisor, Immigration Policy, Ministry of Business, Innovation and Employment of New Zealand):** You mean the partner of the New Zealander?

**Mr. Jasbir Sandhu:** If there is violence in their marriage and having to wait a year, how does that impact that person?

**Ms. Lynda Byrne:** That's what Christine was referring to...before they are able to apply for a visa?

**Mr. Jasbir Sandhu:** That's correct. To get a permanent residency, you do require one year, and if there is violence within that year, how does that impact on that person? Does it force them to—

**Ms. Christine Hyndman:** No. We have domestic violence policies specifically to address that issue. So if someone is living with a New Zealander and is intending to apply for permanent residence, and the relationship breaks down because of what we call domestic violence and what I think you call spousal violence, then there's a work visa available for that person to continue to live in New Zealand, to work, to potentially support any children they may have. Then they can apply for permanent residence also.

So if the domestic violence allegation is proven to a sufficient level, then the foreign spouse can apply for and be granted permanent residence.

**Mr. Jasbir Sandhu:** Where's the burden of proof? Is it on the spouse who's being abused, or is it that you go through a court system? How long does it take?

**Ms. Christine Hyndman:** It's quite short.

**Ms. Lynda Byrne:** It doesn't necessarily mean that they have to have a conviction. They could have a protection order taken out against the partner or make a statutory declaration that violence has occurred, which has been backed up by two independent qualified people.

**Mr. Fraser Richards:** So although there is a bit of proof placed upon the applicant, for the spouse who has been the victim, the level is quite low. It does not require a criminal prosecution. As a basis we can go as low as statutory declarations from independent people who are qualified in the field.

•(1600)

**Mr. Jasbir Sandhu:** In other words, it's not a long, rigorous court procedure you have to go through.

**Ms. Lynda Byrne:** No.

**Mr. Jasbir Sandhu:** Thank you.

**Ms. Christine Hyndman:** No, it's quick, and the statutory declaration can be someone from a women's refuge, for example, or a doctor, nurse, counsellor, or social worker.

**Mr. Jasbir Sandhu:** What percentage of the spouses sponsored in New Zealand would you say are financially independent?

**Ms. Christine Hyndman:** We don't count that. We don't have a minimum income threshold for sponsoring. We don't require the New Zealander even to assume sponsorship obligations. So it's not something that we measure at all. We could, however, in fact, look at it, because we have a research database that amalgamates text data with immigration data and some other government databases. So we could ask our researchers to see how many people paid tax within their first couple of years of being in New Zealand, and how much tax they paid. But yes, that's a very interesting question. Thank you.

**Mr. Jasbir Sandhu:** In order to sponsor a spouse from another country, does New Zealand require a language requirement or education requirement from the person who's being sponsored?

**Ms. Lynda Byrne:** No.

**Ms. Christine Hyndman:** No.

**Mr. Jasbir Sandhu:** Great.

What measures, if any, is your government taking to enhance economic and employment opportunities for immigrant women?

**Ms. Christine Hyndman:** We have a broad settlement strategy, which is not specifically aimed at partners but which does have aspects that are aimed at women or people who are, for example, likely to be remaining at home with caring responsibilities during the first period of time in New Zealand. So there's a lot of emphasis on providing information. There's an Office of Ethnic Affairs, which has a big community-support responsibility. There is settlement information provided by Immigration New Zealand, a lot of which is aimed at helping people to help themselves find their way within the community. There is also a lot of focus on employer readiness, so community readiness, that good settlement is not just something for the migrant, it is also for the community to be prepared, be aware of potential difference, be able to build on that difference for the benefits that diversity brings. But we don't have anything that is a specific program for partners.

I think some of this is a difference of scale. We're only 4.5 million people. We have a population that is about 25% overseas-born. So we don't have very large communities of particular ethnic groups, in general. But everywhere people go, they will see other people who weren't born in New Zealand.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Mr. McCallum, you have the floor.

**Hon. John McCallum (Markham—Unionville, Lib.):** Thank you.

I too would like to thank you all for being here.

We've been struggling with a problem, and I get the impression you might have come fairly close to solving it. One problem we have is that if a Canadian has his wife come to Canada, they are required to live together for two years. There's an asymmetry in the power relationship, because if there's abuse or violence, then the one who has come in from a foreign country is at risk of being deported. So that gives the husband, in this case, a lot of power over the woman because he might abuse her but she won't complain because she might otherwise be deported. If she does complain, in Canada I think the process is expensive and very time-consuming in order to be allowed to stay in this country. So for many the cost is prohibitive, so the domestic violence goes on and is unreported.

Now, in your case, if I understand it correctly, the couple has to live together in New Zealand for one year. Is that right?

•(1605)

**Ms. Christine Hyndman:** Yes. They may have lived overseas for one year. It's just the relationship must involve one year.

**Hon. John McCallum:** Because in your presentation, I thought the one year could occur before they come to New Zealand.

**Ms. Christine Hyndman:** It can occur in New Zealand, yes.

**Hon. John McCallum:** But it doesn't have to.

**Ms. Christine Hyndman:** No. If we have a New Zealander who has been living overseas, for example, and was married overseas, and lived together for a year or more overseas with their partner, the partner can apply for residence before they even enter New Zealand.

**Hon. John McCallum:** One difference is that in Canada, they have to live together in Canada for two years. In New Zealand, it's up to one year or less if they've lived together previously.

**Ms. Christine Hyndman:** Yes.

**Hon. John McCallum:** The other big difference from what I understand—and I'd like to ask you this—is if there is domestic violence, assuming it's the woman who is being abused, she has a relatively quick and not terribly onerous process by which she is likely to be allowed to stay in New Zealand, because I think I heard you say, 66% of the applicants were accepted. How long would it take?

**Mr. Fraser Richards:** I guess we should distinguish this. It's relatively easy to get a work visa after the relationship has broken down. However, there is a more onerous, rigorous process to go through in order to be granted permanent residence in New Zealand.

**Ms. Christine Hyndman:** But it's still 66% getting residence, though.

**Mr. Fraser Richards:** That's right.

**Ms. Christine Hyndman:** Yes, it is fast. Our residence processes are a lot quicker than Canada's in general, but the other thing about the domestic violence residence applications is that they have top priority for processing, so they have the same priority as a skilled residence application, or a refugee residence application, once an asylum claimant has been determined to be a refugee.

Those are the only three with top priority, and then the bulk has second priority in appearance of—

**Hon. John McCallum:** Sorry to interrupt, but I'm going to run out of time. Approximately how much time in a typical case would it take for this woman to go from the point of being abused and leaving the husband to receiving landed immigrant status?

**Ms. Christine Hyndman:** It should be less than a year.

**Hon. John McCallum:** It's less than a year. Would it cost a lot of money? How much money would she have to pay?

**Ms. Christine Hyndman:** No. Excluded from having to pay the migrant levy, which is what people pay once they've been approved, the fee is about \$800 or \$900. It can be waived if they are destitute, but the fee is around \$900.

**Hon. John McCallum:** Last question, I'm not a lawyer, but I seem to think the accusation of violence can be a long-drawn-out difficult legal process. If they can get through in less than a year, you must have pretty low standards from a legal point of view of proof and so on, which I applaud. I'm not saying that's bad, but how do you manage to get decisions about family violence adjudicated so cheaply and quickly?

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** A very short answer, please, Madame Hyndman....

**Ms. Christine Hyndman:** It's not done in the court system. It's done by Immigration New Zealand.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you very much.

Mr. Leung, you have the floor.

**Mr. Chungsen Leung (Willowdale, CPC):** Thank you to the witnesses from New Zealand. I do business quite frequently between Canada and Asia, and I know what it's like to wake up at these early hours to be communicating.

My question has to do with the provision of information to foreign spouses. Very often, we hear testimony from others that it would be great if the prospective spouse received information prior to arrival and post-arrival regarding their rights in Canada or in New Zealand, which is probably very different from some of the countries they're coming from.

How do you perform that? The reason I ask is that these rights for the spouse are to allow them an understanding that they're somewhat protected, at least by the law, when they come into this country. My concern is that when you have a person who is not conversant with one of our official languages, or in English in your case. How do you deliver that information to them? How many resources do you put behind that?

● (1610)

**Ms. Christine Hyndman:** It's not a huge amount of resources, I would say. Some of the immigration branches provide debt information to prospective applicants.

I know that in our Indian branches, for example, when people have been applying for visas to come to New Zealand, essentially either for cultural marriage or sponsored by someone who may have gone to India to marry them and is coming back, they try to provide written information with the visa going back. The difficulty, of course, is that information can be intercepted, so it's like the case with the fraudulent agent. You can't be certain the person who needs to get the information will actually receive it.

There is some information provided on the Internet, and that is translated into about the 12 major languages, I think. So if people can get onto the Internet and are literate, then they can read it there.

As I said, all of our quota refugees are told about New Zealand's laws, including laws around marriage and around violence and assault—that's both women and men—during the six weeks they spend after they arrive in New Zealand at the Mangere Refugee Reception Centre before they go out to where they're going to live, elsewhere in the country.

But I think there has always been, with regard to—

**Mr. Chungsen Leung:** So there is—

**Ms. Christine Hyndman:** I'm sorry?

**Mr. Chungsen Leung:** So there is actually an immigration officer who conducts this work at the post-arrival station?

**Ms. Christine Hyndman:** Yes, there is, for refugees only.

**Mr. Chungsen Leung:** But not for other sponsored spouses.

**Ms. Christine Hyndman:** No. For other sponsored spouses, the information that is provided is in the nature of being on the Internet, basically. There will be things in the community as well, if they join with community associations and so forth.

Someone who is very vulnerable, though, may have information withheld from them by their sponsoring New Zealand partner. The other issue, which is a big one, is that people may come from countries where they do not trust the government and do not trust the police. So even if they know that these provisions exist, they may not think they should complain to the police because they worry that this might get them into trouble.

**Mr. Chungsen Leung:** Yes. All right.

My next question has to do with how you determine whether the New Zealand resident is qualified to be a sponsor. I'm specifically asking whether you check his background for mental stability, for means tests as to whether he has the income to handle it, or as to whether there is any history of previous convictions. What sort of process do you go through to make sure that the sponsor—?

**Ms. Lynda Byrne:** They're not—

**Mr. Chungsen Leung:** Go ahead.



**Ms. Lynda Byrne:** They're not means-tested, so the income isn't tested. But they are checked as to whether they have any previous convictions of a sexual or domestic violence nature in the past seven years.

**Mr. Chungsen Leung:** So there are no means tests on the basis of income. Okay.

**Ms. Lynda Byrne:** No, there's no means test.

•(1615)

**Mr. Chungsen Leung:** Then my third question has to do with what the age of consent is. It wasn't quite clear to me.

You mentioned that below age 18 they need parental consent, but after 18 they're free to marry as they wish. Is that correct?

**Ms. Lynda Byrne:** Yes, that's right. They can't get married under the age of 16. Between 16 and 18, they need parental consent.

**Mr. Chungsen Leung:** There's a case in Denmark. I guess in Denmark the minimum age is being raised to 25.

Do you think raising the age would help the situation? Do you have any comments?

**Ms. Lynda Byrne:** Wow! I couldn't answer that. I don't know.

**Ms. Christine Hyndman:** Well, I guess in New Zealand we probably don't have sufficient evidence of a big enough problem to do that. There are lots of young New Zealanders who go away overseas every year as working holiday makers and who bring back partners. If they were 23 and they wanted to get married, I think that would be....

**Mr. Chungsen Leung:** I see.

**Ms. Lynda Byrne:** I think 25 sounds quite old.

**Ms. Christine Hyndman:** Yes, 25 sounds very old.

**Some hon. members:** Oh, oh!

**Ms. Lynda Byrne:** CEDAW has recommended that we don't have any marriages under the age of 18 whatsoever. It was one of the recommendations that they had in their concluding remarks.

**Mr. Chungsen Leung:** For my final question perhaps give a short answer, please. Can you outline for us, when you mention "employment ready" for a sponsor or spouse, what are some of the criteria you're assessing for employment readiness?

**Ms. Christine Hyndman:** No, sorry, we don't assess at all for employment readiness. We have a very permissive partnership policy, I guess. We have recently strengthened our parent policy so that now people have to be quite well off to be able to bring their parents to New Zealand. For skilled migrants we have quite a high bar, but for partners, we regard that on a completely humanitarian basis. The only thing that we try to make sure is that the New Zealand sponsoring partner is a good person, at least in terms of convictions. So we don't prioritize people who are more likely to do well in our labour market, for example. It's all on if you're loved by a New Zealander basically then you're in.

**Mr. Chungsen Leung:** You're very generous and kind people.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Yes, thank you very much to all of you for appearing in front of our committee. It was a pleasure and an honour to welcome you to this study.

We will now suspend the meeting to welcome our next witnesses.

Thank you very much to our witnesses from New Zealand.

•(1615)

(Pause)

•(1620)

[Translation]

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Order, please. We are resuming the 20th meeting of the Standing Committee on Citizenship and Immigration.

I would like to thank the three witnesses for being here today.

[English]

Mr. Lorne Waldman, barrister and solicitor, Lorne Waldman and Associates, is appearing as an individual in front of our committee.

[Translation]

We also have Ms. Humaira Madawa, Director of Maison Afghane-Canadienne. Hello.

[English]

By video conference from Richmond Hill, Ontario, from Yellow Brick House we have Madam Lorris Herenda, the executive director.

[Translation]

Mr. Waldman, I will give you the floor. You have eight minutes for your opening statement.

[English]

**Mr. Lorne Waldman (Barrister and Solicitor, Lorne Waldman & Associates, As an Individual):** Thank you for inviting me. It's an honour to appear before this committee, studying this extremely important topic.

I see far too frequently in my practice women who have suffered abuse. Unfortunately, our experience has been that in many cases the immigration system compels them to remain in abusive relationships. It doesn't assist them to escape abuse and doesn't provide them protection in Canada.

In the limited time I have, I'd like to give you three examples.

Recently we were dealing with a woman who came to see us who had been victimized by an abusive relationship. She was being sponsored by her husband in Canada. She left the relationship and went into a shelter because she and her children had been physically abused by her spouse, who was charged. The spouse notified immigration that the sponsorship he had submitted on her behalf was being withdrawn. She presented herself at immigration, where she was met by two CBSA officers, who detained her because they said she was in Canada illegally.

There was no consideration of the fact that she was a victim of domestic abuse. She was put into detention and was scheduled for deportation. It was only because we were able to get a stay because the two Canadian children's interests hadn't been considered that we were able to prevent the deportation. We submitted a humanitarian application, which was ultimately successful. She ended up spending several months in detention before she was released, but ultimately she was approved.

But the system didn't work for her. It didn't work for her because there was no reason that she should have been detained. There was no reason that she should have been threatened with deportation before any determination was made with respect to whether or not she was a victim of abuse. The system broke down.

What we need are clear guidelines presented to immigration officers whereby, in the case of a sponsorship breakdown and when there are allegations of abuse, before any enforcement action is taken and before there is any consideration of detention or any consideration of deportation, the humanitarian and compassionate factors should be considered.

I'll give you a second example.

A woman came into my office. She was victimized by spousal abuse. She had been sponsored and had come to Canada on a conditional visa. She didn't know what to do. If she were to leave her husband, she was afraid she would be deported; if she were to remain in the relationship, she was going to be victimized by abuse.

I understand the reasoning behind the two-year requirement, but I would urge you to reconsider it. When you balance all the different, competing factors, the presence of this two-year conditional visa often forces women to remain in abusive relationships, in circumstances that put their lives at risk.

The third example I want to give you has to do with victims of human trafficking.

I've seen in my office over the years several women who were victims of human trafficking and who were forced into the sex trade, mostly by the triads—at least, those were the women I saw. When they managed to escape, obviously they were at risk, if they were deported, because they would owe this huge debt to the triad.

Their claims for refugee status, however, were rejected. They didn't fit within the neat, conventional refugee definition because they were victims of crime and they weren't victims who fell within political opinion, or whatever.

We see these situations in which people are being deported even though they are victims of human trafficking. There doesn't seem to be any provision in the humanitarian and compassionate stream for consideration of the exceptional circumstances that might apply to victims of human trafficking, in circumstances in which their refugee claims are not accepted or they don't make refugee claims.

•(1625)

I would suggest to you that these are things that can be dealt with through policies by making changes to the immigration manual instructions and guidelines on processing humanitarian and compassionate applications that would require careful consideration

be given to victims of human trafficking, on humanitarian and compassionate grounds.

What we need to do is to ensure two things. We need to ensure that there are proper guidelines for consideration of the exceptional circumstances that are faced by women who are either victims of human trafficking and/or victims of domestic abuse. As well, we need to ensure that before any enforcement action is taken to deport or remove these women and/or their children, the enforcement action be delayed until the special circumstances of the abuse are considered, because in the current system, that isn't happening.

Those are my opening comments.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you, Mr. Waldman.

[*Translation*]

Ms. Madawa, you also have eight minutes.

[*English*]

**Ms. Humaira Madawa (Director, Maison Afghane-Canadienne (MAFCAN)):** Honourable members of the House of Commons, good afternoon.

I would like to thank you for giving me the opportunity to appear before the Standing Committee on Citizenship and Immigration.

My name is Humaira Madawa. I am a director at Maison Afghane-Canadienne. We are a non-profit organization based in Montreal, Quebec. Our mission consists of supporting the successful integration of new Afghan Canadians into our society; promoting Canadian values; enhancing and sustaining the self-sufficiency of emotionally, economically, physically, or educationally disadvantaged members of our community; protecting and assisting youth, women, and elderly Afghans at risk; and acting as an effective communication bridge between communities.

To address the question on how to strengthen the integrity of the immigration spousal sponsorship program in order to ensure the success of sponsored victims or spouses in Canada and prevent vulnerable women from being victimized by an abusive sponsor, I would first like to discuss some current challenges in the Afghan community in relation to the question. Second, I will discuss the challenges abused sponsored women face. Finally, I will provide a few recommendations on behalf of our community on how to improve the conditions of vulnerable people.

The Afghan culture is traditionally very patriarchal, resulting in the dominance and control of women. Afghan men who abuse women typically do so in order to maintain power within the family. Even in this day and age, women typically have a traditional role within the household, while men are breadwinners. The Afghan culture also emphasizes collectivism over western notions of individualism. Traditional Afghan families reside in joint family households, and extended family members are expected to cooperate to serve the interests of the family.

A new bride who comes into Canada has to live with the husband's joint family members and fulfill most of the expectations of her in-laws. She has to adhere to the conventions and customs of her home country. However, this family structure might cause additional problems because extended family members may encourage abuse, or even take part in it. Such cultural dynamics may discourage women from speaking out, as they sincerely believe it is their fate to accept the violence.

Arranged marriages are common in Afghan culture, and this practice continues to persist in North America. It is usual for Afghan men to marry women from their native country as the women are seen to be more traditional and could fulfill their customary roles, even in a Canadian society. When a new bride is sponsored and arrives in Canada, she is expected to adhere to Afghan cultural expectations. She may fail to recognize abuse or even acknowledge abusive treatment.

Furthermore, Afghan women face different challenges in reporting abuse and accessing services. Some of these barriers include isolation due to limited contact with family or others, no emotional support, immigration status due to prominent fear of deportation, financial challenges, and fear of losing her children. Language barriers reduce sponsored women's access to services and information about domestic violence. In the majority of circumstances, these women are completely clueless about the resources available to them. Prior to their arrival in Canada, these new immigrants are not informed sufficiently about Canadian values, rights, and freedoms.

Furthermore, some abused women do not seek help through the resources of the community because their sponsors and their families have established ties with members of the community. Immigrant women are thus reluctant to report abuse to anyone outside of the family. They fear that it will bring shame and alienation from their own community. Members of the community, though aware of these injustices against these women, face conflict of interest and choose not to blow the whistle. The combination of all these challenges in a foreign land makes these women vulnerable and helpless in breaking free from the abusive relationship.

The current conditional permanent residency requirement amplifies the vulnerability of sponsored women who are victims of abuse. Spouses with no children are required to live with their sponsor for a period of two years or risk losing their permanent resident status. Although an exception can be granted to one who can prove that she has been victim of abuse or neglect, this exemption is not always helpful to them. Victims are required to report the abuse in order to maintain their status, yet this is not an easy task. They are challenged by fear, shame, financial vulnerability, and other obstacles. Furthermore, they have to prove that the abuse took place. In a culture that is still hesitant to acknowledge the prevalence of abuse towards women, speaking out can be the most difficult task.

• (1630)

For example, in Montreal there was the recent family murder case of the Shafias. The first wife was sponsored to Canada on a visa as a domestic servant of the family. She found herself trapped in an abusive marriage and was too afraid to flee. She ended up becoming a murder victim. There are many other similar cases of polygamy and abuse among the eastern cultures.

On behalf of the Afghan community in Montreal, I would like to recommend a few measures to the committee to prevent vulnerable women from being victimized in abusive relationships and also to ensure a better integration of new immigrants into our society.

First, prior to their arrival in Canada immigrants should be informed in their language of origin of Canadian laws, rights, values, and available services. They should be informed that they could seek the help they need, should they be victims of abuse by their sponsors. There are currently no programs in place in foreign embassies to educate these women about their rights.

Furthermore, new immigrants should also be informed of employment, education, and linguistic and social integration programs. Attendance to this information should be mandatory as part of their sponsorship application before they leave their native countries. This measure would not only prevent vulnerable women from being victimized by an abusive sponsor but also facilitate their integration in Canada.

Second, upon the arrival of new residents in Canada, integration courses should also be made mandatory for new residents in order for them to acquire linguistic skills, learn about their rights, and to be educated on their participation in the workforce. Additionally, counselling services should be available at these centres for individuals in need. As previously mentioned by your witnesses, isolation and language barriers are the root causes of vulnerability of abused women. Through this program, women would not only be forced to step out of their homes but would also meet other people, acquire autonomy, and therefore break free from isolation. An abusive sponsor would not be able to oppose this measure, as it would be a condition for the acceptance of their sponsorship.

Moreover, as previously discussed, conditional permanent residence requirements should be abolished, as they place these abused women in a vulnerable situation due to their fear of deportation. Additionally, more publicity should be made available on support services, resources, and the rights of women fleeing violence. This information should be provided in a variety of languages.

Finally, there should be more funds allocated to community services and associations that support and work hard for the integration of their community members into Canadian society.

I thank you for giving me the opportunity to present our opinion on the matter.

•(1635)

[*Translation*]

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you, Ms. Madawa.

[*English*]

Madam Herenda, you have the floor now.

**Ms. Lorris Herenda (Executive Director, Yellow Brick House):** Thank you very much.

I also want to thank the committee for the opportunity to speak about the issues facing immigrant women.

Yellow Brick House is located in York region. We provide emergency shelter and counselling services to abused women and children.

Just to give you the scope of the work we do, last year alone we worked with over 6,300 women and children. We are seeing a tremendous increase in immigrant women seeking our services, and we have adapted internally to be able to provide services in the over 30 languages that our front-line staff currently offer.

I also want to take this opportunity to give you a bit of a picture of what's happening in York region. In 2006 York region was reported to have the highest immigration population growth rate in the GTA. In fact, it is the fastest-growing regional municipality in Canada. The newcomers who are most likely to have immigrated are from South Asia, China, the Middle East, Southeast Asia such as the Philippines, South Korea, and the Russian Federation.

Currently 45% of our population speak a mother tongue other than English or French. It's estimated that about 50,000 people in York region do not speak even one of those two official languages. The vast majority of newcomers to our region are identified as visible minorities and have racialized identities.

That is our current picture in York region. I now want to share with you some of the experiences that these women are facing in our community.

In regard to some of the issues they face, there are many countries around the world that continue to be characterized as entrenched patriarchies, with power disparities between men and women, both within the family structure and within the broader society. That's supported by culture, the social values, and religious beliefs. Many cultural practices that are socially acceptable in their countries are actually violating the rights of women in Canada, according to the Charter of Rights and Freedoms.

Men who perpetrated violence against women in those countries were doing it because it was culturally acceptable. They were never charged or convicted, so when they're applying for immigration to Canada, the fact that they may actually be active abusers is never taken into consideration. There is a tremendous amount of stress associated with settlement services in the integration process, and for men who already have a tendency to that behaviour, that can often escalate the violence in the family.

There is an absolute lack of orientation for new immigrants about the laws pertaining to domestic violence against women and

children. The family structure and traditional gender roles continue to describe many cultures. They are often encouraged not to pursue education or employment opportunities, so the man tends to be the breadwinner in the household. The woman is financially dependent on him.

In many cultures, unfortunately, young women are seen as a commodity to be bargained with, through arranged or forced marriages. Underage girls, many of them under the age of 10, are often forced into marriages with much older men or sold into human trafficking. This is happening with disturbing frequency. We're getting young women in our shelters who at the age of 16 have already been married for several years and have children.

In some cultures women are perceived as carrying the family honour, which is controlled and protected by men. If a woman is perceived to have dishonoured the family, she may be assaulted, or as we've heard mentioned, killed through honour killing. A woman who leaves her abusive partner would be considered to have dishonoured her family and could potentially become a homicide victim.

If a woman is fleeing a violent home with her children, she is not only fleeing her abuser. She is also fleeing the extended family, both his and sometimes her own.

In some cultures, girl children are unwanted. If a woman is pregnant with a girl, she is often forced to terminate her pregnancy.

We are also hearing that in many cultures the mothers-in-law and fathers-in-law are also becoming the abusers. They are controlling their daughters-in-law and training them in how to become good wives, with a specific focus on keeping family matters very private in order not to cause shame to the family.

We also know that many new immigrants settle into neighbourhoods where other immigrants live who share their culture and language. This leads to social isolation for women and children.

•(1640)

It's also known that children are disciplined more heavily, harshly, and physically in many of these cultures because it's accepted in their specific cultural norm.

Women who are not educated or employable would likely not be admitted to Canada, so their spouse becomes the principal applicant. They come to Canada as sponsored spouses or family members, and they're economically dependent.

We are seeing an increased number of Filipino women who typically have their employer as their sponsor. As many as 95% of Canada's live-in caregivers are Filipino women whose isolation, living conditions, economic dependency, and legal status create conditions ripe for the perpetration of violence and abuse.

If a woman is considering leaving her abusive partner and she's sponsored, her abuser will threaten her with deportation. If children are involved, he will get to keep the children and she will be returned to the country of origin.

I think we heard before that the new immigration laws are making it increasingly difficult for women living in violent homes to get free. Under these conditions, a woman who migrates to Canada as the spouse or partner of a principal applicant is required to cohabit with her sponsor for two years. She needs to provide proof of this if she decides to leave. She must also call in to the CIC call centre to report abuse. If a new immigrant woman leaves an abusive relationship and she has not collected this evidence, she is facing deportation.

If a refugee claim is denied, the woman does not have access to humanitarian or compassionate reasons for a period of 12 months to reapply, unless it's in the best interests of a child. Unless you're from a non-designated country of origin, meaning an unsafe country, you have very tight timelines to prepare for a hearing: 30 to 45 days. If you're denied, you can go to the refugee appeal division, but you need a lawyer to make an appeal at the Federal Court. This needs to happen within 15 days of the initial rejection.

Human trafficking is another growing problem. Human trafficking victims have a reduced chance of getting temporary resident permits if law enforcement is not involved in their particular case.

We have an increase in abduction of children by the abusive partners, where they leave Canada and drop the children in the countries of their origin. Women are left behind in Canada with no recourse to get their children back.

Intimate-partner violence is the leading cause of non-fatal injury to women worldwide. Musculoskeletal injuries—

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Sorry to interrupt you, but your time is almost over. Can you conclude, please?

**Ms. Lorris Herenda:** Absolutely. Thank you very much.

As you can imagine, my list goes on, but I will conclude with some recommendations.

I think new immigrants in Canada need to get a proper orientation about Canadian laws and their rights. The services need to be provided in the languages these women speak. There has to be a single point of access for them, because chances are, if they're isolated in their communities, they will not be aware of their community services. We also need to look at a revision of the immigration rules that are punitive for abused women and children.

Thank you very much for this opportunity.

•(1645)

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you, Madam Herenda.

We'll begin our first round of questions with Mr. Menegakis, for seven minutes.

**Mr. Costas Menegakis:** Thank you, Madam Chair.

Let me say a big thank you to our witnesses for appearing before us today.

As you can appreciate, this is a very important study for us. The Minister of Citizenship and Immigration, the Honourable Chris Alexander, held some round table discussions on this very topic in the month of January of this year and heard things that were very similar to what we've heard from you today and from other witnesses who have appeared before us.

In its deliberations, this committee felt it was important to do a study on this subject. Clearly, there is abuse. There is a problem in the system, and we'd like to identify possible solutions. Some of the recommendations you made here today are certainly very important, and we will consider them as we conclude our study within the next number of weeks.

That said, we do have a challenge. There is abuse in our immigration system. There's a reason why the conditional PR was put in place in the first place. Its objective, of course, is to deter people from using marriages of convenience to gain permanent residency in Canada. That does happen. We have many cases of that happening.

Something needs to be put into the system to ensure that Canadians are protected and that there isn't abuse of our immigration system. At the same time, we're very cognizant of the fact that the different cultural backgrounds, as I think you mentioned, Ms. Madawa, with some very live examples, prevent women from properly disclosing that they are in an abusive relationship.

I'm going to direct my first question to Mr. Waldman.

Mr. Waldman, welcome back.

**Mr. Lorne Waldman:** Thank you.

**Mr. Costas Menegakis:** I know how keenly interested and involved you are with this type of work in your office.

Let me ask you this. How do you feel we could combat marriages of convenience if the conditional PR were to be eliminated?

**Mr. Lorne Waldman:** Marriages of convenience have been combatted before the visa through two different procedures.

The first was the careful scrutiny by visa officers, who have the power to refuse the issuing of a visa if they believe that the marriage is non-genuine. That has been happening as long as I've been practising immigration law. Of course, the sponsor has an appeal, and then the immigration appeal division decides whether the marriage is genuine or not. That process exists independently of the conditional visa.

The other important fact is that there's also the possibility of enforcement action being taken. I was in Vancouver last week on a case where there was an allegation that someone got permanent residence based upon a non-genuine marriage. He was subject to deportation. When I started practising immigration law, that virtually never happened, and now it's happening all the time.

The ability to enforce and the ability to deport people who engage in marriages of convenience exist independently of the conditional visa. All the conditional visa does is make it easier. If you leave prior to the two years, I assume there's a presumption that it's a non-genuine marriage, and you're deported unless you can prove that you've been the victim of abuse.

I understand the motivation behind it, as you've said, but the difficulty with it is that the byproduct of the conditional visa is that we're perpetuating the abuse. So as a committee, as a society, we have to make a value judgment at the end of the day. It's not that we're without mechanisms of enforcement. We have mechanisms of enforcement. The mechanisms of enforcement are the refusal of the visa overseas and the admissibility proceedings.

Are those sufficient? I would say they are. Also, I would say that when you do a cost-benefit analysis of adding the conditional visa, the benefit of making it easier to deport someone if you believe it's a marriage of convenience is outweighed by the danger. I ask you this. If one woman is forced to stay in an abusive relationship and gets killed, is that what it's going to take for us to get rid of the conditional visa? I mean, that's really...that's my sense.

• (1650)

**Mr. Costas Menegakis:** Okay.

Let me just touch on something that I believe all three of you, Ms. Herenda, Ms. Madawa, and Mr. Waldman, touched on, with regard to informing people before they come here of what the Canadian system is. I think, Ms. Herenda, you used the word "orientation" about our laws and rights here in Canada.

I think it's important. Quite frankly, we cannot just ignore the fact that marriages of convenience happen and will happen considerably if we eliminate the conditional PR. One of the things we could inform people about, for example, is the fact that right on the CIC website there's an operational bulletin that provides the exceptions for which the conditional PR is lifted on the abused individual. There's a whole slew of exceptions—for example, any kind of court document, protective orders, releases, bail orders, and that kind of stuff. Perhaps it's a little bit more advanced for people in that they may not be ready to run to lawyers and run to courts to disclose their abuse, but they can provide a letter of statement from a women's shelter or domestic abuse support organization.

Ms. Herenda, I'm keenly aware of the great work that Yellow Brick House does in York region. A letter of statement from a family services clinic, a letter of statement or a report from a medical doctor, a sworn statement, an affidavit from them or from a family member or a friend, photos, injuries, voice mails, emails—a whole slew of things can be used as very useful tools by a person who is being abused.

To Ms. Herenda, when a woman who has been abused comes to you, what advice do you give them about the next steps they can take before they of course are threatened with removal from the country?

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** You'll have to make it a very short answer, please, Madam Herenda.

**Ms. Lorrin Herenda:** Absolutely. Thank you.

One of the services we offer at Yellow Brick House is to provide them with free legal clinics. We have lawyers in our community who are committing their time to speak to the women and talk to them about their rights. We also connect with legal service organizations, such as legal aid and SALCO, the South Asian Legal Clinic of Ontario, to provide information.

It's increasingly difficult, however, because legal aid is really limited in terms of what they can access and whether they have any rights to access it. We're seeing a growing number of women who are coming to the shelter who don't have any status in Canada because an application has never been submitted, so they're starting from scratch, literally.

Those are some of the challenges they are facing right now.

**Mr. Costas Menegakis:** Thank you very much.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Mr. Sandhu, you have seven minutes.

**Mr. Jasbir Sandhu:** Thank you. I will be sharing my time with my friend Mr. Harris.

Thank you for being here this morning.

I'm glad the government has pointed out that the Minister of Immigration has taken consultations in regard to the abuse of and violence against women. In terms of the government's record, we saw even this morning that the Prime Minister was unable to identify even one witness who actually supported the unfair elections act.

Hopefully that won't be the case in this study, because I know that every single one of the witnesses who have appeared in front of this committee have been very critical of the two years that are required for a spouse to be in a relationship where she may be abused and may be unable to get outside of that relationship, fearing that she'll be deported. I know that the witnesses here are against such a provision, and I hope the government and the minister are listening to all of the witnesses in this committee.

I want to get back to the issue of isolation. You talked about how women are isolated from the community and also from family. We've seen the record under this government where parent reunification, family reunification, takes eight years. It takes eight years for a family reunification to occur.

Do you think that family reunification will help reduce violence? If a person, a spouse, is isolated here, would having that family here help reduce violence against women?

• (1655)

**Ms. Humaira Madawa:** For our community, I would say it would definitely help to take those women out of isolation. Now, the problem with a lot of the eastern cultures is that it's socially accepted. It's part of the culture. These women remain silent about it. I think they should be maybe more informed. It would be good to have their families here.

MAFCAN works to bring the community closer. We organize events where they come out for religious gatherings and all kinds of events. It kind of helps to be out of isolation. I think it would be more helpful if maybe they were more informed of their rights, of Canadian values. Oftentimes, even though members of the family do agree that there's violence, they will still accept it. They see it as part of the culture, unfortunately.

**Mr. Jasbir Sandhu:** Mr. Waldman, you are a lawyer. We heard from the New Zealand delegation this morning that if somebody is in an abusive situation.... They actually have to live with the spouse who has sponsored them for one year, but if there is abuse in that one year, the threshold for them to prove that they are in an abusive relationship is very low. In addition to that, the person does not have to have a PR or go through extensive court hearings, and it doesn't cost them a lot of money. Do you think that's a good idea for us to have here?

**Mr. Lorne Waldman:** Absolutely. Of course, we're talking here about two different issues, because some of the women who come are victims of abuse and they flee their country and come here and make claims for refugee protection based on abuse. Those women have to go through the refugee process and they have to establish that they are victims of abuse, and they have to establish the facts to a balance of probabilities.

Women who are in Canada who are sponsored and who are victims of abuse also have two scenarios. The women who are sponsored, who came as sponsored permanent residents are now on the conditional visa. It's not clear what the burden of proof is on them to establish abuse. It's not clear from the regulation and from the policies to what level they have to do that.

The third scenario is that of women who are in Canada, who are sponsored in Canada, and who are being processed in Canada. Those women are the most vulnerable because they don't have any status. If the sponsorship is cancelled at any time, then their case is closed and they can be deported. That's what happened to my client. That's the biggest problem and that's where the greatest vulnerability is. That's where we need to have a clear policy so that if that happens and the sponsorship is stopped in the context of abuse, there has to be a public policy that requires that before any removal takes place the woman be given an opportunity to establish the abuse. I would agree that there should be the same low threshold.

**Mr. Dan Harris (Scarborough Southwest, NDP):** Thank you.

Thank you, everyone, for coming today.

Mr. Waldman, I'm going to start off with that first case you raised, in which the person left the abuse. It's difficult for women who are born here, who have Canadian values and culture, to actually leave abuse. It's incredibly challenging, and I can only imagine the additional burdens on someone who is out of their culture and out of their language and trying to take that step to actually get out of the abuse.

You mentioned that the person was detained and incarcerated. Would the prospect of that kind of incarceration have the great potential to revictimize that person?

**Mr. Lorne Waldman:** There's no question. This woman was traumatized by the whole situation. She'd been abused. She was in a

shelter. She went to immigration to tell her story, was arrested, and was retraumatized when she was detained with her children in the detention facility and threatened with deportation. The issue was, of course, whether she was going to be separated from her children. The whole experience and the processing by CBSA of her case were very traumatic.

**Mr. Dan Harris:** Were the children put in detention with her?

**Mr. Lorne Waldman:** They were briefly, but then they were allowed to go when we found someone to care for them.

**Mr. Dan Harris:** Okay. So, there was a family member or foster care or some situation. At least they weren't completely removed.

Ms. Herenda, you obviously work with abused women quite a bit. What are some of the language barriers that are faced? Mr. Menegakis talked about the website and about all of the wonderful information on it, but if you don't read or speak English or French, it's going to be of absolutely no use to you. Certainly, it would be important to have clearer guidelines, to have better education programs, and to have better information for people.

How difficult is it for you to serve all the folks who are coming in who speak all these different languages? What kinds of additional costs are there for Yellow Brick House to provide those services?

• (1700)

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Once again, could we have a very short answer, please?

**Ms. Lorris Herenda:** Absolutely.

Thank you for the question.

It's certainly a challenge, because we've had to increase the qualification level for our staff, if you will. Not only are they qualified counsellors, but each staff member must speak another language besides English. As I mentioned, we're able to work with women in 30 different languages, but still that's not all-inclusive. There is the additional cost of utilizing interpreters when we're working with these women and these families. Although the CIC site has a lot of resources, there are language limitations. As well, there has to be cultural appropriateness. It's not just a matter of the language but of also being able to provide the services in a culturally appropriate manner for these woman and children.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you very much.

Mr. McCallum, you have the floor.

**Hon. John McCallum:** Thank you very much.

Welcome, all of you. In particular, I certainly am an admirer of the work done by the Yellow Brick House.

I want to begin with a question for Ms. Herenda. The other two have already said that they oppose the two-year living together rule. Ms. Herenda, I want to ask you if you oppose it or are in favour of it.

**Ms. Lorris Herenda:** I oppose it. It's—

**Hon. John McCallum:** Okay. That's all I need. I only have a very short time.

I've asked 15 witnesses now to say just yes or no on that. Out of the 15, 13 said to get rid of it, one said to keep it, and one didn't know, so there's a very strong majority. I definitely agree with that majority. If you tell me that in return for this rule you get a smaller number of marriages of convenience but you have to pay a whole lot more in abused women, I'd say that's a terrible deal and to get rid of this two-year rule.

There's a main point that I want to make in my brief time. I don't know how many of you heard the New Zealand testimony, but it dovetails perfectly with the issues that you are raising. Earlier I sent a message to my staff to summarize the New Zealand testimony. I'd like to read that for you. In New Zealand, couples have to live together for one year versus two here, and in the case of alleged abuse, a spouse can get a nine-month open work visa easily. An application for permanent residence of an abused person is decided in less than a year, at a cost of \$800, and two-thirds of applicants succeed.

Compare that with Mr. Waldman's first example. It's black and white. I asked how come it was so fast and so cheap, and the New Zealanders said that part of the answer is that they don't use lawyers. It's adjudicated by immigration officials.

I think we only have about three minutes left, but I'd like to use that time to ask this of Mr. Waldman. Having heard the New Zealand thing, to what extent could it be implemented in Canada and how would we do it?

For Ms. Madawa, to what extent would a system like that solve the problems you raise regarding the Afghan community? I think more things would be necessary, but it might go a significant part of the way. I'd like to ask you that.

**Mr. Lorne Waldman:** Very briefly, it could be implemented through a public policy that the minister would promulgate and that would indicate, in the case of an abused woman who is in a marriage, that before officials take any enforcement action, they be required to interview the woman and determine whether or not there are allegations of abuse. If they believe that there are reasonable grounds—which is a very low threshold—that there was abuse, they be directed to process her application for permanent residence on that basis. That sounds to me like what they're doing in New Zealand. I've just summarized it.

**Hon. John McCallum:** If you compare it with your first example, it's night and day.

**Mr. Lorne Waldman:** Yes, well, the problem here is that there's no clear policy. The biggest issue is that we have the enforcement, the CBSA, working completely independently from CIC.

**Hon. John McCallum:** That's right.

**Mr. Lorne Waldman:** There's no coordination between the two, so....

**Hon. John McCallum:** Ms. Madawa, to what extent would this address successfully some of the challenges you've raised?

**Ms. Humaira Madawa:** I believe it's already an improvement. Going from two years to one year, it's a shorter time, so—

**Hon. John McCallum:** Let's say we go to zero. I'm talking about the fast process to get landed immigrant status if you're an abused woman.

**Ms. Humaira Madawa:** As Mr. Waldman mentioned before, it's a cost-benefit situation. We have to analyze costs and benefits. If we get rid of it completely, there are other measures, such as interviews in their native countries before they're sponsored to see if the marriage is a marriage of convenience or a real marriage. I think there could be other measures implemented instead.

• (1705)

**Hon. John McCallum:** Thank you.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** You have one more minute.

**Hon. John McCallum:** I thought I was going to run out of time so quickly.

I'll give it up.

I think you have covered the issues that I wanted to raise. Thank you.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you, Mr. McCallum.

Mr. Shory, you have the floor.

**Mr. Devinder Shory (Calgary Northeast, CPC):** Thank you, Madam Chair.

I also thank our witnesses.

Through you, Madam Chair, it seems that the opposition's sole agenda is to talk about conditional residence in Canada, but I want to share with everyone some things that numerous witnesses in this committee have mentioned. They have identified issues such as language barriers and a lack of information in foreign languages. They also talked about the fear of being stigmatized upon marriage breakdown and about parents who are desperate to get their daughters married in western countries. They also talked about a lack of employment and training and the recognition of foreign credentials, of course, and all these other issues, which I have not heard about even once from my colleagues from the opposition.

My first question will be to you, Ms. Herenda and Ms. Madawa. In your opinion, what can we do better to educate women pre-arrival to Canada or at least very soon after they come to Canada to ensure they are aware of the resources at their disposal should they be abused?

Ms. Madawa, I liked it when you mentioned something about a mandatory integration program. What are your proposals?



**Ms. Humaira Madawa:** As I mentioned before, this should be part of their sponsorship application in their native countries when they're applying. I'm sure there are interviews and other steps that are taken, but the integration should be an integration course or maybe an information session should be mandatory. They can be informed regarding Canadian values and rights, and also, as I said, employment opportunities because employment would make these women less vulnerable financially and it would also help them step out of isolation.

It would be a good idea to implement this in foreign embassies.

**Mr. Devinder Shory:** What is your opinion, Ms. Herenda?

**Ms. Lorris Herenda:** Well, particularly in York region, we have wonderful welcome centres, which are settlement services for new immigrants, and they utilize them extensively.

One thing that's lacking in these particular centres is actual support systems or counselling services for women who have disclosed abuse. The whole interview process doesn't really identify any risk factors associated with domestic violence. They're only addressing settlement, language, employment, and job-seeking opportunities, but not the relationship and cultural component. That educational part has to be introduced simultaneously in those centres.

**Mr. Devinder Shory:** Mr. Waldman, I want to talk a little bit about the process of exceptions in this conditional residence requirement. I'm sure you also know and you actually said that you understand the reasoning behind the conditional visa. I'm going to read you a list of acceptable evidence in cases of abuse or neglect. It is not exhaustive, I should note, but it provides a good picture of the threshold used to determine abuse or neglect by a sponsor.

Let me start with evidence of abuse or neglect, or that the sponsor failed to protect from abuse or neglect: court documents of protective orders, including release, no contact, or bail orders; orders pending trial or appeal; recognized orders or peace bonds; probation orders following conviction; conviction certificates; victim impact statements, and of course it must clearly state that abuse occurred or is believed to have occurred; letters or statements from women's shelters or domestic abuse support organizations; letters or statements from family services clinics; letters or statements or reports from a medical doctor or a health care professional; sworn statement affidavits; police incident reports or related documents; reports indicating that passport and travel documents were withheld and the police had to help to retrieve them; photos that show the victim with injuries; voice mail or hard copies of emails; affidavits from a friend, family member or neighbour, co-worker, staff member, supportive agency, or law enforcement, etc.

Given the wide range of options available to use the exception, it is my opinion, with all due respect, Mr. Waldman, that this does not constitute an exceptionally high threshold of proof.

● (1710)

**Mr. Lorne Waldman:** I understand what you're saying, of course, but the first difficulty with that is that the woman isn't aware of the exceptions. But she's definitely aware, because she's told when the visa is issued and she's told when she comes into the country, that she has a conditional visa and she has to stay with her husband for two years or else she'll be deported.

The husband holds that as a sword over her head for two years. So yes, you're right. If she gets access to a website, if she can read the website and understand, there's a lot of evidence. Of course, as a lawyer I can tell you that at the end of the day, it's going to be in the discretion of the officer whether he or she accepts the evidence and there are many cases where they won't.

Leaving that aside, the difficulty that we have in all of these cases is that the woman is aware of the threat from the moment she arrives, that she has to stay here for two years. She may not be aware and she may never have access to the information that will free her.

**Mr. Devinder Shory:** The message I am getting from you, Mr. Waldman, is that in reality this conditional visa is not an issue if before they come to Canada, the women are aware of and educated about the fact that they have the rights and resources that they can use in Canada. Then the conditional visa would not be that big an issue.

**Mr. Lorne Waldman:** I think it would help if we were sure that in every case the woman was made aware in advance that if she's the victim of abuse she has recourse. I think that would be an improvement over what I think is the general rule now, where most women are aware they have this condition and aren't aware they have any recourse.

Having said that, I've dealt with many women in abusive relationships, and I find it so distressing because the woman has the courage to leave and then a week later she goes back. It's such a horrible situation of vulnerability. By adding this, you're just making the woman more vulnerable. If you haven't dealt with women who are in abusive relationships, you can't understand what I'm saying.

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you very much.

Thank you, Mr. Shory. Your time is over.

[Translation]

Mr. Harris now has the floor.

If we hear the bells calling members for a vote, I will have to interrupt you.

[English]

**Mr. Dan Harris:** Thank you.

It's a little distressing to hear my colleague across the way talking about all these exceptions and these wonderful things that are there for people to break free. But if you're a person who's come from another country, you know nobody here but your spouse, you're in that home, you don't speak the language, and you're completely isolated, then you're not going to know about these things and you're not going to have access. As Mr. Waldman said, the only thing you do know is that if you leave you'll be deported. That's the only thing that they 100% always know about.

Mr. Shory talked about our sole agenda of seeking to remove the two-year conditional PR. It's very easy to see that when witness after witness tells us this is a problem. I don't know why you guys have such a difficult time listening to what witnesses say, whether it's here or about the Elections Act or Canada Post or whatever the issue is. You're just going to keep going on.

**Mr. Costas Menegakis:** I have a point of order, Madame Chair.  
[Translation]

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Mr. Menegakis, you have the floor.

[English]

**Mr. Costas Menegakis:** On a point of order, I think the member is abusing his time here. He's using it for partisan political reasons, and I would have him rethink his approach.

[Translation]

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you, Mr. Menegakis. It is not exactly a point of order. The member has a certain latitude in that regard.

However, I would ask Mr. Harris to address the Chair and not address his colleagues directly. I would also ask him to ensure that his questions are related to the subject being studied. Thank you.

Mr. Harris, you have the floor.

[English]

**Mr. Dan Harris:** Thank you very much.

I would certainly appreciate it if the government changed their approach and attitude to issues like this so we could address violence against women.

• (1715)

**Mr. Costas Menegakis:** On a point of order again, Madame Chair, we have witnesses here. I would ask the member to question the witnesses and make his comments there. If he wants to discuss things regarding the government, I'd be happy to excuse the witnesses and we can have that discussion between us here.

[Translation]

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Once again, Mr. Harris, please focus on the subject we are studying.

[English]

**Mr. Dan Harris:** I had just said "violence against women" when

[Translation]

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** Thank you, Mr. Harris. You can continue posing your questions to the witnesses.

[English]

**Mr. Dan Harris:** Ms. Madawa, many people coming from Afghanistan have to be processed through immigration offices that have horrendous wait times. Islamabad often can be 40 months or more. Do you think any of those offices, based on what Mr. Shory said, might have any resources to provide people with the information beforehand, considering how long it takes them just to approve immigration applications?

**Ms. Humaira Madawa:** Through the Afghan community, I haven't heard of any cases where any information sessions were provided in the embassies. I don't think I have heard of anyone who attended an integration course or anything like that.

**Mr. Dan Harris:** So they might only have recourse on this side. Again that's only if they know about services like the ones you provide, or in Richmond Hill like the ones that Ms. Herenda provides, or in my community, Dr. Roz's Healing Place or AccessPoint on Danforth, which are all providing immigration and settlement services and giving immigrants a place to come and join together and share each other's stories and learn about what's going on in their communities. What would be the single greatest thing that you think would help your community in addressing these issues of violence?

**Ms. Humaira Madawa:** As I mentioned earlier, a mandatory integration course, whether it happens pre- or post-immigration. They come out of isolation and they learn about their rights. Language classes should be mandatory as well, and they might be made aware of their employment opportunities and employment skills here in Canada.

**Mr. Dan Harris:** Ms. Herenda, I have the same question for you. What would be the single greatest thing that would help you in servicing your community?

**Ms. Lorris Herenda:** In addition to having access to an orientation about their rights in Canada and the rights of their children and the fact that they have a right to lead a violence-free life, I think we also need to provide information in case they do have to leave that relationship down the line in six months or so. If they decide, "Okay, this is the way I have to go", they need to know where to go. It has to be culturally appropriate, and it has to be accessible to them.

Giving a woman a phone number to a crisis line is not going to fill the bill in this case, because a new immigrant woman is likely not going to be making that call. So we have to be available and accessible to her.

**Mr. Dan Harris:** Thank you.

Mr. Sandhu.

**Mr. Jasbir Sandhu:** Mr. Waldman, I have the same question for you, if you'd like to answer that yourself.

**Mr. Lorne Waldman:** I agree with everything the co-witnesses have said. Access to information is vital. Women are extremely vulnerable, especially when they come from certain societies where they're in a position of complete dependence, and ensuring they get access to the information from my—

**The Vice-Chair (Ms. Lysane Blanchette-Lamothe):** I'm sorry, Mr. Waldman, I will have to interrupt you.

The bells are calling members to the House of Commons for votes, so I will have to put an end to our meeting.

Thank you very much to all of you for appearing in front of this committee and getting involved in this very important study.

*[Translation]*

I declare the meeting adjourned.

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