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Chair

Mr. David Tilson

Standing Committee on Citizenship and Immigration

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• (1530)

[English]

The Vice-Chair (Hon. John McCallum (Markham—Unionville, Lib.)): Good afternoon, ladies and gentlemen.

Unfortunately we have a vote, with the bells going in just under half an hour. We have time for each presenter to speak for a maximum of eight minutes, and then we'll be just about out of time. I suggest that those witnesses who are interested wait until the second group of witnesses completes their presentations, then we can ask all witnesses questions together. Otherwise we'll have no time to ask you questions.

Mr. Costas Menegakis (Richmond Hill, CPC): Mr. Chair, we'll still have about 12 minutes after the two eight-minute presentations.

The Vice-Chair (Hon. John McCallum): There are three presentations. That's 24 minutes, so we won't really have any significant time.

Mr. Cash.

Mr. Andrew Cash (Davenport, NDP): Given the fact that we've just embarked on this study, we have witnesses here and in deference to them and to the process I'd like to move a motion to extend the study for one more meeting to occur tomorrow.

The Vice-Chair (Hon. John McCallum): Is there discussion on that?

Mr. Costas Menegakis: No, we would not support that.

The Vice-Chair (Hon. John McCallum): I don't want to take more time than necessary—they've said no—because we have so little time, unless you want to present a motion. But the majority has said no.

Mr. Andrew Cash: The majority has said no, so the government is saying no to an extension of the study.

The Vice-Chair (Hon. John McCallum): Yes.

Mr. Andrew Cash: Okay. I don't want to spend any more time, then.

The Vice-Chair (Hon. John McCallum): Right.

Welcome to the witnesses. The first one is Mr. Peter Showler, from the Canadian Association of Refugee Lawyers.

I would ask you, Mr. Showler, to limit yourself to eight minutes. Welcome.

Mr. Peter Showler (Former Chairperson, Immigration and Refugee Board, Spokesperson, Canadian Association of Refugee

Lawyers): Thank you, Mr. McCallum, and good afternoon to everyone.

I'm the former chairperson of the Immigration and Refugee Board and for the past 10 years I've been teaching refugee law at the University of Ottawa, but today I'm here as a spokesperson for the Canadian Association of Refugee Lawyers.

We have provided you with a written brief that sets out the reasons why refugee claimants must continue to receive social assistance. Accordingly, CARL is asking you to either reject the amendments or amend them in such a way that refugee claimants and refugees continue to receive social assistance all across Canada.

In the short time available I'll address six issues very quickly. The first one is, and I hope this is clear, that the bill will allow provinces to deny social assistance to refugees. The wording of the bill only identifies certain groups, mainly citizens and permanent residents, who cannot be excluded from social assistance. The amendment allows provinces to deny benefits to refugee claimants and refugees, and refugees will be caught by any residency period eligibility because their eligibility for social assistance begins at the time they make their refugee claim. So the most vulnerable period is exactly that first part of their claim, which is important.

And to make it clear, that's what's going on with the refugee process. There is not a distinction in terms of social assistance between refugee claimants and refugees. That has sometimes been discussed, but there's not, because when they make their claim that's what's going on with the refugee claim process. They're trying to decide whether or not they are refugees.

At the first stage of that process before the refugee protection division, approximately 50% of those claimants will be accepted as refugees. That's important to remember.

Secondly, even those who are refused by the first level then have the opportunity to either seek an appeal before the refugee appeal division of the IRB or to seek judicial review.

I can tell you that statistically—and the statistics are very complicated, and if you want to ask a question I'll go through them all—you can accept as a fair and rough approximation that approximately 60% of those refugee claimants will ultimately be accepted as refugees. I'm making that point so when right at the start if you think you're only denying social assistance to claimants, 60% of those people will be eventually accepted as refugees. So that's I think the first important point to be made.

In terms of the timing, we don't know what the eligibility period will be. It could be different from different provinces, but essentially the first stage of the process is approximately four months and after that for claimants who are in the appeal or judicial review process it could be approximately another nine months before they're ultimately either accepted or refused.

It is important to remember that only 3% of refugees are actually found to have no credible basis to their claim, and that is really the measure of the number of—and I don't like to use the word “bogus” refugees—fraudulent refugees. We're only talking about 3%.

The reason I point this out is that it means that for that other group who are refused as refugees, even if they're not accepted as refugees it does not mean they did not claim in good faith. It means that we know that the majority of them are refused for technical reasons, even if they're ultimately sent back. They actually applied in good faith. They're here legally in Canada and they also are entitled to be receiving social assistance through the claim process, up to the point where they're either accepted or they're denied, they're removed, and then of course at that point they no longer need social assistance.

In terms of why refugees should require social assistance, the desperate need of most refugee claimants when they arrive should be obvious to everybody here. And I'm sure my colleague, Ms. Loly Rico, will be saying even more so. Most are without means. Some have means. We're only discussing refugees without means, but that is the majority of claimants.

● (1535)

It's important to understand that they do not have the right to work. Many refugees would love to work. Some can apply in the beginning, but it takes at least three months before they receive work permits, and if they are in special categories, it will take six months. We're talking about people who, if they don't receive social assistance, have no other means of support.

In addition, even among those who can work, several categories are unemployable: children, the elderly, and claimants who are psychologically or physically injured, including as a result of the persecution they suffered or the long flight they took to Canada. Remember, for some refugees it takes two, three, four, or five years for them to actually arrive in Canada. For the same reason, I would say that many refugees—and this should be obvious to everyone—are vulnerable people; that is the nature of refugees.

One of the reasons CARL is here today is that we know our claimants. We know the ways in which they are so vulnerable: sometimes they don't speak English or French; they aren't acculturated to Canada; and often there is tremendous fear and tremendous confusion because, especially in those first two, three, four, or five months—and that's the period of time we're talking about—they're being denied social assistance. That's important to understand.

The next point, which I think is also quite important, is that without means of support, it will be almost impossible for a refugee claimant to prove their claim. You may ask why that would be. First of all, not all refugees get legal aid. Approximately 70% to 75% do, but it doesn't matter whether they get legal aid or not, because there are a lot of costs related to a refugee claim that are not covered by

legal aid. For example, there is tremendous difficulty getting documentation from their home countries. There are copy costs. You say, well, copy costs—what is that? Copy costs can be a couple of hundred dollars. There are interpreter costs and translator costs that are not covered by the government. There are transportation costs. If you are completely indigent, how do you, along with your two kids, visit the lawyer's office five times and then get to the board?

If a person is really without any means, they would not be able to effectively actually prove their claim, and of course that undermines the fairness of our entire refugee system.

It's a bad idea.

In my legal brief, I go into some detail around the legal responsibilities Canada, as a host country, has to refugees. I won't go into details here other than to say that there are both national and international obligations. They're set out in the brief; however, constitutionally the federal government has responsibility for refugees under section 91(25) of the the Constitution Act. The primary responsibility is that of the government.

Although I can't quote all of the Immigration and Refugee Protection Act to you, I do want to quote one paragraph from the objectives, which is this:

3(2)(a)...the refugee program is in the first instance about saving lives and offering protection to the displaced and persecuted.

That is a primary objective and the responsibility of the federal government. I could ask, just the way the act reads and setting aside the legal terminology, in what sense you think that denial of food, shelter, medical care, and basic necessities would be about saving lives and offering protection.

There are two more things I want to tell you. The first is in terms of comparison. I've been in front of this committee frequently. Whenever Mr. Kenney introduced changes to the refugee system, he often referred to other developed countries and their systems. In particular, the principal countries for comparison were the United Kingdom, Australia, and New Zealand. All three of those countries, as well as Germany, provide social assistance. We only had time to research thoroughly four countries. All of them provide housing, shelter, food, medical care, and basic necessities. They do it in different ways. Some provide housing, but all of them do that. None of them leave refugees destitute. If you'd like, I could provide you with a chart that has more details.

The last thing I want to say—

● (1540)

The Vice-Chair (Hon. John McCallum): Do so quickly if you can.

Mr. Peter Showler: Okay. This is my final issue.

This is important, because the argument has been raised that these amendments do not deny refugees anything. They only alter the national standards for social transfer payments. Denying refugees will be done by individual provinces, and not through this act.

I have to say—and excuse me for saying so—that is a hypocritical, weasel argument. It does not work.

The Vice-Chair (Hon. John McCallum): Thank you. That's a good note on which to end. I'm sorry. You've run out of time.

Next we have Mr. Bissett, who is appearing as an individual.

Mr. James Bissett (Former Ambassador, As an Individual): Thank you very much, Mr. Chair.

I support the amendments to the Federal-Provincial Fiscal Arrangements Act because I think it makes good sense and logic to do it. The provinces are responsible for setting the residency terms under the health care act and it's the provinces that administer social assistance in their respective jurisdictions. It seems logical to me that the federal government should live up to its principles of allowing the provinces to carry out their functions without interference. This is an anachronism that exists in the law and I think it should be changed. Remember that there's no compulsion whatsoever on the provinces to make changes. It's removing a penalty and allowing them, if they wish, to impose residency requirements on individuals.

The only categories that are touched by this possible disaster—as outlined by Mr. Showler—are temporary foreign workers, temporary students, and visitors to Canada. It has been pointed out, by officials who have come before you, that these three categories are only allowed into Canada upon evidence that they can look after themselves and be responsible for their housing and their care while here.

If a province wanted to put on residency requirements—which is unlikely to happen—the two categories that could be affected are asylum claimants and the groups I've just mentioned. In terms of the asylum claimants it seems to me that's the problematic area. If you look at it carefully you'll find there is a lot of assistance available, financial and otherwise, for asylum claimants even if a province should insist on residency requirements.

The federal government gives grants to the provinces for assistance in the settlement of immigrants, refugees, and asylum seekers. I have some figures here. In 2010-11 the provinces received \$893.4 million for the purpose of looking after immigrants, refugees, and asylum seekers and helping them settle. That's a lot of money. It's given to the provinces. In addition to that, the Department of Citizenship and Immigration has a considerable fund to give grants to non-governmental organizations and other agencies in Canada that are responsible for looking after and helping asylum seekers, refugees, and immigrants.

In the period from October 1 to December 31, 2009, over 200 organizations in Canada received more than \$25,000 in grants from the federal government to carry out those functions. There were 60 organizations in Canada that received more than \$1 million. The purpose of these individual organizations—that were mainly ethnic groups, non-governmental organizations, or other agencies in the provinces and in cities of Canada—was to care for and look after immigrants, refugees, and asylum seekers who were in need. That's a considerable amount of money that's being paid.

The department—in 2010-11 in its estimates—set aside \$651,749 for that; close to a billion dollars. If one of the provinces chose to decide to put residency requirements on asylum seekers I think there is plenty of opportunity for them to get assistance and help other than from the social welfare system.

I might point out that in the United States asylum seekers are not allowed to work for the first six months that they're in the United States and they get their assistance primarily from non-governmental organizations and other agencies that are funded by the U.S. government.

• (1545)

As I said, if by any remote chance a province might apply residence requirements on asylum seekers as a result of this amendment to the act, they would have ample opportunity to get the assistance and supplies they need without going to the federal or the provincial government.

I think another factor that's important here is that when we're dealing with failed asylum seekers, there was a time when there were many thousands of them. For example, in 2008 we had 33,000 asylum claims. They came from 188 different countries. We had 2,300 claims from American citizens. We had claims from 22 of the 26 European Community countries. But as a result of the, in my view, very needed and essential reform in the 2012 legislation, the number of asylum seekers coming in from so-called designated countries has been cut completely off. We're getting very, very few asylum claims from the United States, England, Germany, and Switzerland compared to what we used to get before the bill was passed in 2012. The result is that whereas it used to take up to a year, or two years or more, in some cases, to have an asylum claim adjudicated, it now takes between two and three months. There's a quick decision being made.

I would presume that most of the failed asylum seekers choose—because they choose to come here on their own—to go back to their country, where it's been proven that there is no concern, that they are not genuine refugees as defined in the UN convention.

My concluding word is that this is a housekeeping amendment. I don't see all of the dire consequences that have been outlined to you by Mr. Showler and others who will come before you. It's a simple housecleaning episode and we should get on with it.

Thank you very much.

• (1550)

The Vice-Chair (Hon. John McCallum): Thank you, Mr. Bissett.

Now we turn to our third and final witness for this session: from Vancouver, from the Centre for Immigration Policy Reform, Mr. Martin Collacott.

Mr. Martin Collacott (Spokesperson, Centre for Immigration Policy Reform): Thank you, Mr. Chair.

I've been getting the French translation at the same time, so I wasn't able to hear most of what Mr. Showler and Mr. Bissett said. It's also hard to hear myself speaking because of the French translation coming through.

Can something be done about that before I start to speak, please?

The Vice-Chair (Hon. John McCallum): What I hear is that we cannot stop it—unless nobody needs to hear the French translation—because if we turn off the French we turn off the whole video.

Mr. Martin Collacott: I certainly wasn't fed the French translation the last few times I spoke by video conference.

The Vice-Chair (Hon. John McCallum): It's a technical glitch. We're working on it. Does anybody require the French? If not, we can turn it off, I gather.

Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP): Mr. Chair, I believe we should make sure that translation is available in both official languages.

The Vice-Chair (Hon. John McCallum): Well, then, I don't know if he can speak to us. We cannot take it off without unanimous consent.

Mr. Martin Collacott: Mr. Chairman, perhaps all of the feedback could be cut off, then, and I could just speak. I won't be getting any questions until I'm finished speaking anyway.

The Vice-Chair (Hon. John McCallum): I think that's what they're trying to do. Perhaps you could begin and see how it works.

Mr. Martin Collacott: My eight minutes start from now I hope.

I support the amendments to the Federal-Provincial Fiscal Arrangements Act. They give the provinces more flexibility without them losing funding. I think it's important to note that the proposed amendments will be another vital step in ensuring that there is not another pull factor for non-genuine refugee claimants in Canada.

The issue that we are talking about today is largely health care coverage. When Justice Mactavish made her decision in June to overturn the reductions that the government had made, she was praised by refugee advocacy groups, refugee lawyers, some medical practitioners, as well as prominent journalists.

What received almost no attention following the release of her judgment, however, was the fact that the reductions in services were not made in a vacuum. They were made because of concrete reasons involving widespread use of the refugee determination system.

Prior to the introduction of special treatment for claimants coming from DCOs, designated countries of origin, or safe countries of origin as they are generally called outside Canada, we were receiving thousands of claims from nationals of Hungary to the point where they constituted the largest number of claimants in Canada from any individual country. Since other countries did not consider them to be genuine refugees, almost none of their claims were accepted elsewhere. In 2010 Canada received 23 times as many claims from Hungarian nationals as did all other countries in the world combined. That is, out of 2,400 claims made worldwide, 2,300 were made in Canada. Then the number almost doubled to 4,400 in 2011.

Canada is by no means the only country that has had to deal with large numbers of questionable claims. Not long ago, for example, European member states received more than 19,000 applications from Serbian nationals in a two-year period, apparently because of the wide availability of information about benefits from asylum seekers. Of these, only 15 were successful in their claims. That is less than 1 in 1,000.

One of the means used in Europe to discourage people from designated countries of origin from applying for refugee status has been to accelerate the process into their claims and remove as quickly as possible the manifestly unfounded claims. Such rapid

removal has no doubt deterred many from making such claims because, apart from the fact that they knew their applications were highly likely to be rejected in any event, they would be able to claim benefits only for a short period of time, which meant that the cost of getting to countries where they could make a claim would not be worth the time and effort.

Canada has accelerated the processing of such applications and this, probably in combination with the reduction of health care benefits, has resulted in a dramatic drop in such claims being made in the first place. I think Mr. Bissett mentioned this. By 2014, for example, claims by people from safe countries had fallen by 87% in Canada. In the case of Hungarian nationals, the decrease has been 97%, and with U.S. nationals it has been 80%.

Among other things, the dramatic reduction in the number of claims that are highly unlikely to have any merit will free up funds and staff time that will enable the refugee determination system to concentrate on the processing of claims of individuals who are much more likely to be in need of our protection.

The conclusion reached by Justice Mactavish that the measures taken by Canada were cruel and unusual, therefore, ignores the context in which the measures were taken and the fact that other countries faced with similar problems have taken firm steps to discourage claims by asylum seekers whose cases are highly likely to be without merit and slow down the processing of those more likely to be genuine. It's very similar.

Justice Mactavish also invoked section 15 of the Charter of Rights to say that it's discrimination to treat claimants differently.

● (1555)

The implication is that treating asylum seekers from designated countries such as Australia and the United States differently from those from non-DCOs such as Iran and Cuba, for example, is inconsistent with the charter. Therefore in her view the creation of the DCO list cannot be justified.

It is doubtful however whether the drafters of the charter ever had in mind that it be interpreted in this way.

Nor do questions relating to health care from asylum seekers apply only to those coming from DCOs. For example in 2013 Canada was finally able to remove convicted terrorist Mahmoud Mohammad Issa Mohammad who succeeded in entering the country in 1989 under a false identity. He avoided removal for more than two decades by using a multitude of available appeals and reviews and was provided throughout with a wide range of medical care for his health problems.

One of his later appeals was based on the argument he would suffer cruel and unusual punishment being sent back to his native Lebanon since the health care system there was not as good as in Canada.

Similar imbalances were seen in—

• (1600)

The Vice-Chair (Hon. John McCallum): Excuse me, Mr. Collacott, I have to interrupt you. The bells have gone, and you have two and a half minutes left. If there is unanimous consent we'll let you finish. Does anyone object?

Please finish.

Mr. Martin Collacott: Also in 2003 Canada accepted more claims from Sri Lanka, a non-DCO country, than all the rest of the world put together. So clearly something needed to be corrected in our refugee determination, not just for DCO nationals but for non-DCOs. There is a high level of public support in Canada for bringing in a reasonable number of genuine refugees. Even with the changes to health care provisions we continue to be one of the most generous countries in the world both in the support we provide as well as the numbers we take relative to the size of our population. Canadians in general however are justifiably concerned about widespread abuse of the refugee system and are no doubt strongly supportive of the more realistic levels of health care and the accelerated processing of some refugee claimants and asylum seekers that the government has introduced.

Thank you, Mr. Chairman.

The Vice-Chair (Hon. John McCallum): Thank you very much.

My apologies to the witnesses that we have to cut this short. It's what one might call an act of God, a vote that we have no control over. We will go to vote and then we will come back to hear the remaining witnesses. We will not have a full session but if you wish to wait until after the other witnesses have spoken then we will have all the witnesses together to answer questions in the time that remains.

We will suspend now and hope to be back by ten minutes to five, if we're lucky, in any event as soon as possible after the vote and then we'll have as much time as we can for presentations and answering questions.

Thank you all very much. We'll be back as soon as we can.

• (1600)

(Pause)

• (1650)

The Vice-Chair (Hon. John McCallum): Ladies and gentlemen, since we don't have much time, I suggest we start. We have only until 5:30, so I would ask that the witnesses limit themselves to six minutes each or else we'll have no time for any questions, and certainly no time for questions from the third party. We have three witnesses, so that's six minutes each. That will take us to about 13 minutes past and then we have about 17 minutes left.

I'd ask Aaron Wudrick from the Canadian Taxpayers Federation to speak for six minutes. Thank you.

Mr. Aaron Wudrick (Federal Director, Canadian Taxpayers Federation): Thank you, Mr. Chair. It's a pleasure to be here today

and to speak on the subject matter of certain clauses within Bill C-43 and I thank the committee for the invitation.

Just quickly, my name is Aaron Wudrick and I'm the federal director of the Canadian Taxpayers Federation. Our advocacy is centred around three key principles: lower taxes, less waste, and accountable government. It's largely on this third principle of accountable government that I appear today to speak to these provisions. My remarks are fairly limited in scope. We support the changes proposed in these provisions for the simple reason that, from our standpoint, they are purely jurisdictional in nature. We, of course, are not experts in refugee or immigration policy and we take no position at all as to whether or not provinces should actually set minimum residency requirements. We merely believe that, as the level of government responsible for the delivery of social services, the provinces are also the appropriate level of government to retain the power to make such a decision without the risk of fiscal penalty from Ottawa.

In short, if it is objectionable for the provinces to have this power, surely it must also be objectionable that the provinces already have the same power with respect to determining eligibility for health care services. As committee members are likely aware, many provinces already set a minimum residency requirement for access to health care services.

In our view, most opponents of these provisions are conflating two very separate debates. The first is whether or not foreign refugee claimants should be subject to a minimum residency requirement. The second is whether provinces should be able to make this decision without being penalized by Ottawa. It is, of course, entirely appropriate to debate whether or not there should be minimum residency requirements, but, again, this is not the area I'm here to comment on. The only contribution to the debate made by these proposed changes, however, is ensuring that this debate takes place in the provincial legislatures, and we view that as a positive change.

In our view, the real principle underlying these proposed changes is respect for provincial jurisdiction. When different levels of government overstep their constitutionally defined areas of jurisdiction, accountability suffers because Canadians are left unclear as to who bears responsibility for what. Only when each level of government takes proper responsibility can Canadians pass judgment at election time as to whether or not they approve of these policy decisions. Indeed, the inappropriate use of the federal spending power by federal governments to encroach upon areas of provincial jurisdiction has long been an unfortunate source of federal-provincial tension. These proposed changes would be one small step towards reducing that tension.

Thank you.

•(1655)

The Vice-Chair (Hon. John McCallum): Well, thank you. That was very economical with regard to time. I appreciate that.

Our next witness is Loly Rico of the Canadian Council for Refugees.

Welcome to you.

Ms. Loly Rico (President, Canadian Council for Refugees): Good afternoon. First of all, we want to say thank you to the chair and the committee members for allowing the Canadian Council for Refugees to present our position on clauses 172 and 173 of Bill C-43.

I am not going to read the whole submission, because it will take longer than the six minutes. I am going to focus on one of the points.

Just to let the members know, if they don't know, the Canadian Council for Refugees is a national umbrella organization that is made up of 170 members that work for refugees and immigrants. We are firmly opposed to the proposed amendments. As you see in our written submission, we have several concerns.

One point we want to share with the members is that we are not the only ones. We presented an open letter to the Minister of Finance, Joe Oliver, where 160 organizations were opposed to the amendments. These organizations represent not only refugees but also health, poverty, and human rights sectors, faith communities, women, and legal advocates. Among them are national, local, and provincial organizations. The main reason why we oppose these amendments is that refugee claimants are the most vulnerable population.

I want to give you a specific case, because in all the presentations we talk about refugee claimants in very broad terms. I work specifically with women and children. This is the experience of one refugee claimant whom I welcomed in my daily work. She is from the Congo. She fled persecution and even jail. Her family sold everything to protect her life. She arrived at Pearson airport and claimed refugee status. She didn't have money. She got to one of our refugee houses.

She has 15 days to present her basis of claim and to get a legal aid certificate. She also needs to have her medical exams. Once she has completed the BOC and the medical exams, she is allowed to apply for a work permit. That will take between three and four months. At the same time, she has to prepare herself to present her refugee case at the refugee hearing two months after she has arrived.

Imagine that she is living... I am talking about a case that is in a major city, but imagine that this woman went from Pearson to a refugee house in Windsor. She has to go and see her lawyer in Toronto. She has to go and do her refugee hearing in Toronto without money. Just put yourself in her shoes. At the same time, she doesn't have money to pay rent. She will be in a homeless shelter with other people, and one of the challenges she will face is that she won't have the right support.

With this example and this situation I'm presenting you with, these amendments are clearly targeting refugee claimants. Even though refugee claimants are not mentioned in the amendments, all the criteria and all the categories are there. That means this is a clear

violation of the principle of human rights, because it is treating refugee claimants in a different and discriminatory way.

We need to remember, as some of the presenters expressed before, that Canada is a signatory to human rights international treaties, including the International Covenant on Economic, Social and Cultural Rights, in which we recognize the right of everyone to social security, including social insurance.

In addition, you need to take into consideration that refugee claimants are not only adults, but there are also children among them. Canada is a signatory country to the Convention on the Rights of the Child and has an obligation to protect children and provide basic services to them, including refugee claimants' children.

They were talking about the settlement organizations that serve immigrants and refugees. I want to clarify that the settlement organizations funded by the federal government are not giving services to refugee claimants, because they do not fit the eligibility criteria.

•(1700)

The eligibility criteria for immigrants and settlement organizations covers only immigrants and government-assisted refugees, and some of the sponsorship. That's a clarification of what happened at the beginning of the afternoon.

We are very sorry to see that the Canadian government is applying changes and amendments. They are considered in other countries... Looking at the U.K., Peter Showler explained to you that they provide social services. But in 2003 the U.K. removed social assistance to asylum seekers, and in 2005 the House of Lords ruled that this provision was inhuman and degrading treatment. That means the court found that the cuts didn't deter the asylum seekers from going to the U.K. This is not going to stop refugee claimants from coming to Canada. These provisions of the House of Lords were used by the court when they told the Canadian government to re-institute the interim federal health program.

One of the things that I want to bring is that in my—

The Vice-Chair (Hon. John McCallum): Sorry, Ms. Rico, your —

Ms. Loly Rico: I just want to suggest to the committee to review the amendments and consider that you are reducing and taking away services to future Canadians. They will come to this country and they will give enrichment to this country.

The Vice-Chair (Hon. John McCallum): Well, thank you very much.

Our next witness is Ms. Avvy Go of Colour of Poverty - Colour of Change Network. Welcome to you.

Ms. Avvy Yao-Yao Go (Member, Steering Committee, Colour of Poverty - Colour of Change Network): Thank you.

The network is actually a provincial network, based in Ontario, of individuals and organizations that are working to address the growing racialization of poverty in Ontario. I'm also the clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic, which is also a member of the network.

I want to thank the committee for the opportunity to speak to you today about the amendments. We've also signed the letter that Ms. Rico mentioned earlier. We believe that the amendments as proposed are discriminatory and illogical and contradict the federal government's stated commitment to poverty reduction.

The proposed amendments purport to give provinces the power to impose minimum residency requirements on certain groups of individuals based on refugee or immigration status. While on its face these sections are silent as to which groups of individuals will be excluded from receiving social assistance, the combined effect of the residency requirement and the enumerated groups of individuals who are exempt makes it abundantly clear that the only and real targets of these provisions are refugee claimants.

As many speakers have talked about before, refugees are among the most vulnerable in our society. They often arrive in Canada with nothing, just the shirt on their back, so these provisions, if implemented, will effectively render them ineligible for even the bare minimal amount of support they need for food and shelter. These sections are clearly discriminatory towards refugees, the vast majority of whom are racialized, so they face additional barriers not simply because they're refugees, but also because they are people of colour.

Further, the bill will have a disproportionate impact on refugees who are the most vulnerable, namely women, children, and people with mental health issues or post-traumatic stress disorder. They are also the ones who are most likely to rely on social assistance when they first arrive in Canada.

As many have mentioned, the bill violates international human rights laws that prohibit discrimination. It's contrary to the Charter of Rights and Freedoms, including section 15, the equality rights, and section 12, the right not to be subjected to cruel and unusual treatment or punishment.

I also want to say that there are other problems with the bill apart from it's being discriminatory. First, it draws an artificial distinction between refugees and refugee claimants while denying assistance to all refugees, including those who will eventually be accepted as protected persons under our refugee determination system.

Second, the provisions are actually self-contradictory; for instance, by exempting only victims of human trafficking who hold a temporary residency permit but not those who apply for a refugee claim when they first arrive in Canada.

The provisions actually purport to give provinces the powers that they say they do not want and will likely not exercise due to the serious concerns about the human rights breach resulting from the provisions. The provinces, by the way, already have rules that will disentitle visitors if someone is concerned that visitors will get assistance. They already have rules around that, so they don't need any new power.

The proposal is touted as a cost-cutting measure without considering the real cost that would be borne by Canadian taxpayers in the form of increased use of homeless shelters, food banks, emergency care, and hospitals when refugees become ill after they become homeless and hungry.

Besides, if the goal is to discourage individuals who don't need protection from coming to Canada, there is actually no evidence that in fact it will do so. Meanwhile, refugees, all refugees, will be painted with the same brush and be affected in the same way.

But at a more fundamental level, we're also opposed to these provisions because they undermine the role of the federal government in poverty reduction. The passage of these sections will signal to Canadians that the Government of Canada does not believe in reducing poverty. It suggests that the government is wanting to download its responsibility onto provinces, territories, and municipalities by eroding the national standard that sets the bare minimum baseline security for all Canadians and by downloading the costs of caring for the most vulnerable among us. While the government's immediate goal might be to deny refugee claimants access to social assistance, this very blunt instrument it has chosen to achieve that goal will, in the long run, hurt all Canadians.

•(1705)

Therefore, we think it's a good idea for this committee to call on the government to remove these sections from Bill C-43.

Thank you.

The Vice-Chair (Hon. John McCallum): Thank you very much.

We have only enough time for one full round, which means seven minutes for the Conservatives, seven minutes for the NDP, and five minutes for the Liberals. I ask the Conservatives to go first.

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

Let me start off by thanking our witnesses for appearing before us today. I listened very carefully to all of the testimony that took place.

To start my questions I'd like to direct my first question to Mr. Wudrick.

Mr. Wudrick, this bill gives the power to the provinces and territories to establish minimum periods of residence to qualify for welfare. This clearly does not exist at this time and, in fact, there will be no change in what social welfare services are given to asylum claimants or refugees.

Jurisdictionally speaking, how would it make sense to keep the Federal-Provincial Fiscal Arrangements Act the way it is? Doesn't it make sense to give the provinces complete power to do what they please?

Mr. Aaron Wudrick: If by complete power you mean the power to do....I believe they have the power right now. They simply will have a fiscal penalty if they choose to exercise it, and that's exactly why we feel this is a completely jurisdictional issue.

Many other folks have made excellent arguments in favour of not introducing a minimum residency requirement. We take no position at all on that issue. We think if that argument is so powerful, it will also resonate in the provincial capitals and this will effectively lead to no change whatsoever on refugee claimants.

Mr. Costas Menegakis: With respect to what we have heard about this particular facilitative change that has been implemented in the budget implementation act 2, we believe the provincial jurisdiction should be respected by the federal government. This will allow the provinces and territories to decide about the social services that are under their purview already.

I wanted to make that point because it seems to me that with different things I've heard today, plus before today, we're going off on a little bit of a tangent as if there's some kind of a hidden motive somewhere. That, indeed, is not the case. It is not the government's objective to take away social assistance from those who need it. In fact, government-assisted refugees and privately sponsored refugees are exempt from this provision anyhow.

Mr. Bissett, sir, thank you for appearing before us again. I think you have been before us before.

On Monday, we heard from Department of Citizenship and Immigration officials and they reiterated seven times that this is merely a facilitative amendment, and that this is a federal act of Parliament. It was recently brought to the attention of the federal government, by the Province of Ontario, that there was a component of the act that could serve as a barrier to some provinces, and the government is therefore removing this barrier.

Can you comment on this?

• (1710)

Mr. James Bissett: I wasn't sure what the Ontario government's concern was, but it seems to me that what we have been discussing here today is at two levels. One is a jurisdictional change, or a housekeeping change. Other than that, it's a dire threat to the whole asylum system and the refugee program.

I prefer to think, as has been indicated by the officials, that it really puts the responsibility in the hands of the provincial governments where it should rest.

That may not answer your question, but I'm not aware of what the Ontario government was driving at.

Mr. Costas Menegakis: That actually answers my question. This change is not binding. It's their choice as to whether or not they do it in the first place, if the provinces and territories avail themselves of this.

Mr. James Bissett: Quite frankly, I'd be very surprised if any province would take this as an opportunity to cut off asylum seekers or make them face a residency period of time. I think it's a straw man.

Mr. Costas Menegakis: As you know, there will be no change in what social services are given—

An hon. member: [*Inaudible—Editor*]

Mr. Costas Menegakis: Point of order. I think when you ask questions, I don't kick in, so I'd appreciate it if you would let me ask my questions, please. Thank you very much.

As you know, there will be no change in what social welfare services are given to asylum claimants or refugees but rather it's just giving the provinces the option to do as they please. We've said that already. I want to ask Mr. Wudrick, does the Canadian Taxpayers Federation believe that the federal government should be involved in provincial business at all?

Mr. Aaron Wudrick: No, you probably would be unsurprised to know that the Taxpayers Federation is quite firm on respecting provincial jurisdiction. In fact, there are probably other pieces of legislation we could get into if we had the time or if we feel that provincial jurisdiction is not being respected. But in this case we think that this change would simply put the power back into the hands of the right level of government.

Mr. Costas Menegakis: We also learned on Monday from the officials who appeared before us that the reason the Federal-Provincial Fiscal Arrangements Act, as it stands now with the penalty in place, was established in the first place was just to give the provinces flexibility. Currently under the Canada Health Act it allows for a minimum wait period from province to province. The government did not want this to be the same for social assistance. Now the government is making it clear with this amendment to this bill in the BIA that Canadian citizens and permanent residents must stay exempt from any minimum wait time in order to align with the original intentions. That gives power, if you will, to equal the provision to what Canadians and permanent residents get today.

How do you feel about this?

Mr. Aaron Wudrick: I'm not sure what exactly the question is.

Mr. Costas Menegakis: My question is this. We've heard over the past couple of days when we've met, particularly earlier today, that there are some concerns by some that we want to take away the provision of health services or reduce somewhat the provision of health and social assistance to refugees. Our government has always maintained that we want legitimate refugees to be able to access health care and social assistance.

• (1715)

The Vice-Chair (Hon. John McCallum): Can you answer that quickly? The time is up.

Mr. Aaron Wudrick: What I would say is that we take no position on whether or not there should be a requirement but we do think it's appropriate that the provinces make those decisions.

The Vice-Chair (Hon. John McCallum): Thank you very much.

Now it's the NDP for seven minutes.

Mr. Andrew Cash: Thank you, Chair.

I just want to get right into it but before we do I think it's important to say that this process is flawed. We had asked for this bill to be stripped out of the BIA so that we could fully examine it here in this committee and so that we could provide recommendations and provide amendments that would actually be meaningful. As it stands right now it's only the finance committee that can actually amend this bill. It's important to put on the record that the NDP is firmly against this process.

Having said that, it's great to see folks here including some familiar faces.

Mr. Showler, I want to ask you if it's permissible to deny refugees social assistance under international law and what do other host countries do?

Mr. Peter Showler: Under the convention itself there is an obligation for host countries to provide public assistance or public service at an amount equal to what they provide for their own nationals. What that means is that underdeveloped countries that really do not have a lot of money and don't provide social assistance for their own nationals don't do it at the same time for refugees. Ordinarily in those situations they end up in refugee camps and they're assisted and supported by the various international agencies.

All of the developed countries provide social assistance. My colleague, Mr. Bissett, here pointed out when I referred to Germany earlier that Germany doesn't provide wonderful social assistance. That is true. A German court last year ordered them to increase the amount of social assistance. But they do provide social assistance.

There is no developed country that is doing what this bill allows the possibility of happening. It's quite clear it happens with the provinces but you have the responsibility. With due respect to Mr. Wudrick, if you look at the Constitution under Section 91(25) the primary responsibility for refugees lies with this federal government. It's like taking a loaded gun and saying I'm not using it, we're just putting it out on the table, it's the provinces that are going to use it. But in actuality it's the responsibility of this government and there is no developed country that does not provide any social assistance. You're creating the possibility for that to happen.

Mr. Andrew Cash: The bill makes no reference to refugee policy. Is there a policy justification for denying social assistance to refugees or refugee claimants?

Mr. Peter Showler: Well, as you said, there are no policy justifications for any of this. We have rumours. We have notions.

What we do know, primarily from the government's policies around health cuts for refugees—and there has been reference to the Federal Court decision that struck down that provision as unconstitutional—is that this government has traditionally said that fraudulent refugees come because they come for the welfare, the health care, and God knows what.

But I can tell you that at the hearing for the Canadian Doctors for Refugee Care v. the government, the government was challenged to provide the evidence. And it had no evidence. That's why Justice Mactavish said that there is no evidence that cuts to refugee health care will deter refugees.

I do want to remind you that I don't just speak as a lawyer and advocate. I was chair of the board and I was a board member. I look at it from all of the various angles. What I can tell you from my 30 years' experience in the field is that refugees do not come when there's no possibility of being accepted.

Australia at one time deterred them. Australia at one time cut back on refugee health care.

You heard Loly Rico refer to the United Kingdom. It cut back severely on refugee assistance. That was only for refugees who did not claim right away.

None of those factors deterred refugees. Refugees are deterred when they think they will not be fairly assessed.

• (1720)

Mr. Andrew Cash: On the subject of deterrence, we heard from ministry officials the other day who said that there had been no study done by the ministry on whether these kinds of changes would act as a deterrent. We heard from the finance department official who said there had been no studies at Finance on whether this measure would save money.

However, at that committee meeting we heard from the government side that the reasons for making this change were to provide a disincentive and to save money.

Can you speak to that disconnect?

Mr. Peter Showler: Well, it's a disconnect. There is no evidence. There's no evidence in refugee law and international refugee law that it will deter claimants. That's not why they fail to come.

You really must remember that when most refugees come to Canada, first of all, we all know it's very hard to get here. There are very high visa barriers. If they need fraudulent documents then often they need them because it's the only way they can get here.

There is often a tremendous investment. Often they sell their houses. They're in extended families who pull together all of their savings in order to get here. It just makes no sense that they're going to do that and give up everything in their previous country to get welfare. It just does not compute; it does not make sense.

I can tell you from my experience in the field that it is not a relevant factor for why people seek asylum.

Mr. Andrew Cash: Can you posit a reason that the government would make this change?

Mr. Peter Showler: Well, here's what bothers me. First, to Mr. Wudrick's comments, I am not an expert on Canadian provincial versus federal fiscal policy, etc.

But if there is a sincere belief that the power should lie with the provincial government, then why are they not transferring the entire power? Why is it that it's only for some permanent residents, those who are victims of trafficking? That power is not being transferred to the provinces.

All of the indications are that they're really going after those who have an established record as being quite clear, targeted victims, which are refugee claimants and refugees.

But I'm in the area of speculation.

The Vice-Chair (Hon. John McCallum): Thank you. That's it.

Mr. Andrew Cash: Mr. Chair, I'd like to move a motion to continue to sit until the bells ring.

The Vice-Chair (Hon. John McCallum): All right.

Mr. Costas Menegakis: I have a problem. The time was up. It's up to you whether you want to allow the motion to stand.

The Vice-Chair (Hon. John McCallum): Do you accept the motion?

Mr. Costas Menegakis: No.

The Vice-Chair (Hon. John McCallum): Okay, then no.

There are five minutes remaining for the Liberals, which is me. My questions flow quite nicely from what was just stated.

My first question is for Mr. Wudrick. I completely disagree with the notion that this is a jurisdictional issue, let alone a housekeeping issue, because until recently the government's case against refugee health care and also social welfare was phrased in terms of "bogus refugees" and "gold-plated health care". Then for whatever reason they softened the approach and they made it a pure issue of provincial jurisdiction; the provinces should have control. This was a recent change.

But—and this is my central point—I asked the officials and only one province was consulted, Ontario, and that province said it didn't want this law. The nine other provinces were not consulted.

I can understand giving jurisdiction to provinces if provinces are clamouring for it, but it's the opposite; nine provinces said nothing and one big province said they didn't want it. Under those circumstances why would you think it a good move, given all the other things parliamentarians could do to use up time, to give jurisdiction to provinces that don't want it?

Mr. Aaron Wudrick: I don't think it's an issue of whether they asked for it or not. If the decision-making power were left in their hands they would bear responsibility for that policy. When people are judging whether or not it's a good thing, when citizens are asked whether or not we want to have a minimum residency requirement for refugee payments or not, they know which level of government is making that decision.

• (1725)

The Vice-Chair (Hon. John McCallum): My point is that when zero provinces have requested it, one province has actively said they don't want it, and then for the first time in 100 years the federal government thinks this is a high priority for provinces to have a power that they do not want, it's not a real motive. The real motive, I would say, is to attack refugees on both health care and welfare, and it's pretty obvious.

I'd like to ask Mr. Showler a follow-up question. I think one other witness, Ms. Go, talked about the legal side. You are a lawyer, so as a follow-up to the earlier question you had on legal matters, the courts clearly knocked down the health care initiative, saying it was cruel and unusual, and the federal government has to retract on that.

Do you think that there can be a similar court finding that this, for some reason, is unconstitutional, or can't be done, or is illegal, and that the federal government will have to retract? It may not because it's not doing anything except changing jurisdiction. If there were such a case, how would it come? Would it have to be through an appeal by someone to a court? How could this unfold from a legal point of view?

Mr. Peter Showler: It is a complicated legal question. If one province did deny welfare to refugee claimants and the kind of scenario I described ensued—where someone who's here has no resources, they're destitute, they're trying to prove the refugee claim—clearly that application in court would have the same logic as the health cuts case did. You'd be looking at section 7 in terms of security of the person because you could certainly establish that was affected; section 12, where you're talking about cruel and unusual treatment; and quite possibly section 15, discrimination. Those could apply.

What becomes trickier is you have a shadow target right now. I certainly do not agree with Mr. Bissett that this is housekeeping. It is not housekeeping. Apart from that, whether that could be attacked legally under the charter, that is a very sophisticated legal question, but I can assure you that the Canadian Association of Refugee Lawyers would certainly be looking at it.

The Vice-Chair (Hon. John McCallum): Might it be the case that the lawyers would have to wait until the day when a province does it?

Mr. Peter Showler: That's right.

The Vice-Chair (Hon. John McCallum): Thank goodness 7 out of the 10 provincial governments are now Liberal or NDP, with over 80% of Canadians, and I think it's highly unlikely any of them will. Should that sad day ever arise maybe that would be the time to mount a legal challenge. Is that correct?

Mr. Peter Showler: That's the more likely one and that may be the conclusion. We may wait.

Lawyers always like facts and evidence, and that's what we had in the refugee health cuts case. Remember in that case we had 25 affidavits of horrible medical circumstances happening. We may have to wait, but then you're waiting for human suffering and you have to take the suffering and put it before the court. Surely it's not necessary.

The Vice-Chair (Hon. John McCallum): The last question is to either Ms. Rico or Ms. Go. I've puzzled for a long time as to what the motive is behind this bill. The only one I can come up with is it somehow plays to the Conservative base, but I'm not quite sure how. Do either of you have any speculation on that? You have a total of 20 seconds.

Ms. Avvy Yao-Yao Go: I think if they had only clause 172 and not clause 173 then I would say that it's housekeeping, but because they have both in there that talk about the exemption that targets certain groups and leaves out other groups who are not exempt, I think that the motive came out through what they listed as groups who are being exempted. Whether it's refugees or other people who the government considers are not welcome in Canada, I think that's something we can debate.

The Vice-Chair (Hon. John McCallum): Thank you. The speculation is done because our time is done. I thank you to all of the witnesses for being here. I'm sorry for the somewhat truncated form of the meeting, but thank you for joining us today.

The meeting is adjourned.

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