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# Standing Committee on Citizenship and Immigration

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EVIDENCE

**Tuesday, May 5, 2015**

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**Chair**

**Mr. David Tilson**



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● (0845)

[English]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** This is the Standing Committee on Citizenship and Immigration meeting number 46. We are studying Bill S-7, An Act to amend the Immigration and Refugee Protection Act, the Civil Marriage Act and the Criminal Code and to make consequential amendments to other Acts.

We have before us three witnesses. Two have been here before several times. Raheel Raza is the president of the Council for Muslims Facing Tomorrow. Avvy Go is the clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic. And from Copenhagen, by video conference, we have Susanne Willaume Fabricius, as an individual. Good morning to all.

I think we'll start with Ms. Willaume Fabricius. You have up to eight minutes to make a presentation.

**Ms. Susanne Willaume Fabricius (As an Individual):** First of all, thank you for inviting me.

I think it's very important that you as a nation take a clear stand against forced marriages and child marriages. We need to protect women and children against these offences.

Generally, there will always be a risk that a family will do it anyway, maybe in secret, or it will perform the marriage in another country per se. Because of extended families, it's very difficult to check if they are doing right or wrong. Are they making arrangements for marriages in or outside Canada? Many people will be eager to help in covering up if something is being planned.

When it comes to polygamy, we have to take into consideration that if they only divorce, the civil marriage will, in their own eyes, still be valid and the man can legally marry one more woman. This is difficult to know and will often take place in silence and without any paperwork being done.

There can be a risk of the first wife being dumped in the country of origin and left to a life of great danger, violence, or even death.

We have to take reprisals against the women or youngsters into consideration whenever we're dealing with these families. For example, you mentioned a family violence program. My concern about this would run the risk of reprisals against the women or the young girls, for example. The family will feel that it's because of the youngster, that the youngster is to blame for their having to take part in this program and because of her, the authorities will know about their private matter.

I don't think the law can do it by itself. Because of the tight family ties and the extended families, it's very difficult to control what is going on. There are so many people who would like to help someone to do this and, furthermore, is expected to assist in actions like these. Honour and promises within families or communities are so important and strong issues that some people will go far in order to protect this.

I'm sure some of the people assisting in these cases are not even that eager to do it themselves, but they feel they have no option because of the strong social control, as we also see here in Denmark.

As I said, the law can't do it by itself. You have to have a strong extended support system for the potential victims. You have to have counselling, hotlines, campaigns raising awareness, and educated professionals who can spot these problems and refer the youngster to the right place for help, to make it a topic in schools, and so on.

I would ask you to take three things into consideration. It would include having a very extended support system in addition to the laws. Mindsets are very difficult to change. The law can't do it alone. It has to be combined with raising awareness, teaching the youngsters empowerment, so some of them will be able to fight their own battle or ask you for help.

Family ties are very strong. The youngsters are very loyal to their parents or families and they are very aware of the consequences. This will make your aim difficult. That's why we in Denmark haven't had any cases go to court because, for example, when the youngster goes to the police, suddenly she will come back and will say no, that it was a lie, that she didn't mean it, that her family would never do this.

Therefore, in addition, you need to have this very strong support system I think.

● (0850)

**The Chair:** Thank you for your presentation, Ms. Fabricius.

We have two more guests who will make presentation to us and then I expect members of the committee will have some questions for you.

Ms. Go, you are next.

**Ms. Avvy Go (Clinic Director, Metro Toronto Chinese and Southeast Asian Legal Clinic):** Thank you.

I'm from the Metro Toronto Chinese and Southeast Asian Legal Clinic, a not-for-profit, community-based organization that provides free legal services to low-income members of the Chinese and Southeast Asian community. I appreciate the opportunity to be here today to talk about Bill S-7.

I want to thank the committee for studying this issue. The stated purpose of the bill is to protect women from violence and, as such, I think we need to examine the efficacy of the bill against its stated purpose.

At its core, violence against women is a Canadian problem. Domestic violence affects all women in Canada, whether they are Canadian born or foreign born. Many studies have talked about the extent to which this problem exists in Canada. For instance, one study shows that half of all women in Canada have experienced physical or sexual violence since the age of 16. Every six days a woman in Canada is killed by her intimate partner, and on any given day more than 3,000 women and children are forced to sleep in shelters to escape domestic violence.

So without question, violence against women is a serious problem that warrants the attention of all levels of government, and urgent action is needed to stop it.

The only question we need to ask ourselves is what would be the most effective way to combat violence against women in Canada? It's from that perspective that we're commenting on Bill S-7 and from that viewpoint we respectfully submit that there are serious concerns.

To start, the bill seeks to deport individuals who are engaged in polygamy, including the women that the government says it is trying to protect. The denial of permanent and/or temporary resident status to people involved in polygamous relationships will not have the desired effect of protecting women. It will simply bar women in such relationships from coming to Canada in the first place.

Likewise, criminalizing forced marriage will not end this practice, as we have heard from the expert from Denmark. It would only drive it further underground and harm survivors of forced marriage, many of whom, while desiring to leave the relationship, don't want to see family members being prosecuted.

In cases where a woman is involved in a forced marriage or a polygamous relationship and has come to Canada as a sponsored spouse, she's currently at risk by virtue of the conditional permanent resident requirement, which forces a sponsored spouse to cohabit with her sponsor for two years or lose her immigration status.

In addition, there's serious concern about the naming of this bill which invokes racist stereotypes and fuels xenophobia toward certain racialized communities. It mocks the practice of polygamy elsewhere as a sign of cultural inferiority, while ignoring the fact that polygamy is being practised in Canada by certain Canadians. In fact, too many relationships in Canada break down due to extramarital affairs involving one or both parties in the marriage. It detracts from Canadians having a real and honest discussion about domestic violence and from seeing domestic violence for what it really is, namely, an issue of gender inequality and not an issue of cultural identity.

At the end of the day there is simply no evidence to suggest that violence against women is more prevalent among certain immigrant populations, but there is ample evidence to suggest that violence against women commonly occurs outside of polygamous relationships or forced marriages. So attacking the issue of domestic violence through the lens of immigration law and through increasing criminalization is not necessarily the right way to go.

If we are serious about protecting women from violence, including women who are in forced marriages, we believe that the government should look for more effective solutions outside the law and outside the legal framework. For instance, we call on the standing committee to make the following recommendations to the government:

First, it should repeal conditional permanent residence for the sponsored spouse. Second, it should grant permanent resident status to non-status women victims of violence. Third, it should provide support to victims of forced marriage in the form of housing, counselling, and other kinds of social support. Fourth, it should increase funding for the immigrant settlement sector. And finally, it should enhance employment opportunities for immigrant women through employment equity measures, training, and other kinds of support programs.

● (0855)

In conclusion, the most effective way to protect immigrant women who are victims of domestic violence is by ensuring that these women have access to unconditional permanent resident status without fear of removal, and by providing them with all the support they need to fully integrate into Canadian society.

Thank you. Those are my comments. I'll speak to any questions you may have.

**The Chair:** Thank you, Ms. Go. I'm sure there will be in a few moments.

Ms. Raza, if you could make a few comments, we would appreciate it.

**Ms. Raheel Raza (President, Council for Muslims Facing Tomorrow):** Thank you. Good morning. I'm privileged to be here as an advocate for human rights, specifically the rights of women. So for us, this is an extremely important bill.

There's an important factor in discussing this bill. In my opinion, it applies not just to a particular segment of society but to all women because as we are well aware, violence against women takes many forms and exists in many cultures. According to Statistics Canada data in catalogue number 85-002, half of all Canadian women have experienced physical or sexual violence. If we consider women and girls from communities influenced by religion and submissive traditions, as Canadians do, then there is an expectation that they should be treated the same.

My focus in this very short presentation today is honour-based violence. This is the field in which I have been working most recently, and I might mention here that in our understanding, domestic violence is separate from honour-based violence. The fact that the bill uses the word “barbaric” is extremely important because the abuse that is perpetuated against women under the banner of honour-based violence is nothing less than barbaric. Therefore, my organization totally supports the bill in its intent to eradicate barbaric practices.

However, we must keep in mind that honour-based violence also finds men as its victims, specifically in the case of honour killings. Honour-based violence addresses three main issues: honour killings; forced and under-age marriage; and female genital mutilation, which I will refer to as FGM. There have been 24 recorded cases of honour killings in Canada since 2009, which is one too many. These are only the reported cases. How many remain underground, we don't know. So there needs to be an awareness in educational institutions, law enforcement agencies, and the judicial system about the background and triggers that lead to honour killings.

I also believe it's important to get more statistics on honour killings, FGM, and forced and under-age marriage because when we are passing a law, it's very important to have numbers. In particular, female genital mutilation has not been tracked fully in Canada. In terms of forced and under-age marriage, the red flag is the minimum age of marriage for young girls. I suggest that the age be raised to 18, which will give girls more time to be aware of their rights and fight back against forced marriage.

This bill does not ban or put any restriction on bride price, which is a price paid by the groom to the bride, and dowry, the property goals or goods given to the groom by the bride's family. Both these traditional acts have already claimed the life of several women in several communities in Canada. By not mentioning bride price and dowry, it means that it's not a harmful practice, even though people in Canada and elsewhere are witnessing bride burnings or bride suicide rates rising.

Bill S-7 does not place any supportive bodies for women and young girls who have been victims of arranged and forced marriage outside of Canadian borders and within. So it's extremely important to have some form of a distress line for issues related specifically to honour-based violence. We know from the experience in Britain of young girls born in Britain and taken to South Asia. It is unknown to them why they are going to their ancestral homes. Once they arrive, they're forcefully contracted out in marriages without their permission.

But Britain has set up special cells in their foreign ministry and their embassies in countries where such incidents are high to intercept such forced marriages, and in many cases bring back the abused girls and prosecute their parents or those responsible in this trafficking. They also have a forced marriage unit that works in conjunction with the immigration department and law enforcement agencies to track girls who have been forced to go to other countries.

One of the most interesting ways that they are able to intercept some of these forced cases is that the social agencies in England have advised girls who have been forceably taken against their will to put some metal object inside their clothes so that when they go

through the security barrier, it will ding, and they will be taken aside. But that's only because there is an awareness that this problem exists.

We need to know why Britain's experience was not taken into account in Bill S-7, and how we must address the real concern when we know this is happening in our communities. Bill S-7 also fails to recognize that girls over the age of 18 need protection as well from forced and arranged marriages. According to a survey, about 31% of forced marriages were girls and women aged 19 to 24, and 25% of them were aged 25 to 34. Putting an age limit on the abused women who are supported leaves about 56% of women totally without protection.

● (0900)

finally, I want to speak about FGM, the most barbaric act. Recently the United Nations published a report showing a rise in the practice of female genital mutilation. I was at a Civitas conference this Sunday where there was a panel of two medical doctors. I asked them about FGM and how they would deal with it if a family brought in a young girl who had had female genital cutting. They both looked at me and said, “Isn't that just like having a tattoo, or isn't that like male circumcision?”

I'm offering a copy of *Honor Diaries* to all of you, if I may, for your awareness, because our mandate is to expose, educate, and eradicate barbaric practices. Along with Bill S-7 there needs to be much greater awareness of what we are facing.

Thank you so much.

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

Thank you all for your presentations.

Now members of the committee will have some questions of clarification for you.

Mr. Menegakis.

**Mr. Costas Menegakis (Richmond Hill, CPC):** Thank you to all three of our witnesses for appearing before us today.

I'd like to start my questions with you, Ms. Raza, if I may. I see and heard that you're involved with *Honor Diaries*. First of all, thank you very much. I look forward to watching this. I've also read on the website that it's the first film to break the silence on honour violence against women and girls. Can you give the committee a little bit of information on this movie?

**Ms. Raheel Raza:** Absolutely.

Two and a half years ago, a human rights lawyer had been watching the Arab Spring and she realized that this issue of honour-based violence is something that had not been spoken about openly, especially by Muslim women themselves. I say this of course because I am a Muslim woman, and the incidence of honour-based violence is statistically the highest in Muslim-majority societies. I personally come from Pakistan where there are about 800 recorded cases of honour killings in one year. These, as I said, are just the reported cases.

There is very little prosecution. The penal code in Jordan, for example, contains a part that says that if a man kills a family member for honour, he will not be prosecuted. So we brought this film together to break those barriers of silence. There are nine women activists in the film, and these are the three issues they have talked about very openly without political correctness. Of course all of this is supported by United Nations and World Economic Forum statistics. It's not just to expose the problem but is also a call to action. Since this film was made, the laws in England have been changed. I believe that Bill S-7 actually addresses some of these issues, but there needs to be more awareness. The film has been used as a tool. It has been shown at the United Nations Human Rights Council in Geneva and all across campuses in the United States and right here in Canada. We have had screenings with questions and answers, primarily to educate ordinary people to know that these problems exist not just out there but right here.

Just to give you one example, there have been 120,000 reported cases of female genital mutilation in the United States alone.

• (0905)

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

Obviously there's some parallel, some correlation, between the movie and this bill, as it happens. Have you met young victims whom this bill would protect?

**Ms. Raheel Raza:** Yes.

**Mr. Costas Menegakis:** You have?

**Ms. Raheel Raza:** I have. In fact the screenings of this film have actually brought out some victims. I can give you a specific example. We had a screening at the Washington Press Association, and this young woman from Gambia just walked in. She flew in from Atlanta. She said she was a victim of female genital mutilation in a forced marriage. She had taken refuge in Atlanta, and when she heard about this film, she felt empowered enough to come and speak out. She started an online campaign and garnered over a million signatures against FGM, which then sort of encouraged President Obama and his wife to have a special study done in the United States on FGM. I have personally encountered a young girl from Afghanistan who came to me in Vancouver and said she saw her mother being killed by her father in front of her own eyes, because the mother was educated and the father wasn't. Many victims don't necessarily want to come out in the open because they're afraid, but I hear from them on a regular basis.

**Mr. Costas Menegakis:** I understand.

You mentioned the United Nations. In fact, in December, we heard that António Guterres, the United Nations High Commissioner for Refugees, put out a release marking 16 days of activism against sexual and child-based violence. These 16 days of activism led to

International Human Rights Day, on December 10th. This year, the UNCHR's theme is called "Protecting Rights and Preserving Childhoods: Working Together to Address Child Marriage".

Mr. Guterres urged governments to take action. In fact, he said that, "We must advocate with governments for child marriage to be prohibited by law"—a little different from some of the commentary we heard already this morning—"and for this to be effectively enforced".

On the government side, we're very pleased that we've taken the lead on this issue.

Can you comment on this?

**Ms. Raheel Raza:** Absolutely.

I have always said that forced and underage marriage is nothing less than child abuse. We have laws against child abuse. Therefore, this should be considered child abuse. It's the first form of child abuse.

I am very glad that our government is taking such a keen interest in this. There are thousands of young women and children out there who would otherwise not be protected. This law will give them....

Needless to say, a law doesn't eradicate such practices totally, but it definitely becomes a deterrent to those who think they can get away with it.

**Mr. Costas Menegakis:** I will ask the same question to Ms. Susanne Willaume Fabricius. I hope that I pronounced that right.

With respect to the United Nations High Commission for Refugees, Mr. Guterres is advocating that governments work toward putting in legislation that would prohibit child marriage.

Could you comment on that, please? Could you also comment on the UNCHR initiative and how you see our government responding to that with this piece of legislation?

• (0910)

**Ms. Susanne Willaume Fabricius:** I don't think that you have a choice actually. You have to have laws like this. In societies like yours and mine, you can't accept that people think they can get away with these child abuse issues. This is not okay. You have to send a strong signal that it's not okay: you can't do this.

Then, you have to help the youngsters. They can't press charges by themselves. We have to help them, as a society. You have to demand from professionals who are around the youngster that they have to go to the police or whatever, to do something about these cases.

**The Chair:** Thank you.

**Ms. Susanne Willaume Fabricius:** If I could say, I very much agree with Ms. Raza on a lot of things.

Also, I think this 16 years of age to marry is not a lot. They would be very much more independent and more knowledgeable to say that they don't want to perhaps, if....

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

**The Chair:** Thank you.

Madame Blanchette-Lamothe.

[*Translation*]

**Ms. Lysane Blanchette-Lamothe (Pierrefonds—Dollard, NDP):** Thank you, Mr. Chair.

Many thanks to the three of you for being here with us today for the study of this important bill. I must point out, especially to Ms. Willaume Fabricius, that the debate on Bill S-7 is not on the existence of barbaric and cruel practices of violence against women. All the parties in the House recognize that this is a problem, that we need to get serious about it and set up the necessary resources. The debate is actually on how to do so. Some aspects of Bill S-7 raise concerns and could make the problem worse instead of solving it. Not all the measures are problematic, but some of them raise concerns. That is what I would like to talk to you about.

Ms. Willaume Fabricius, can you hear the interpretation?

**Ms. Susanne Willaume Fabricius:** Yes.

**Ms. Lysane Blanchette-Lamothe:** This technology that allows us to speak in any language to people from all over the world is amazing.

Six years ago, Denmark passed legislation to criminalize forced marriages. Ms. Willaume Fabricius, can you tell us more about that legislation and the impact it has had? I think your expertise is in working with the victims and people on the ground. Have those measures been effective? Have they helped the victims?

[*English*]

**Ms. Susanne Willaume Fabricius:** Thank you.

I didn't know at the start how much you knew about me, but I work entirely with honour-based violence and honour-based crimes. That said, the law is an important signal to send to these families who are considering things like this—but no case has been before the court. I don't think that deserves [*Technical difficulty—Editor*] because, as you said, I have hands on and I meet the youngsters every day, and what they say to me is, “I don't want to make my family sad”. They're very loyal to their families. At the same time, they are so afraid of this marriage. For example, they tell me that it is like being raped every time you're going to have sex with this person because you didn't choose him yourself. Somebody said, “You have to have sex with this person whether you like him or not.” Still, the family ties are so strong, and because of the way they have been brought up, it's not acceptable to say that you want to do something different than what the family has decided.

It's heavy on their shoulders that they could make the families sad or angry. Of course, not least are the consequences if they say, “I don't want to do this” or they escape to one of our shelters, for example.

• (0915)

[*Translation*]

**Ms. Lysane Blanchette-Lamothe:** Thank you.

Bill S-7 contains a measure that seeks to criminalize anyone who attends a forced marriage ceremony and is aware that the marriage is not a free choice for one of the two persons getting married. One of the concerns is that the main problem with forced marriages is

silence. We are wondering whether a measure that can criminalize the entire family and part of the community would not encourage the victim to be silent rather than to look for help.

What do you think about that measure?

[*English*]

**Ms. Susanne Willaume Fabricius:** There's always this risk, and I think it's present every time we, in this field, are trying to help someone, that we are afraid that it will [*Technical difficulty—Editor*] someone for asking for our help. I still think you have to do both; you have to have this strong support system with a lot of people who know about these things so they can help the youngsters efficiently. At the same time, you have to tell the families and all the helpers—because there are a lot of people who will help in doing that—that this is not okay. It's long-term raising awareness. It takes a long time to change the views of these things. It's connected to something very deep in the family, so it's not something you change overnight.

[*Translation*]

**Ms. Lysane Blanchette-Lamothe:** Thank you.

A number of experts are saying that most of the problematic situations identified in Bill S-7 are already prohibited here and that a bill is not necessarily a good way to send a strong message. Someone who testified before the committee last week had experienced a forced marriage when she was young. As a young victim, she did not know her rights or the bills passed by Parliament.

Given that child marriages, forced marriages and polygamy are already prohibited in Canada, do you think Bill S-7 is really the best way to send a strong message? Could the government not use a different method to say or clearly remind the public that these practices are unacceptable and prohibited in Canada?

How do you think we could reach out to victims and families and send them a clear and strong message?

[*English*]

**Ms. Susanne Willaume Fabricius:** Maybe I'm repeating myself, but I still think raising awareness has to be done on different levels, in schools, through education, in a lot of places. You have to raise awareness about this through big campaigns. In 2012 the government made a four-year plan, including a lot of these things, such as raising awareness, educating professionals, educating youngsters through empowerment, educating [*Technical difficulty—Editor*], a lot of these things that all should be of help, and of course my NGO, which is the biggest in this country, to help the families in a sufficient way.

We do mediation as well, but it's something you can only do if you're [*Technical difficulty—Editor*] because there's always a risk of making the situation worse. The families are very aware that this has to be a private matter, and it can become dangerous if it's not a private matter.

**The Chair:** Thank you very much.

Mr. McCallum.

•(0920)

**Hon. John McCallum (Markham—Unionville, Lib.):** She wants to comment.

**The Chair:** The way the rules are in this place, unfortunately, we ask questions of you. The committee asks questions of you—

**Ms. Raheel Raza:** I'm just a rule breaker. You can ignore me.

**The Chair:** —and at that point you might have an opportunity to comment.

**Ms. Raheel Raza:** Sure, thank you.

**The Chair:** Maybe some day we'll change the rules and just have an open mic. We'll see.

Mr. McCallum.

**Hon. John McCallum:** Thank you, Mr. Chair.

Welcome to the three witnesses.

I'd just like to echo what my NDP colleague said at the beginning. Of course, all parties are opposed to these practices. It's a question of how best to deal with them, and clearly there is some disagreement. I certainly agree with Ms. Go that we should regard these issues through the lens of what we can do to reduce violence against women.

I'd like to ask a question of Ms. Willaume Fabricius about polygamy. I think you heard that there was some disagreement with the law in Canada and that there could be unintended consequences and a negative effect on the children and the wives if polygamists are deported. I'm wondering how this issue is dealt with in Denmark. Do you have recommendations in this particular area based on your experience?

**Ms. Susanne Willaume Fabricius:** There can be a great danger for the women sent back to the country of origin. We have a situation in Denmark where they can still be religiously married but civilly separated or divorced, and in their minds they are still married. For example, when the man wants another wife, he gets a civil divorce and sends wife number one back to Afghanistan. This can mean great danger for her, violence, death, whatever. Rumours may have been started before she arrives that she is a whore, and it can be very dangerous.

The man will often get the children, so the women are victimized greatly by this.

**Hon. John McCallum:** Okay, then what's the solution? I understand the problem. How does Denmark deal with that issue? What would you recommend we do? Should we not deport polygamists? Is that the solution?

**The Chair:** Turn off the clock. We have a technical problem.

**Ms. Susanne Willaume Fabricius:** You have to examine every case very thoroughly because this risk exists.

Where I sit, I sometimes write the authorities to stop a woman from being deported because of this. If a foreign woman has been subjected to violence, and it's physical violence, it's not that difficult to stay in Denmark. If it's psychological or sexual violence, or something like that, then it's difficult to get her to stay here, but sometimes we do, because we know how the situation is in some of these countries.

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

Ms. Go, I certainly agree you 100% about repealing the conditional residence for spouses from overseas, but we have gone through this before. The witnesses agreed as well. That has now been done. We are now in a different place.

From listening to you, I basically agree with what you've said, but I am not sure if you would see any merit in this bill. If you limit yourselves to the confines of the bill, rather than talking about other things that we could do, would you prefer to see it not passed, or do you think there are some ways in which it could be amended and improved?

**Ms. Avvy Go:** For instance, we talk about child marriage. I think that child marriage should be separate from forced marriage or a polygamous relationship. I don't see anything wrong with banning child marriage. It depends on which province you live in. The age of marriage is different everywhere. I can see some merit in increasing the age of consent, for instance.

I do have a lot of concerns about the other provisions. Even the expert from Denmark is asking this committee to look beyond the laws. You have to look at the overall picture. This bill cannot be separate from the rest of what the government is or is not doing. We have to talk about what else you are doing. Instead of cutting funding to the Status of Women program and closing down its offices, should we be providing more funding to it? Should we be providing more education, as my friend from Denmark is talking about? The deporting of women is happening right now. We have clients who are victims of violence. If a wife is sponsored by her husband in Canada, an inland sponsorship, and if the husband withdraws the sponsorship, even if we prove that the wife has been abused, there is no guarantee that she will be allowed to stay in Canada on humanitarian compassionate grounds. That needs to be changed as well.

•(0925)

**The Chair:** Thank you.

Mr. Leung, go ahead.

**Mr. Chungsen Leung (Willowdale, CPC):** Thank you, Mr. Chair.

Thank you, witnesses, for appearing.

Ms. Raza, a while ago you wanted to make a comment in reaction to Ms. Fabricius. I wish to hear what that comment is.

**Ms. Raheel Raza:** What I was going to suggest is that every time there is a new law, there has to be a public awareness campaign. We talk about public service announcements regarding domestic violence. Similarly, there needs to be that awareness in the public, so that those people who are not aware of their rights will understand. There are many immigrant communities here in which the women are not aware even of their existing rights. It is through education and awareness through media, because we live in the world of the Internet, that... Once they are aware that these rights are available to them, they will eventually go for them. A law is a deterrent. It doesn't happen right away, but it definitely does become a deterrent for those perpetrators who are thinking in their minds "I'm going to force my daughters to stay at home and go into a forced marriage." The idea of the law will be a deterrent.



**Mr. Chungsen Leung:** Often, that type of community is a fairly closed community. There are cases where, perhaps because it is closed, there is a higher level of illiteracy. What is your comment on how we reach out to them?

**Ms. Raheel Raza:** It should be in a language they will understand. This is the beauty of living in this diverse country, that we have access to so many languages. Public service announcements, brochures, pamphlets in different languages, that is what they have done in England. They provide the information to the masses, to the communities, in a language they understand. It is not to say that the bill by itself, when it is passed, will suddenly change the lives of the women overnight. This is a process. It is always a process when we talk about law. The process has to be from the grassroots, which are the families, the communities, and the social services, and then from the top down, which is the government. It has to be a joint effort if we want to bring about change in the lives of millions of women.

**Mr. Chungsen Leung:** Let me change the subject. I am impressed with the diversity and the wide audiences that you have engaged in the work that you do. Obviously, you've spoken and interacted with many victims, as well as other bodies in relation to honour-based violence, forced marriage, and so on. A lot of this is culture-based. As you indicated before, you met a woman from Zambia, and you also have had interactions with people in Pakistan. Could you perhaps broaden that a little bit and tell us what other groups you have spoken to and what they have said with respect to this specific piece of legislation?

**Ms. Raheel Raza:** The groups I've spoken to have been very diverse. When the victims come up, that's when you realize that this kind of abuse, honour-based violence, crosses all barriers and all boundaries. Our tag line is that culture is no excuse for abuse. Honour-based violence exists in the Sikh community, in the Hindu community, in the Muslim community. I have had young victims from South America come to me and say that they're in a situation where their parents are forcing them not to lead open lives or not to marry someone.

In many ways, it is across the boundaries of ethnicity, faith, culture, religion. It does exist; it's just that the larger portion of honour-based violence specifically resides in the South Asian communities. Perhaps that's because of the pressure of faith in their communities or the pressure of patriarchy. When we look at societies that are highly patriarchal—I can see my friend in Denmark nodding her head—patriarchy definitely plays into this. Then we look at societies where illiteracy is a problem, where women don't understand that they have rights. That is why I keep on stressing the idea of awareness and education along with any laws that we may pass.

• (0930)

**Mr. Chungsen Leung:** Do you have any experience of victims coming from a European culture, say, or a traditional Judeo-Christian one?

**Ms. Raheel Raza:** Yes, there have been cases, but very few. It's not to say that this does not exist in, let's say, western societies or in the Judeo-Christian culture. If you look back at the history of the western world, 150 years ago honour culture very much permeated western society as well. Young girls in the Catholic communities

who had children out of wedlock were taken into nunneries. This idea of honour definitely did exist. There were witch hunts. There was abuse against women. But we are talking about the enlightenment, the awareness, and being able to get over it where you have freedom to talk about these issues.

Let's not forget that many of the victims we are dealing with in South Asian communities don't have the freedom to express their issues. They don't have the freedom to talk about it. They need to be empowered to know that the legal system is protecting them, that if there are public service announcements and a distress line, they will be able to express themselves. The distress line in England that deals specifically with honour-based violence gets 600 calls a month, primarily from the South Asian community.

**Mr. Chungsen Leung:** What about the East Asian culture, let's say from Japan across to Southeast Asia? Have you heard from any victims from that area?

**Ms. Raheel Raza:** I have not been approached by the East Asian community, or I haven't had much interaction in terms of knowing where that stands. A few girls from China have come and said that they have also experienced a kind of oppression of women's rights going back some time, but nothing directly regarding honour-based violence.

**Mr. Chungsen Leung:** Thank you, Mr. Chair.

**The Chair:** Ms. Mathysen.

**Ms. Irene Mathysen (London—Fanshawe, NDP):** Thank you, Mr. Chair.

Thank you very much to our three witnesses for coming here and providing your expertise. It will be an important part of what finally comes out of this committee in regard to this bill, because obviously we want it to do what is intended.

One thing I keep hearing over and over again is the need for awareness, and I quite agree.

Ms. Raza, you talked about the Civitas conference. I was surprised to hear that the medical community didn't seem to be aware of female genital mutilation. It comes back to awareness. How can it be that a medical practitioner wouldn't know or understand that kind of violence?

**Ms. Raheel Raza:** Female genital mutilation is a practice that has taken place very much behind closed doors. When you read the statistics, it's horrifying to know that grandmothers, mothers, and midwives have been performing female genital mutilation. The doctors who have been involved have not been forthcoming about what they have seen or what they have experienced with their patients. The first doctor to be prosecuted for performing female genital mutilation in the United Kingdom was last year, although it's been going on now for almost over a decade. There is a lack of awareness.

To be very honest with you, I grew up in Pakistan, and when I came to Canada I first heard the term “FGM”. It’s primarily an African tribal cultural practice that has been imported into western society with immigrants coming to these countries. When I educated myself and started learning about it, I realized that there was an appalling lack of awareness. Teachers, people who are in the education field, and people in the medical field are the ones who have first-hand contact with these young women. They need to be aware.

• (0935)

**Ms. Irene Mathysen:** Thank you.

Ms. Go, you mentioned the need for awareness as well. We’ve just had a budget in this country. Was there enough in this budget for promoting awareness and understanding of the violence that permeates society?

**Ms. Avvy Go:** I don’t recall seeing anything in the budget, but I could be wrong. I think this is where if we’re sending a signal, if this bill’s main purpose is to send a signal, then I think a better signal would be sent if the government spent money on combatting violence against women. I think sometimes we’re perhaps applying a double standard. I’m seeing cases of violence in my community. People come to me, not necessarily about honour-based violence, but violence nonetheless. However, because it’s not honour-based, it doesn’t get the headlines in the media and the attention of this committee.

If we are concerned about violence, we should be concerned about violence anywhere.

We’re concerned about polygamous relationships. We should be concerned about all polygamous relationships. Again, I see women coming in who are the mistresses of the rich Chinese and Hong Kong business people who are allowed here, to come to Canada, because they have the money to do so. These women are left behind here, abandoned by their husband, and they have no way of supporting themselves. But if we expose these relationships as polygamous, they’ll be gone the next day.

I think we really have to think about how we address these issues in a more coherent way.

**Ms. Irene Mathysen:** One of the concerns is the criminalization of people and how that drives practices underground. I think that’s one of the fears about this particular piece of legislation, criminalizing people and making them frightened. Would you agree with that?

**Ms. Avvy Go:** Yes, and I think that’s the biggest fear. It’s an ongoing debate among women who are concerned about violence as to whether criminalization is the best way to go. The debate has been going on for many decades. The fact that we’re still having the debate speaks to the lack of effectiveness of this kind of measure.

**Ms. Irene Mathysen:** Certainly, there are ironies. The bill says that it has the best interests of women and children at heart, yet it still permits deportation. The question is, how is sending the family back to the country of origin in the best interests of women and children?

**Ms. Avvy Go:** I think they don’t. In fact, we are doing that even now. We are sending women and children who are victims of

violence back to their country of origin when the sponsorship is withdrawn by the sponsor. That’s happening even now.

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

Mr. Aspin.

**Mr. Jay Aspin (Nipissing—Timiskaming, CPC):** Thank you, Chair, and welcome witnesses, and thank you for your contribution to this bill, a very important bill.

Obviously, polygamy is an affront to Canadian values. Personally, I was glad to hear that it’s been illegal since 1890, but we all know that this is a shameful reality in our country, so I’m going to focus on you, Ms. Raza. Can you tell me in your own words how this bill will protect Canadian values and convey to these communities that such practices are not welcome here in Canada.

**Ms. Raheel Raza:** I think, first of all, Canadians have to sit down and work out the whole idea of what are our values. When I throw that out to audiences, they say, hmm, so?

In my perspective, Canadian values and the values that I have come to this country to embrace are the values of gender equality, the values that men and women are equal, the values of individual thought and freedom, freedom of press, freedom of choice, freedom of voice. When we talk about these values, it does not have to be a negative message to the effect that this is not what we do, but rather a very positive message to that we are Canadians and this is what we uphold. Then people need to understand this.

We do not cut off the genitals of our young girls. I say this, and it’s a very crass statement, because I want you to understand how barbaric that is. Unless we actually present this as being a really gross practice, which is happening to thousands of girls as we speak, we are not going to be able to change the mindset of people.

So it is based on different ideologies, some of the practices that take place, on cultures and traditions, but these are flexible and they need to evolve and change with time. Definitely we need a strong message to say that these are Canadian values and we do not support practices that are abusive to men and women, but definitely to women.

• (0940)

**Mr. Jay Aspin:** Thank you.

A forced marriage, especially of young girls, is incredibly barbaric as well. How could you not call it that? Do we know if forced marriage is happening on Canadian soil, or do families typically take the girls out of the country?

**Ms. Raheel Raza:** It happens both ways. Typically they will take them out of the country, but it is also happening right here. As I said in my opening remarks, these have not been tracked. So some work needs to be done on getting statistics, and that once the awareness is there, that these girls are able to speak out, or the support systems, the social workers or educational systems that know about this to speak out. I'll give you a very quick example. When girls are taken out of the school system for prolonged periods of time no questions are raised when that is done by those from a particular culture. It's understood that in this culture a girl may be taken out of school and then taken out of education. I had a young Canadian girl email me who said that she and her three sisters were forced to stay home and told that everything outside was evil and that they would not be not allowed to go to school. But nobody questioned why they were not in school, why they were not being educated.

This is the awareness that needs to be created among social workers, teachers, and medical professionals, those who have first contact with young people. So in answer to your question, it's happening in both places.

**Mr. Jay Aspin:** Could you tell me how the proposed amendments would prevent young girls from being taken off Canadian soil?

**Ms. Raheel Raza:** A law that would prosecute parents or anybody involved in forcing a young girl into marriage would be a definite deterrent. Just knowing that they can be criminalized for doing this, which is the law in England now.... It was brought into place about a year after *Honor Diaries* came out. It is now a law and parents have been prosecuted for forcing their girls to marry. That again is as a result of awareness. It says that it's a criminal offence to be in any way a part of a situation where a young girl may be forced into a marriage, including parents, relatives, extended family, anyone who plays a role in this.

**Mr. Jay Aspin:** Thank you.

Front-line workers stress the importance of training police officers. I believe it is important that officers of the law have the tools they need to deal with honour-based violence. First of all, do you believe that this bill will give front-line workers better tools to criminalize and even prevent honour-based violence?

**Ms. Raheel Raza:** Once they are aware of the triggers of honour-based violence, which means workshops, training, and education, I believe that yes, they will be better equipped to deal with it.

They will be even better equipped to deal with issues of forced marriage. A quick example is that if a young girl calls a police officer or calls 911 and says that she's afraid her parents are going to force her into a marriage, they can't do anything because a crime has not been committed. We have seen this time and again in situations of honour killings where a girl may call and say she's afraid for her life, that she thinks her parents may hurt her, but a crime has not been committed. So that awareness and that education, I believe, is extremely important along with the bill.

**Mr. Jay Aspin:** You believe that's a fundamental part of the package, the training of officers.

**Ms. Raheel Raza:** Absolutely, I do.

**Mr. Jay Aspin:** Thank you.

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

That concludes our first hour. I want to thank you, Ms. Raza, Ms. Go, and Ms. Fabricius for coming and giving us your thoughts and helping the committee prepare remarks for this bill.

Thank you very much.

We will suspend.

● (0940)

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

● (0945)

**The Chair:** We'll start the second panel, ladies and gentlemen.

We have two representatives from the Canadian Bar Association: Peter Edelmann, the executive member of the immigration law section, and Suzanne Costom, the vice-chair of the criminal justice section. We also have Debbie Douglas, the executive director of the Ontario Council of Agencies Serving Immigrants. Welcome back, you've appeared many times before, thank you.

And we have Arooj Shahida.

Good morning to all of you.

I think we'll start with you, Ms. Shahida. You have up to eight minutes to make a presentation to us.

**Ms. Arooj Shahida (As an Individual):** Good morning, Mr. Chair and honourable members of the Standing Committee. Thank you for inviting me to be present today to speak to this important piece of legislation.

My name is Arooj Shahida. I am a local Toronto radio host and producer of a South Asian-centred radio show called *Canada Zindabad*. The show is an initiative to promote greater awareness and appreciation of the Canadian Charter of Rights and Freedoms. My vision and hope is to educate and foster an appreciation of these freedoms within our community, especially the South Asian community living and working in Canada, and to truly own these values, so we may contribute fully towards this country and all of our prosperity.

The charter forms the basis of Canadian values and is wide in its humanitarian scope. It is not be taken for granted. As the Canadian value system is cherished with many fundamental freedoms, it demonstrates an ongoing commitment and respect for the rights of each and every individual. With a specific focus on the South Asian community that I seek to motivate, and through the interactions I have had with this demographic, I have encountered circumstances that the current legislation seeks to address.

In this respect, as I am an activist for human rights, women's empowerment, and youth development, I am in full support of the intent of Bill S-7, the zero tolerance for barbaric cultural practices act, tabled by the Honourable Minister for Citizenship and Immigration, Chris Alexander.

The stories of the women I have encountered resonate with me on many levels—as a Canadian citizen, as a member of the South Asian community, as a woman, and, as an individual. The recurring theme or undercurrent of all these stories is fear: fear of the loved ones closest to them, fear of the perceived retaliation from them or from their community, and fear of losing the bright future that would otherwise be available to them in this great country. It is also fear for their lives and fear of being abandoned by family.

But the most distressing thing I have found, without a doubt, is the constant feeling of hopelessness, the feeling that one cannot seek and find real assistance to change their situation or support to fight for their individual rights, while at the same time protecting the close-knit familial relationships that form such a fundamental part of these communities.

There have been shameful examples of these fears that have become reality, women who have been betrayed by those whom they had trusted throughout their lives. Jaswinder Kaur Sidhu from British Columbia was killed on her own mother's orders in Ludhiana, India. There was the Shafia family tragedy in Kingston, Ontario in which Zainab, 19; Sahar, 17; Geeti, 13; and, Rona Amir were murdered by Rona's husband, second wife and son. Khatera Sadiqi, 20, and her fiancé, were shot to death at an Ottawa shopping plaza. Aqsa Parvez, 16, was killed by her father and brother in Mississauga, Ontario.

What can we call these other than barbaric cultural practices? These are a few of the most severe examples of the tragedies that can occur in the closest of social relationships. These relationships form a major obstacle to this legislation but are also the key to its success.

I have experienced insights into this topic during my live radio show, especially during a recent call-in session during which I played a recent interview with the Honourable Minister Chris Alexander on Bill S-7. I received calls from primarily male individuals, as well as females, but fewer and farther between. When I asked the women to comment on air, they were clearly hesitant, as if someone might recognize their voice and they would end up being in trouble. This reminded me of women I encountered during volunteer work with a psychiatrist in a hospital in Pakistan, where women would not speak a single word in the presence of other family members about their issues or problems.

If the honourable members would permit me, please consider the following for a moment. Remember yourself in your youth, free to pursue your education, to do the activities you enjoy, to be with the friends that you like, to dream about the future that was possible. Now imagine that the people who have raised you, the siblings and extended family who are the only ones you have ever known throughout your life, tell you that the future you had hoped to have is not in store for you.

● (0950)

It is very difficult to imagine, but when faced with retaliation and rejection from those who you know and love, it is an overpowering and deflating state, similar to the woman who struggles to find a way out of domestic abuse situations. There's the feeling that they have no one to turn to, no path to escape, with only misery if they exercise their personal freedoms. It can leave them without hope and resigned to their fate.

I ask that the honourable members of this committee please consider as an important part of their review how we can truly help the victims of these horrible activities by preventing them from being victims at all.

With this bill I can see the desire to tackle issues that have plagued these groups for years and years. The challenge is real, the obstacles are many, but I am hopeful this bill is the beginning of a direction towards significant change in not only how we deal with those who believe they can trample the rights of others, but in how we can successfully reach out and provide hope to those who have none.

Canada has always been a leader in protecting basic human rights and freedoms and I applaud our representatives for again taking the lead on these issues. I hope the honourable members will look to making this piece of legislation an effective, practical law, which will support the women and youth who live this reality in their daily lives.

Thank you.

● (0955)

**The Chair:** Well, thank you, Ms. Shahida, for your presentation. Our other two guests will have statements similar to yours, and then members of the committee will ask questions. Thank you.

Ms. Douglas, welcome back.

**Ms. Debbie Douglas (Executive Director, Ontario Council of Agencies Serving Immigrants (OCASI)):** Thank you. Good morning.

OCASI, as many of you know, is the collective voice of immigrant- and refugee-serving agencies in Ontario. The council was founded in 1978. We have 220 agencies around the province that work with immigrants and refugees on many issues, including violence against women and girls.

I would like to thank the committee for giving me the opportunity to comment on Bill S-7. OCASI is deeply concerned about the bill: specifically, that it will potentially profile certain racialized communities, single out those members for additional scrutiny, and use immigration law to impose a double punishment for certain offences above and beyond what would be imposed on someone born in Canada.

We make three recommendations.

The first is that the bill be withdrawn.

The second is that the government should use all the measures already available to it to prevent violence against women and protect their human rights, including the following: make broad and sustained investment in public education and violence prevention programs; eliminate systemic barriers that prevent women from reporting violence and abuse, such as the conditional permanent residency of sponsored spouses; ensure supports for victims of violence, including social housing, income support, and economic stability; and invest in social supports for immigrant women, including settlement services, language training, and labour market integration programs.

The third recommendation is that the government should invest in a national action plan to change attitudes to prevent violence against women, including actions to challenge racism and xenophobia.

These recommendations are based on the following observations regarding the bill.

In regard to polygamy, since 1892 Canada has made it illegal to have more than one spouse. Current immigration law allows the sponsorship of only one spouse. Therefore, Canada already has measures to prevent the entry of a polygamist family. The only change achieved through Bill S-7 is to single out only immigrants for special treatment.

It will do that by introducing new punitive measures through immigration law that will result in double punishment and will profile certain communities to stop those members from entering Canada and to remove those already in the country. These measures will punish women rather than protect them, because, under the current language of the bill, all those involved in polygamy, including women who are forced to marry their polygamist partner with or without their knowledge, will also be impacted. If such a woman experiences violence in her relationship, she will have no access to services and will be vulnerable to deportation, and Canadian-born children may be separated from their parents.

In regard to forced marriage, the Criminal Code already has provisions that can be used to deal with issues such as violence, coercion, and kidnapping, which often occur in a situation of forced marriage. While criminalization is one of many provisions that may be necessary to prevent and address violence against women, it cannot be the only approach that governments adopt. Bill S-7 seeks not only to criminalize forced marriage but also to introduce additional punitive measures through immigration law that seeks to single out immigrants for a double penalty. Under the new proposals, not only the perpetrators but the vulnerable members of the family who themselves face coercion are likely to be criminalized and face deportation, thus further endangering women.

The bill would exacerbate the vulnerability of women who arrive as sponsored spouses. Conditional permanent residency for sponsored spouses, introduced by the Canadian government in 2012, provides an exception for intimate partner violence. But even with the exception, the vast majority of sponsored women who fall under this conditional permanent residency still remain in their relationships because of fear of deportation.

Bill S-7 and other related policies and regulations are premised on the belief that violence against women is more prevalent in particular communities, including immigrant communities. You heard from our earlier speakers some of the statistics about Canadian women and violence. A 2013 Statistics Canada study found that spousal violence is less prevalent among immigrant women than Canadian-born women. Further, there is no evidence that violence against women is more likely to occur in certain types of spousal relationships when compared with others.

As statistics show, violence against women is very much a problem in Canada, including among those of us born in Canada. We know that women in all walks of life experience violence, including parliamentarians, and very few women report it. Even when women

report violence, such as those seeking answers in the case of missing and murdered aboriginal women, they do not always get the safety and resolution they are seeking. We recognize that it is not reasonable or effective to force Canadian-born women to report violence, so how can we expect it to be any different for immigrant women?

• (1000)

Bill S-7 will not prevent or end forced marriage but could instead drive it underground and make women more vulnerable by isolating them from their community and yet not provide them with any other recourse for ensuring that they have status in Canada.

We heard from our guests from northern Europe this morning that since the passing of their law, they have not had one case in the courts. I was very surprised to hear my colleague here in Canada, Ms. Raza, talk about the many prosecutions in England, because our information from the research that was done by the South Asian Legal Clinic of Ontario suggests that since that law was passed there last year, there has been no persecution, which reinforces our fear that it will be driven underground.

We also want to comment on the title of the bill. The title of Bill S-7, the language used in the discourse around the bill, and the legislative amendments it seeks to introduce all combine to invoke racist stereotypes and xenophobia towards certain minority, racialized, and religious communities in Canada. We heard one of the lines of questioning where one of the witnesses was asked to comment on the kinds of communities based on ethnicity and culture where we are finding forced marriage and violence against women. I think it is instructive that all the communities named were racialized and from a particular part of the world.

It is a complete contradiction of the discourse of democracy and respect for many of the communities that make up the nation that we call home. It suggests that violence against women is particular to specific communities, and reinforces the notion of culture as the root of violence rather than systems of oppression, including patriarchy.

Ontario's sexual violence action plan is a good first step to our changing these attitudes. We encourage the federal government to explore a similar action plan at a national level, including action to change the discourse of racism and xenophobia.

**The Chair:** I'll ask you to wind up, Ms. Douglas, please.

**Ms. Debbie Douglas:** In conclusion, I want to say that we welcome the government's efforts to prevent violence against women and girls. We suggest once again that the best way to do that is to withdraw Bill S-7, remove existing systemic barriers such as conditional permanent residency for sponsored spouses, and invest in programs and services for the economic empowerment of women.

I look forward to our conversation.

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

Ms. Costom and Mr. Edelmann, between you, you have up to eight minutes to make a presentation.

Thank you for coming.

**Ms. Suzanne Costom (Vice-Chair, Criminal Justice Section, Canadian Bar Association):** Thank you for the invitation to present the Canadian Bar Association's views on Bill S-7.

The Canadian Bar Association is a national association of over 36,000 lawyers, notaries, academics, and law students, and an important aspect of our mandate is to seek improvements in law and the administration of justice. It is from that perspective that we come to speak with you today.

Our submission on Bill S-7 was prepared by the criminal justice section, the immigration law section, our children's law committee, and our sexual orientation and gender identity conference.

It goes without saying that the Canadian Bar Association supports any legislation that would eradicate discrimination against women, inequality, and violence against women and children, and the proponents of this bill suggest this law will do just that. Unfortunately, our analysis suggests otherwise.

Before commenting on the substance of the bill, a brief word about the short title. Here I'd like to echo the remarks of the previous speaker, Ms. Douglas. As she has pointed out, the title is divisive, and it's misleading because it suggests that violence against women and children is a cultural issue limited to certain communities.

On a broader level, the Canadian Bar Association has consistently recommended that the government refrain from using short titles that seek, in our opinion, to inflame the emotions of the Canadian public rather than inform. For example, this legislation would radically modify the partial defence of provocation and yet nothing in the short title informs the public of that in any kind of way.

The partial defence of provocation has existed in the Criminal Code since its inception in 1892, and as we all know, it does not exist for all crimes. It is a partial defence available only in the case of a murder charge and it would reduce murder to manslaughter where the conditions set out in the code apply. The existence of this defence in the code or of this partial defence in the code is a concession to the fact that at the end of the day we are all only human and we all have our breaking points. Bill S-7 would significantly raise the threshold for the availability of this partial defence.

Proponents of this bill argue that this modification is necessary in order to prevent the provocation defence from being used in so-called honour killing cases. However, our research has indicated that this defence has never been successfully invoked in these sorts of cases. This was confirmed, in fact, by a representative from the

Department of Justice, Joanne Klineberg, a senior counsel from the criminal law policy division. The law is seeking to address a problem that simply does not exist.

In 2010 the Supreme Court stated the following about the defence of provocation. I'm quoting from the case of Tran and I'm just citing selected passages:

Criminal law is concerned with setting standards of human behaviour...

Everyone, whatever his or her idiosyncrasies, is expected to observe that standard...

The "ordinary person" standard is informed by contemporary norms of behaviour, including fundamental values such as the commitment to equality provided for in the Charter of Rights and Freedoms.

...there can be no place in this objective standard for...any form of killing based on such inappropriate conceptualizations of "honour".

Our courts have also explicitly stated that provocation is not available as a defence in honour killing type situations.

The fact of addressing a problem that doesn't exist is unfortunate, but it is particularly problematic because the modification may also have unintended consequences, and that brings us to our next point.

This is a major change to substantive criminal law. It has been done without any informed and comprehensive assessment of the justifications for amending the defence without examining the relevant jurisprudence, and without looking at the practical impact of these amendments on the criminal justice section as a whole. There should be broad-based consultations when an amendment of this nature is taking place, and none of that has happened.

Finally—and this is my last point before turning to Peter—as practitioners it is our belief that the change to provocation will be very difficult to apply in practice. The new threshold says it will only be available if the conduct of the deceased would amount to an indictable criminal offence that is punishable by five years or more as an imprisonment. This will require a lot of evidence, complex submissions on behalf of the defence and the Crown, and it will undoubtedly make more complex what is undoubtedly already a complex murder trial. I can provide you with further examples upon questioning.

Thank you and I pass you over to Mr. Edelmann.

● (1005)

**Mr. Peter Edelmann (Executive Member, Immigration Law Section, Canadian Bar Association):** Thank you.

[Translation]

Thank you for inviting us to appear before you today. I will briefly talk about the changes proposed to the Civil Marriage Act before I turn my attention to the Immigration and Refugee Protection Act.

We agree that steps to reduce the incidence of forced marriage are laudable, in particular by stating that marriage requires the free and enlightened consent of two persons. In terms of the age when a person can get married, I will stress the comments made by my colleague.

In general, we recommend that short titles be used to succinctly and neutrally indicate the bill's subject matter. As a line separating civilization from barbarism, the arbitrary nature of the day when a person turns 16 years old is striking.

[English]

We have very practical concerns about the change to IRPA. While we would generally commend the legislature for using precise language from the Criminal Code, there has been very little jurisprudence interpreting section 293. The last reported case from a prosecution would appear to have been almost 80 years ago.

The most detailed study of this section by our courts was in the reference before the B.C. Supreme Court in 2010-11. In numerous hearings spanning five months, it heard from two attorneys general, an amicus curiae, 11 intervenors, and many witnesses, and hundreds of reports on polygamy and polygynous relationships, and the history of the provisions was studied.

Chief Justice Bauman found that besides Bountiful, polygamy was quite rare in Canada. There were a number of different interpretations of polygamy presented to the trial judge. The whole thing is a 200-page decision, but if you start at paragraph 905, you will see a number of interpretations of the law put forward.

In paragraph 1025, the court addresses the Attorney General of Canada's interpretation. What the court says is:

This leads to my substantive concerns with the position of the AG Canada. One is in respect of his view that ...[item (i) of paragraph 293] (1)(a)...[of the Criminal Code] should be interpreted as referring to non-residents of Canada who marry their spouses in a foreign country in accordance with its laws and who then emigrate to Canada. I respectfully disagree....

The court found that section 293 didn't apply to the very circumstances to which this law was seeking to apply section 293, which is of serious concern to us, because the backgrounders appear to be based on the interpretation of the law that was rejected by Chief Justice Bauman.

The backgrounders say that the changes would mean that a polygamous permanent resident or foreign national who is or will be physically present in Canada with even one of their polygamous spouses would be considered to be practising polygamy in Canada. That's not what the court found. This creates significant problems for us in advising our clients about the nature of this new inadmissibility.

What exactly does the government have in mind in terms of "practising polygamy"? It would appear not to be the interpretation of the Criminal Code given by the courts.

Individuals should be able to understand very clearly what conduct will place them at risk and the scope of that risk. Is the simple presence of two spouses on Canadian soil enough to be "practising polygamy"? Do they have to do something more? Do they need to speak to each other? Do they need to do anything polygamous?

It's unclear to us what "practising polygamy" is, because it's clearly not the clear definition that we have from the courts.

Finally, I would note that if this amendment is about protecting women in polygynous relationships, it is unclear how rendering such women inadmissible is of assistance to them or their children.

● (1010)

[Translation]

Thank you for your invitation. I would be happy to answer any questions you may have and to elaborate on my presentation.

[English]

**The Chair:** I thank the two of you for your presentations.

Mr. Eglinski.

**Mr. Jim Eglinski (Yellowhead, CPC):** Thank you, Mr. Chair.

I'd like to thank all four witnesses for coming out this morning and speaking to us.

It's rather alarming, because we're trying to make things better for women in this country, that we don't seem to even understand in our own country, as you said, Peter.

I have a question to Arooj. Front-line workers stress the importance of training police officers. My background is in law enforcement, for a number of years. I believe it is important that officers of the law have the tools they need to deal with honour-based violence.

Do you believe that this bill will give front-line workers better tools to criminalize and even prevent honour-based violence?

**Ms. Arooj Shahida:** They will definitely take advantage of this bill. That's a good tool, a first step towards this area of honour killing, but they need training to know what the mindset is of this community and how they can deal with them, because there are very complicated details of their mindset. I have seen cases that reach to that extent, because there have been reports when they come across these families where this crime has not yet been committed, but there are circumstances, and they are not able to find out the real situation there. Sometimes they overlook that because of their family unit, a kind of the control of the family on those victims. They need that training to know this community's mindset first.

They must have this tool not to control, but to punish those criminals who are committing this crime. But I don't see this as being really helpful to preventing there being victims of this crime. For that, we need some special training not only for police officers and experts, but also for communities to change their mindset through education, through awareness, through communication, through their own community leaders, and especially from youth, who are born and raised in this country and who understand the value of an individual's rights and freedoms.

The generation who has been brought up in those countries and came here have their own mindset. They have not taken a first step towards understanding what freedoms and rights mean. They don't know how to respect rights. They need to be educated, but through the youth. My area is to create basic awareness and education. I motivate them to question themselves, if they are living up to the standard of humanitarian values or if they are living up to the standard of Canadian rights and freedoms. They don't even understand if this question is valid.

• (1015)

**Mr. Jim Eglinski:** Okay.

I'm going to throw at you a key scenario. A family takes their 12-year-old daughter outside of the country to get married, and they come back, and the daughter's not with them. How do we determine that? Do we rely on the public or the schools to feed us information? Do we need to make people aware in the schools, in the travel agencies, and in the airports that, if a family of five go out, and only four come back, a person is missing. Where is that fifth person?

Can you comment on this? Have you had any discussions on your show with those kind of ramifications? Who's going to let the government know? Is the community going to let us know that one is missing?

**Ms. Arooj Shahida:** The community has the same handicaps as the individual family. This is the worst hang-up, in that the community does not stand up for others. They are even afraid. It's a very complex mindset. They see that there is a crime and there are people who condemn this, but they don't want to take the initiative to go against those families who do these kinds of crimes. They fear for themselves.

In this area kids need to be educated about how to protect themselves and how to contact others. It is in their control. It should be so easy for them, without any fear, so they can trust anyone who can provide them with protection. That can be the school, or teachers, and enforcement. Even the social workers from the same community are not that helpful. When I talk to these youth groups I always tell them they should keep someone who is born and raised here who understands the real values of these freedoms and rights. When they're talking to kids they cannot take them into their confidence, that they can come out with the whole thing without any fear.

**The Chair:** Thank you, Ms. Shahida and Mr. Eglinski.

Madame Blanchette-Lamothe.

[*Translation*]

**Ms. Lysane Blanchette-Lamothe:** Thank you.

My thanks to the witnesses for being here with us today for this important study.

As I say at the beginning of every speech, I would like to stress that we all support the objective of this bill, which seeks to combat violence against women, forced marriages and forced child marriages. Everyone supports an objective like that. The debate is more on the approach to the issue and the measures we are equipping ourselves with to combat those situations.

My question is for Ms. Costom or Mr. Edelmann. I'll let you decide who is able to answer it.

Today, a witness talked about female genital mutilation. I know that a minister has already indicated on her website that Bill S-7 will provide the tools to counter that type of mutilation. Can you identify measures in this bill that will specifically provide tools to fight against that type of practice?

**Mr. Peter Edelmann:** There are two different situations.

The first one would be if it happened in Canada. In that case, that would clearly be a crime. There is no doubt that genital mutilation constitutes a crime in Canada.

• (1020)

**Ms. Lysane Blanchette-Lamothe:** You are talking about the current legislation.

**Mr. Peter Edelmann:** That's aggravated assault. There is no doubt about that and I don't think we could deny that it is already illegal in Canada.

From what I can see, nothing in the bill amends the Immigration and Refugee Protection Act in terms of mutilation. The only question that could be asked has to do with the genital mutilation practised abroad. That could be the issue at hand. I am not aware of any countries where that is legal and it is not a crime. If it is a crime abroad, it could be a way to impose inadmissibility on someone under section 36.

For instance, right now, under the Immigration and Refugee Protection Act, there are provisions if we have evidence that someone participated in genital mutilation abroad. According to my information, no country has measures that would allow individuals to defend themselves under section 36.

**Ms. Lysane Blanchette-Lamothe:** So Bill S-7 does not bring—

**Mr. Peter Edelmann:** I see nothing that is helping or changing the current legislation.

**Ms. Lysane Blanchette-Lamothe:** Thank you.

With regard to polygamy, you said that the definition was vague. If Bill S-7 is passed, immigration officers will have the power to decide in a more or less arbitrary fashion whether or not a person is practising polygamy and whether or not they are inadmissible to Canada. Is that your understanding of the issue as well? Will immigration officers actually have that power? Do you have any comments on this type of discretionary power that immigration officers would have?

**Mr. Peter Edelmann:** It's not that the power would be arbitrary or discretionary. The problem we see is that we don't know in advance what the interpretation will be. Based on the current interpretation in the briefing notes, the intention is different from the only interpretation made by the courts. The courts say that this is not the interpretation.



It is very important to understand what the reasons are. I recommend that you read Justice Bauman's decision. He makes a distinction between polygyny, polyandry and polyamory, which are three different things. That judge found that polygamy includes all those things. The intent of section 293 of the Criminal Code is not to target barbaric practices but rather to protect the institution of monogamy. That is a very different intent and that is why section 293 was found constitutional.

If the lawmakers start interpreting the Criminal Code provisions on polygamy differently, the situation in terms of the constitutionality of the procedures taking place right now in Bountiful, for instance, might change. That might not be provided for in Bill S-7. What is not clear for us is the conduct being targeted, because based on the current interpretation, the conduct targeted is not described by the Criminal Code.

**Ms. Lysane Blanchette-Lamothe:** What amendments would you propose to Bill S-7 in terms of measures on polygamy?

**Mr. Peter Edelmann:** There are two aspects to consider.

First, we should create another definition that specifically targets abusive polygyny. The entire discussion is not about polygamy, but about the victim in the polygamous relationship. The so-called barbaric practices are much more limited than the scope of what Justice Bauman described as polygamy and that was presented by the Attorney General of Canada as the scope of polygamy.

Our discussions here and in the Senate do not deal with this small part of so-called barbaric practices. We can include this definition in the IRPA or in the Criminal Code. In that sense, the constitutional situation could change if the objective set out in the Criminal Code is not the institution of monogamy or its protection. The section was found almost constitutional. Aside from a small part that was considered slightly too broad with regard to young people between the ages of 16 and 18, the section was found constitutional by Justice Bauman.

• (1025)

**Ms. Lysane Blanchette-Lamothe:** I would like to ask a quick question on forced marriages and honour killings.

Does Bill S-7 provide the tools to prevent crimes that have not yet been committed when victims are afraid that they will be committed? If a young woman fears that her parents will force her to get married or they will commit an honour killing, does Bill S-7 provide additional tools to prevent that?

**Mr. Peter Edelmann:** Since that is related to the sections in the IRPA, I will ask my colleague to answer your questions.

**Ms. Suzanne Costom:** I know that a peace bond has been issued to prevent a person from committing an offence related to forced marriage.

That is not mentioned in our written presentations that you all have, but we believe that those tools are already in the Criminal Code.

[*English*]

**The Chair:** Thank you.

Mr. McCallum.

**Hon. John McCallum:** Thank you, Mr. Chair.

Thank you to the witnesses.

I notice Ms. Douglas said the best thing the government could do would be to withdraw this bill. I notice the CBA's analysis was quite damning.

I guess my first question for you is, do you think the government should withdraw this bill?

Either Ms. Costom or Mr. Edelmann?

**Ms. Suzanne Costom:** Certainly in the area of provocation we are against the bill, particularly because, as I said, this a really wholesale change to the substantive criminal law and it should not be done in a piecemeal fashion. Even on that basis alone, we believe that Bill S-7 has been put forward without appropriate consultation, without appropriate thought to the collateral consequences. As my colleague pointed out—and I'll let him add to that—we laud the objectives. We don't think this legislation meets the objectives and therefore it doesn't add anything.

**Hon. John McCallum:** I said earlier that naturally all of us political parties are totally opposed to these practices. That is not the issue. The issue is whether this law helps to protect women better, or possibly does more harm than good.

On the question of polygamy, I had originally thought, having listened to witnesses, that the best thing to do might be to provide a definition, because if you are going to deport somebody for some infraction, it is good to have a definition of what that is. Then, having listened further to Ms. Douglas and others, I wonder if maybe even if it is properly defined, the law is sufficient, because we keep hearing that there will be a lot of damage done to the children and to the wife or wives of polygamists. Perhaps the purpose should not be to find a definition, but to not do this.

I would like to ask Mr. Edelman or Ms. Costom that question.

**Mr. Peter Edelmann:** I'll refer back to the decision in the polygamy reference, where a number of definitions were put forward by different intervenors. At the one end, you had very limited definitions that specifically dealt with exploitation or the types of problems you see that are the target of much of the discussion about polygamist relationships around this table, for example, the ideas around the abusive nature of, the inequality, and the other problems that arise in certain polygamous relationships. When I say "certain polygamous relationships", what Chief Justice Bauman found was that polygamy is much broader than just the polygynous relationships that have been the focus here.

If there were a focus on the polygynous relationships and whether or not certain people are inadmissible.... When we are dealing with cases of spousal abuse, for example, the person who is the victim of the abuse is not rendered inadmissible by the abuser. In this case, the problem with certain forms of polygyny is that the man with several wives is the focus of abuse or exploitative relationships in certain circumstances, but it renders all the people in the relationship inadmissible. You are talking about rendering the wives inadmissible as well.

**Hon. John McCallum:** We are going to run out of time.

What should we do about that?

**Mr. Peter Edelmann:** If this is a major problem, and this does need to be addressed, I would suggest that it should be defined more precisely to say that these are the types of relationships that we are targeting, and define them with reference to exploitation or whatever the situation might be, to more narrowly define what is the focus here.

The section 293 definition is much broader than what is being targeted here, and the interpretation that is given is not the same one that is used in the criminal courts. If this is a problem, focus your definition. The scope of the problem clearly is not the scope of this inadmissibility or the way this inadmissibility has been framed.

•(1030)

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

**The Chair:** Thank you.

Mr. Aspin, go ahead.

**Mr. Jay Aspin:** Thank you, Mr. Chair.

Thank you to the witnesses for helping us with this legislation.

Personally, I believe another important amendment to the Civil Marriage Act is adding the phrase “free and enlightened consent”, which is required for marriage. This is clearly an important step, and quite frankly I was shocked to hear that it did not exist before.

My question is for you, Ms. Shahida. How does adding these words further protect victims of forced marriages?

**Ms. Arooj Shahida:** You mean, in this bill. Is that right?

Before they go to get a certificate to get married, there can be something like this, where they have to appear in front of some authority. That is my suggestion. There could be something where they have to appear in front of authorities before marriage to say that they are ready and that they have consented to this marriage.

**Mr. Jay Aspin:** Okay.

I guess I focused on that specific phrase to be added to the Civil Marriage Act, that “free and enlightened consent” is required for marriage. How do you feel the addition of these words further protects the victims of forced marriages?

**Ms. Arooj Shahida:** It does, because if we look into these communities, we don't find this given the family pressures and everything. We don't see them having free will to consent to the marriage. There are family pressures and controls. If we added this phrase, it could warn those families and people who are enforcing this marriage. It can be a warning to them.

The only thing we can do is to warn them that if they were to enforce something like marriage, or something that is against an individual's rights, that can be a crime. That can certainly help to prevent that. I can't say that it will help completely, but it can help to prevent some of the cases.

**Mr. Jay Aspin:** Okay, thank you.

If I may ask you as well, the zero tolerance for barbaric cultural practices bill has finally raised the absolute minimum age to 16. Quite frankly, I was surprised and shocked to hear that this did not exist before. There was some debate about the minimum age in

common law, with some establishing the date at 12 for girls, and 14 for boys, and others as low as 7.

Last week, Kathryn Marshall, a lawyer and women's rights activist, explained that we cannot rely on common law and that we should codify the minimum age.

Can you comment on this? Do you believe this is an important step?

•(1035)

**Ms. Arooj Shahida:** It's a very important step. I find that even 16 is too young an age. It should be 18.

**Mr. Jay Aspin:** Thank you.

Again, last week, we heard from Mr. Tahir Gora of the Canadian Thinkers' Forum, who said the following: “Critics criticize the name of the bill, calling it a pretty loaded one.” But I guess, to be quite frank, it's better that we call a spade a spade. He also said that “Violence against women is an absolutely barbaric act.”...and that “Calling a spade a spade should not be a political issue in a country like Canada where human rights guarantee equal rights to men and women.”

Do you agree with this?

**Ms. Arooj Shahida:** I do agree. I believe that individual rights come under gender equality. We should call a spade a spade. I just wanted to say that the name “barbaric cultural practices” is very appropriate even if it happens to one child, one girl, or one person. It is barbaric. It is even more than that when we see the things that come out. Things are being covered up.

It is “barbaric cultural practices”, because one person's life is just one time....

**Mr. Jay Aspin:** Okay. How am I doing for time, Chair? One minute. Okay.

Two weeks ago, Salma Siddiqui mentioned that by dealing with the issue of polygamy through the Immigration and Refugee Protection Act, “The government is syncing the rules for immigrants and Canadians.” Could you please expand on this thought? How important is it that immigrants understand that these values are not welcome here in Canada?

**Ms. Arooj Shahida:** It is very important. As I've said, communities take this for granted. They should understand what Canadian values are. Canadian values are actually to respect every individual's rights and freedoms. Every immigrant should know these Canadian values before immigrating.

**Mr. Jay Aspin:** Thank you very much.

Thank you, Chair.

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

Ms. Mathyssen.

**Ms. Irene Mathyssen:** Thank you, Mr. Chair, and thank you to our witnesses. I'm very grateful for your testimony here.

There has been a great deal of talk about the fact that laws already exist to protect people in this country. Given that, is Bill S-7 a legal document or is it a political document?

**Ms. Suzanne Costom:** Who wants to touch that one?

**Voices:** Oh, oh!

**Ms. Suzanne Costom:** I'm going to tread carefully here.

**Ms. Irene Mathysen:** We all do.

**Ms. Suzanne Costom:** One can't help but wonder what the purpose is when a bill is proposed that seems to either address an in-existent problem, or provides tools that are unnecessary because they already exist, or seems to provide inadequate tools.

What we really need if we want to stop violence against women and children is more awareness and funding. We need to sensitize children from a very young age, as soon as they come into the country, to the shared Canadian values that we all embrace and enjoy.

One wonders, in a case like this, what the purpose of the law is. I'll only say that it doesn't seem to address a legal problem, and I'll leave it at that.

**Ms. Irene Mathysen:** Are there any other brave souls or should I go on? All right, thank you very much.

Ms. Douglas, it's good to see you again. You talked about the best way to end violence. This bill purports to do that and yet there are things missing. You referenced missing and murdered aboriginal women in your remarks. I wonder if you could expand upon that with this notion or goal of reducing violence against women.

**Ms. Debbie Douglas:** I think the case of missing and murdered aboriginal women and the ongoing call for a public inquiry so we can take a look at the root causes speaks to the purpose of a bill like this. So that's my answer to your other question.

We strongly believe that violence against women is ended by paying attention to things like women's economic agency, ensuring that women have the kinds of supports they need to be able to leave abusive relationships, and ensuring that women, especially poor and racialized women, including indigenous women, have the wherewithal to be able to participate fully without fear of violence or being put in a position where they encounter violence.

That is not to say that violence only happens to poor women—not at all. But we do know that for women who are poor and do not have the necessary economic resources, their cases tend to go unrecognized. They are the least likely to report violence because of their history of engaging with the criminal justice system. They are often re-victimized, so they do not put themselves in that position, or they may not even have access to the system. In the case of immigrant and refugee women, it's often a language issue. But we strongly believe that the way to address violence against women is to ensure that we have the services in place to educate men and women about women's rights and to address issues of patriarchy, regardless of which cultural groups they belong to.

● (1040)

**Ms. Irene Mathysen:** And I'm assuming that affordable housing, child care—

**Ms. Debbie Douglas:** Affordable housing, advanced education, entrepreneurial supports, labour market participation supports and

child care are the kinds of supports that women need to participate fully.

**Ms. Irene Mathysen:** Thank you.

This is a general question. Should we be concerned about approaching the issue of domestic violence through the lens of immigration and criminal law?

**Ms. Debbie Douglas:** I think that we need to approach violence against women through criminal law. By approaching violence against women through immigration we create double jeopardy, as I said. Immigrants are punished for being in violation of our criminal law and then we deport them. Violence against women is wrong regardless of who commits it, regardless of the motivations or the reasons behind it. The Criminal Code is the right place for us to address issues of violence against women, not immigration law.

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

Mr. Menegakis.

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

I want to thank our witnesses for appearing before us.

This is obviously a very sensitive issue. This bill does not address an in-existent problem. The problem does exist. It exists in our communities right across the GTA, certainly across this country. We've heard many witnesses speak to the need for the legislation, the need for an additional tool for law enforcement to go after those who perpetrate violence, against women in particular.

The title of the bill that a few of you have taken exception to, “the zero tolerance for barbaric cultural practices act”, is calling a spade, if I might take a couple of words from Mr. Aspin. They are barbaric practices, and they are rooted in culture in some communities. The bill does not specifically highlight a particular ethnic group or culture. I believe this happens in many cultures. In fact, in my office and in my life, I have been the recipient of information from people who have been abused many times, and I've tried to guide them the right way to get a resolution to their plight.

Certainly any comment or insinuation that the title of the bill incites some kind of a fervour against particular cultural groups is a stretch at best. These are barbaric practices; they're barbaric cultural practices.

I would argue that when a young girl is born in Toronto General Hospital today—or 14 years ago—and finds herself in a situation where her family says, “You're going to be married to the person I have promised you to when you're 14. That's our culture; that's our way, whether you like it or not”, that is barbaric and unfair to the young lady.

I don't know how I'm doing for time here. Am I almost done?

● (1045)

**The Chair:** If you're tired, we can stop.

You have about a minute left.

**Mr. Costas Menegakis:** If I have a minute left, let me ask a quick question to Ms. Shahida.

Ms. Shahida, do you believe that this bill is necessary, in giving an additional tool to law enforcement to assist them in apprehending those who are perpetrating such terror, particularly on young women?

**Ms. Arooj Shahida:** Yes, I do.

It can prevent many people from becoming victims. It can be a threat to those potential criminals who could otherwise commit this crime if this legislation were not there. It will definitely create fear in their minds. For those potential criminals who are not that strong, or others who commit crimes in any capacity or circumstance, at least this legislation could be a threat to them.

I believe in more prevention. This legislation is more for punishment, more for threatening them. There should be more awareness about this bill as well.

**The Chair:** Thank you, Ms. Shahida, Ms. Douglas, Ms. Costom, Mr. Edlmann.

All of you have made excellent contributions to the committee, and on behalf of our colleagues, I thank you.

The meeting is adjourned.

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