



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Citizenship and Immigration

CIMM • NUMBER 084 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Monday, November 20, 2017

—
Chair

Mr. Robert Oliphant

Standing Committee on Citizenship and Immigration

Monday, November 20, 2017

• (1835)

[English]

The Chair (Mr. Robert Oliphant (Don Valley West, Lib.)): Good evening, ladies and gentlemen. Welcome to the 84th meeting of the Standing Committee on Citizenship and Immigration, which I'm happy to call to order today. We are beginning a new study tonight. We're studying the federal government policies and guidelines regarding medical inadmissibility of immigrants.

It's a new study, and the committee is gathering information from witnesses as we begin this process. I'm very pleased that we have such a good variety of witnesses tonight coming to help us with this really interesting topic. From the Council of Canadians with Disabilities, we have John Rae and James Hicks. From the Canadian Institute for Health Information, we have Brent Diverty and Chris Kuchciak. We also have Lorne Waldman.

Welcome, Mr. Waldman, via video conference. We're going to begin with Mr. Waldman as our first witness just because, with the technical aspects, things sometimes go wrong. If we begin with you, then we know we have your testimony for sure, but we'd like you to stay around for questions as well.

We'll begin with an opening statement from Mr. Waldman.

Mr. Lorne Waldman (Barrister and Solicitor, Lorne Waldman and Associates, As an Individual): Thank you very much.

The issue you're being asked to study is medical inadmissibility, and under the immigration and refugee protection law there are two grounds upon which—

The Chair: I'll just ask you to wait one second while people put their earphones in because we don't have a lot of volume.

Thanks, Lorne.

Mr. Lorne Waldman: Okay.

There are two grounds of inadmissibility under the Immigration and Refugee Protection Act. One is danger to the public, which really doesn't arise very often. I see cases of people who have tuberculosis. If it's active, they have to get treated before they come to Canada. If it's not active, then they are put under surveillance and they have to follow treatment once they arrive. It's very infrequent that people are refused on the grounds of danger to the public.

The more common ground is excessive demand on social and/or medical services. It's interesting to note that the law was changed some years ago, because excessive demand used to apply in all cases

involving all applicants for permanent residence, but the Parliament of Canada decided to exempt spouses, dependent children, and protected persons from the excessive demand criteria, a reflection of the fact that the government thought that it was important that those people be allowed to come in and be reunited with their families. Excessive demand now is a ground applied mostly in the case of parents and grandparents, and also in the case of independent or economic migrants who seek to come to Canada.

Several issues have arisen in relation to this process. The first was exposed recently by a reporter for one of the news networks, who discovered that the calculation of average and excessive demand—excessive demand means you cost more than the average amount of money that a regular Canadian would cost—were based on fictitious information. There was no actual true calculation of the cost for the average person, so one issue that needs to be carefully studied by the committee is how authorities come to the number they apply in all of the cases. The reporter discovered that there was absolutely no factual basis for it.

There are other important issues that need to be considered when one considers excessive demand, and those deal with the hardship that often results from the indiscriminate application of these criteria. For example, one of the most common types of cases I see in my office involves people who are trying to bring their parents into the country, and they have medical issues, and they're unable to bring them. This creates huge problems. It creates emotional issues, because people feel that as their parents get older, they have to care for them. The application of the excessive demand criteria, in this context, creates a huge amount of emotional hardship.

The second thing we need to consider when we consider the excessive demand criteria is the fact that they are also applied in the case of economic immigrants. One of the things we need to consider is that, as the demographics of the world change, Canada is a country that needs immigrants in order to meet our demographic needs over the next 40 or 50 years, and we are competing with other countries that find themselves in the same situation. Canada needs to understand that putting up barriers that make it more difficult for the more attractive immigrants to come to the country may have a negative impact on our ability to attract the most qualified immigrants.

From the point of view of an excessive demand analysis, one also has to engage in a cost-benefit analysis. This requires us to consider the emotional hardship that occurs when people are separated from their families, and also requires us to consider the impact of a strict application of the excessive demand criteria on our ability to attract the most desirable immigrants as we move forward.

I think that when you consider the medical inadmissibility over the next weeks, you need to consider these issues, and consider whether or not, in fact, we need to reconsider the inflexible approach we've seen applied by the officials to excessive demand over the course of the last many years, and either get rid of the whole notion of medical inadmissibility—because from a cost-benefit point of view, it doesn't make any sense—or at least guarantee that there's a much more flexible approach that will take into account the hardship that arises as a result of an inflexible approach; and also the fact that we may be harming ourselves by making it more difficult to attract the types of immigrants that we will need in the years ahead.

● (1840)

The Chair: Thank you very much.

For the Council of Canadians with Disabilities, are you going to speak first, Mr. Rae?

Mr. John Rae (First Vice-Chair, Council of Canadians with Disabilities): Yes. Thank you, Mr. Chair and honoured members of the committee.

We are really pleased to be here tonight, and are delighted that you are taking up this important issue. We are here to recommend in the strongest possible terms that the excessive demand clause in the immigration act be repealed, and having made that comment, I'm tempted to rest my case right there, but of course I'm not going to.

Let's look at it from a number of perspectives, first of all, philosophical. The existing provision, in our minds, is mired in outdated ableist, offensive, and stereotypical notions about disability, in which it seems that we are considered automatically to be a burden upon society. Needless to say, as an organization of persons with disabilities, we reject, out of hand, that notion. However, the continuation of that phrase in the act is demeaning, and if you think about it from where we sit, basically that phrase is saying that we aren't wanted in Canada. That's not the Canada that I understand that I live in, nor the Canada that I want, nor do I believe it is the Canada that you and your fellow members want either. So, this provision must go.

When the Canadian Human Rights Act was proclaimed, we hoped that would signal a new era; it did not. When the Charter of Rights came into force, again we were hopeful but again disappointed. When Canada signed and later ratified the UN Convention on the Rights of Persons with Disabilities, again we were hopeful, because prior to ratifying it, the Government of Canada consulted its provincial counterparts. But again, we've seen no movement.

Today we are on the verge of a promised national accessibility act. We suggest to you that this repeal is long overdue and very timely, and can be done either through legislation proposed by you or as part of the national act. In order to make the kinds of tangible differences in our lives that we want, and that you folks have led us to expect,

that bill needs to include the amendment of a number of pieces of legislation.

In practice we have an immigration system that runs several different ways. If you're a refugee, the excessive demand clause doesn't apply. If you are rich and have lots of resources, you can argue that you can cover whatever excessive demand costs may exist. If you are neither, you are often forced to almost beg the minister, on compassionate grounds, to let you stay in Canada. It seems that in that case, the squeaky wheel gets the minister's permit. If a person raises enough trouble and threatens to go to court a lot of times, the permit is issued.

We don't think Canada should have a "several streams" kind of process. We do support the need for refugees to be fast-tracked. We understand where they're coming from.

With regard to the numbers game, we suspect some people are concerned that if we repeal this offensive section, Canada will be flooded with applicants for landed status. We see no evidence to support that idea, so we consider this an outdated provision whose time to end has come.

I want to leave you with one final thought. Consider this list of Canadians; it's not exhaustive. You will know many of these names.

There's the Honourable Carla Qualtrough and the Honourable Kent Hehr. Catherine Frazee is the former chairperson of the Ontario Human Rights Commission. Yvonne Peters, I think, is the current chair of the Manitoba Human Rights Commission, and Jim Derksen was formerly with Disabled Peoples' International. Sandra Carpenter is the leading spokesperson in the independent living movement in Canada and around the world.

● (1845)

That's not an exhaustive list by any means, members.

Consider this though. We in Canada have benefited from their work and their expertise partly because through good luck they were born in Canada. What would have been the result had they not been? One thing that is common with those individuals and others such as Rick Hansen is that they all have an ongoing permanent disability. If they had lived outside of Canada and had applied to immigrate to Canada, how would their applications have been viewed and dealt with by immigration officials? How would they have been?

I ask you to ponder that question tonight and as you go forward, and I submit that Canada would not have been able to benefit from at least some if not all of the work of those important and significant Canadians, because a lot of them would have been denied the opportunity to come to Canada.

That's not the kind of Canada I want. We need to be able to benefit from the interest, the aspirations, and the contributions of everyone, and we reject any notion that disabled people are automatically a burden. The work and contributions of those individuals put the big lie to any such contention. I invite you to ponder that point if not others.

Thank you for the opportunity to be here.

The Chair: Thank you very much.

Mr. Diverty, go ahead, please.

Mr. Brent Diverty (Vice-President, Programs, Canadian Institute for Health Information): Good evening, Mr. Chair and committee members. On behalf of the Canadian Institute for Health Information, I'd like to thank you for the opportunity to appear before the Standing Committee on Citizenship and Immigration.

Since 1994, CIHI, the Canadian Institute for Health Information, has been an important organization in Canada's health sector. We are a not-for-profit independent body funded by the federal government and all provinces and territories. Our board of directors is made up of deputy ministers of health and other health system leaders representing all regions of the country and the federal government.

When we were created over two decades ago, we had three databases. Today we have 28, and we have data-sharing agreements with every province and territory, Health Canada, Statistics Canada, and the Public Health Agency. CIHI is a leader in health data, methodologies, and system performance measurement, and we are recognized internationally for our work. Over 20 years we have become the authoritative source on a range of health system topics, including health expenditures.

Our role in the health system is to make data publicly available for people like you, Canada's policy-makers, as well as for the health system, researchers, and the general public. We are neutral and objective in fulfilling our mandate to deliver comparable and actionable information. Our aim is to give people the tools they need to drive improvements in health care, health system performance, and population health. Ultimately we work to improve the health care system and the health of Canadians across the country.

Earlier this month we released our annual report on health spending in Canada. "National Health Expenditure Trends" examines how much is spent on health care each year, where the money comes from, and how the money is spent. For the past 20 years, we've been responsible for reporting on health spending in Canada, continuing work that began 40 years ago with the purpose of supporting the development and evaluation of health programs in Canada.

Our report is based on a classification system that is consistent with international standards developed by the OECD for reporting health expenditures, so the focus of our work is on health system expenditures. Spending in important areas such as social services, including income support for housing, home supports, and home support services, is not included, even though these areas may impact health. Total health spending in Canada includes both public and private sector expenditures. These are further broken down into broad categories such as hospitals, drugs, physicians, and other institutions such as long-term care, nursing homes, and professional

services for things like dental and vision care, and so on. We call it NHEX. This report combines readily available information from public accounts, annual reports, main estimates, Statistics Canada, and private health insurance. This information is used to produce estimates for the current year.

Current year estimates are revised to actual expenditures once they are confirmed, typically with a one- to two-year lag. It's just one example of how publicly available data is used by government officials, provinces, and territories, and other third party organizations, all with the common goal of improving the health of Canadians.

Canada's health spending is forecast to grow almost 4% this year to \$242 billion. This is a slight increase in the rate of health spending growth. We've seen an average growth rate of about 3% since 2010. Health spending is forecast to be \$6,604 per Canadian. This is almost \$200 more than last year.

Total health expenditure per person is expected to vary across the country from \$7,378 in Newfoundland and Labrador and \$7,329 in Alberta to \$6,367 in Ontario and \$6,321 in British Columbia. This variation across the country occurs for many reasons, including differences in population demographics and health status, prescribing practices, public program design, and other factors.

The results of this report are also used to compare Canada with other OECD countries. In 2015, which is the latest year for which we have actual expenditure data, Canada's per-person spending was among the highest internationally at \$5,782 CAD, which is a figure comparable to those for the Netherlands, France, and Australia, but much lower than that of the U.S. at \$11,916.

Hospitals, drugs, and physician services are the categories that continue to use the largest share of health dollars. Over time, the share allocated to hospitals has been decreasing and the share allocated to drug spending has increased. In 2017 spending on drugs is expected to grow at an estimated 5%, spending on hospitals at about 3%, and spending on physicians at about 4%.

● (1850)

We've identified several major cost drivers, including inflation, population growth, and the aging population. Population growth and aging account for 2% of total health spending growth per year. Over the last several years, we have found that population aging, in particular, is a modest but steady cost driver, about 1% per year.

In closing, I'd also note that we have a new strategic plan for the years 2016-21, identifying strategic goals that build on our core strengths as an organization and that focus on priority populations, including seniors, children and youth, indigenous people, and those living with mental illness and addictions. Along with our stakeholders, including the federal government and the provinces and territories, we identified these priority populations.

I thank you for the opportunity to present this information. My colleague Chris Kuchciak and I would be pleased to answer any questions you may have.

The Chair: Thank you very much.

We're going to begin with Mr. Tabbara, for a seven-minute round of questioning.

Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.): Thank you, Mr. Chair.

Thank you to all the witnesses for being here today.

I asked this question previously in another meeting, and I want to revisit it.

I understand that if one member of a migrant family is considered medically inadmissible, then the whole application is denied, even if the rest of the family do not have any pressing health concerns. We've seen examples of this previously. I think the first question will go to Mr. Waldman.

Have you had any cases in which the whole family has been denied and rejected because one individual was looked at as being medically inadmissible?

Mr. Lorne Waldman: Under the current Immigration and Refugee Protection Act, if one of the members of the family is inadmissible, then the entire family is inadmissible. This happens all the time.

The most frequent scenario we see is somebody sponsoring their parents and a younger brother, and the younger brother might have some medical issues. As a result, neither the parents nor the younger brother can come. That often creates a lot of hardship. There doesn't seem to be any rationale behind it. I think the committee could at least look at a compromise in those types of situations.

I agree with the person from the Council of Canadians with Disabilities. I think you have to look deeply at all of the medical inadmissibility issues. When you're focusing on this particular question, there is not a lot of common sense behind not allowing parents to come if the child is inadmissible, but that happens all the time.

• (1855)

Mr. Marwan Tabbara: If we're looking at migrants coming in, economic migrants to fill a certain sector in our region, such as engineers or doctors, for example, in the Waterloo region for the high-tech sector, and we find really great candidates from around the world who have exceptional skills and qualifications.... These are the types of individuals we want to attract.

You mentioned in your statement that there's no measure of economic benefit. Is there something the government can look at in terms of economic benefit when it is looking at individuals who have these qualities and skills that we need here in Canada? Can we look past an individual who has medical inadmissibility if it's just an individual in the family?

Mr. Lorne Waldman: That's what I was trying to say. A lot of times we find highly skilled people who are going to make an important contribution, but because one of the members of their family is medically inadmissible, they're not allowed to come into

the country at all. We're competing with a lot of other countries for the same skilled workers. If we put up these impediments, we're going to lose the battle of attracting the best.

There is no flexibility in the system now. If one of the children is inadmissible, the immigrant's application is refused. This creates serious problems. I think we need to look at this whole question and at finding ways to be more flexible in the application of medical inadmissibility.

Mr. Marwan Tabbara: Perhaps I could get Mr. Diverty to expand on that, as well.

Mr. Brent Diverty: Actually, I think it's important for me to state that our organization takes no positions on policy. We're here and happy to speak to the data and the information that we produce. Really, our remit on this issue is around the health expenditure numbers and report that I mentioned in my opening statement.

Mr. Marwan Tabbara: Okay.

Can I get something from Mr. Rae?

Mr. John Rae: Some of the cases that come to us involve families in which the son or daughter has a disability and that person is deemed ineligible, so the family has a heartbreaking decision to make. Do they come to Canada and leave their son or daughter behind, or do they not come when they want to try to make a new life for themselves?

Despite what may be in the legislation, the way it applies seems to be quite different to us. That, of course, is why we are recommending strongly that the whole notion of excessive demand be repealed altogether.

Mr. Marwan Tabbara: We want to take in suggestions from all the witnesses who are here today.

Could you give suggestions for the government that will help to get the balance right between protecting publicly funded health and social services and welcoming new members into Canadian society? I'm just wondering if we can strike a balance.

You look as though you want to comment on that, Mr. Rae.

Mr. John Rae: I do.

When you think about some of the other groups that are allowed in—people who are heavy smokers, people who are at risk because of a potential accident or whatever—those people are allowed in. They may be non-disabled now. We sometimes use the term “TAB”—temporarily able-bodied—but there is no guarantee that tomorrow those persons won't suffer an accident or sometime shortly down the road develop an illness because of their lifestyle. Yet questions about supposed excessive demands do not appear to be asked of them.

Again, that's why we consider this provision so inequitable and in need of repeal.

• (1900)

The Chair: You have 30 seconds. Are you okay?

Mr. Marwan Tabbara: Yes.

The Chair: I'm going to take your 30 seconds, then.

I just want to ask the folks from CIHI about that averaging function. How is it actually done? Is it just total cost divided by population?

Mr. Brent Diverty: That's absolutely correct.

The Chair: There is no statistical analysis in that in terms of regression or any kind of sophisticated system. It's simply an aggregate amount divided by the number of people.

Mr. Brent Diverty: Starting from that \$242 billion that I quoted to get to the roughly \$6,600 per person, there is some estimation within the methodology for some small parts of the overall cost, but most of them are coming straight out of provincial budgets.

The Chair: Okay. Thank you.

Mr. Maguire.

Mr. Larry Maguire (Brandon—Souris, CPC): Thank you, Mr. Chair.

I want to thank the witnesses for their excellent presentations this evening.

I have several questions in a short amount of time.

Mr. Rae, can you give me an example of the numbers? I've heard of as many as 900 applicants a year who are declared inadmissible. Do you have a more accurate number?

Mr. John Rae: I'm afraid I don't. We've heard those numbers as well. It sounds like a lot to us, but we've heard those numbers.

Mr. Larry Maguire: The number I have is 900, and that is supposed to be 0.2% of the persons who are brought into the country. That seems like a rather small number.

I want to go back to your comment and to Mr. Waldman's comment.

Could you expand on that, Mr. Waldman? I think you both had a solution to this, and I wonder if you would put it on the record again.

Mr. Lorne Waldman: You pointed out the fact that it's such a small number. The cost of medical processing of all of these applications is very high. Each person has to go through a medical check, and then the application is reviewed by a medical officer. To screen out, effectively, 900 applicants, one wonders, from a cost-benefit point of view, whether it makes any sense to do that.

In any event, the argument I made was that we should probably just eliminate medical inadmissibility because the number is so small, the costs associated with it are very high, it impedes our ability to compete for the immigrants we need, and it creates a lot of hardship.

Mr. Larry Maguire: Mr. Rae, could you add to that?

Mr. John Rae: We agree. The numbers you quoted, sir, bear out my earlier comment that Canada is not likely to be flooded with a huge number of additional applicants should this discriminatory provision be repealed.

Mr. Larry Maguire: Thank you.

What types of disabilities are the main ones that people are rejected for? Are they physical or mental? Where are we with that? Is there a divide in that?

Mr. John Rae: I don't think I have a breakdown for you, but I know that a lot of the cases that have come through the doors of our national office seem to be on the ground of intellectual disability.

Mr. Lorne Waldman: I agree. In our office we see people with medical issues, such as heart attacks. That's part of it, but many of the cases also involve people who are supposedly mentally disabled in some form or another.

Mr. Larry Maguire: Thank you.

Mr. Diverty, I noted in your presentation that basically health care spending is going up 3% for hospitals, 5% for drug spending, and 4% for physicians in 2017. I don't doubt that, but it also says that 2% of the health spending per year comes from normal population growth and aging. There's not much we can do about that I suppose. It's quite a good thing that our population is growing.

That certainly narrows down the overall cost of real increases in a particular item. Can you elaborate on that?

• (1905)

Mr. Brent Diverty: Obviously, there's both the additional services that are provided, and then there is the price of those services. It starts with that. As you see more people, you have more services, there are more costs, and there's also more on the price side.

We're seeing, I think, modest growth on both of those. We have an aging population demanding more services. We have more people of all ages with more services. We do, obviously, see wage and price inflation in there as well. That's really added up over, I would say, the last four or five years to about a 3% average increase in spending.

It was a bit lower a few years before that. We have basically seen health spending move in lockstep with the economy typically over the last 20 or 30 years. When the economy is going well, you see more health expenditure, and it slows down in times when the economy is not going so well.

Mr. Larry Maguire: Thank you.

Mr. Waldman, you said there are two reasons for inadmissibility: danger to the public and excessive demand on services.

Is the danger to the public a small portion of the overall...or is the excessive demand on services the major one? Is that correct?

Mr. Lorne Waldman: I think that's right. From my experience, it's a very small percentage.

People who get medical exams sometimes have conditions. They are required to have them treated, and then once they are treated and people are cleared, they come to Canada.

Mr. Larry Maguire: We've seen that there are huge costs, and they are growing, but they are not growing perhaps as much as the overall when we take into account the physicians, drug spending, and that sort of thing as the basis or the 2% as the health spending per year on aging.

What would be a fair compromise or a fair solution? Canada is a pretty fair and generous country, as we all know, in these areas. Is there a limit? How would we deal with this? Given that there are huge costs already for these 900 persons, there's some suggestion here that there may be a saving from not having to put them through all the paperwork we put them through.

What would be a reasonable process here? Is there a compromise with the provinces in regard to this, so if the provinces decide they want to fund a particular case, they can go ahead and do that?

Mr. Lorne Waldman: That used to be the way it was done. For example, Manitoba had a scheme whereby you could pay an amount of money as a bond for future expenditures. That was cancelled.

There are ways one could move forward and look for compromises such as people offering to pay bonds or provinces agreeing to allow people to come into Canada.

Obviously immigration is a shared responsibility, so any decisions you make you are going to have to discuss with the provinces as well, especially given that the medical expenditures are provincial.

I think when you look overall at the number of people we're talking about, 900, even when some of them have significant costs as a factor of the total amount of money you're spending, it's insignificant in terms of health care dollars, and it creates a whole series of impediments both to family reunification and to having the best and most skilled people come into Canada.

When we look at all of these things, I wonder whether it makes sense to continue with this program.

The Chair: Thank you, Mr. Waldman.

Mr. John Rae: If I can just add.... If that were to occur, it could set up a patchwork of eligibility province to province. I don't think that's something we want in Canada.

The Chair: Thank you, Mr. Rae.

Ms. Kwan, go ahead.

Ms. Jenny Kwan (Vancouver East, NDP): Thank you very much, Mr. Chair.

Thank you to all the witnesses for their comments.

I certainly appreciate and agree with the suggestion that we should get rid of this criterion altogether. If you look at it, you see that it is an issue around picking and choosing, and saying to the world that people who have different abilities are not welcome in Canada, because at the end of the day, that's what we are talking about.

Just to build on this notion, the idea of fixing the issue somehow, somewhat with a patchwork approach.... Mr. Rae, you've expressed very clearly that this would not work. Mr. Waldman, I think we've heard from you as well that, given the context of the small number of people who would fit into that category, it is perhaps not the right approach to take.

I want to touch on this issue, too. We had officials who came forward and advised this committee that in fact they don't evaluate the contributions of individuals and their family units. You could be a family unit with somebody deemed to have "excessive demand" or even an individual with a different ability. They don't evaluate the contributions of those individuals; they look strictly at the cost side.

Mr. Waldman, can you comment on the problem with that kind of evaluation? Not to mention that, as you said in your opening statement, it has been found through various media reports that IRCC's approach to assessing the cost is fraught with problems....

• (1910)

Mr. Lorne Waldman: The point is well taken, in the sense that if we are trying to compete for the most skilled workers but we make it difficult for them to come in by saying that they can't come because someone in their family has some kind of disability, we are not going to be able to get the workers we require. An approach that looks only at the medical cost and doesn't look at the human capital that this person is bringing into Canada is fundamentally flawed and, I think, harmful overall to our ability to attract the most skilled immigrants over the long term.

Ms. Jenny Kwan: Thank you very much.

Mr. Rae, do you have anything else to add?

Mr. John Rae: I totally agree with you. It seems to me a very arbitrary process that when a particular disability is identified, chances are that this person is automatically excluded.

That does not take into account the fact that telling you that a person has a given disability tells you a lot less than many people think it does. It doesn't tell you the particular degree of that disability, nor the person's background, attributes, and how they deal with the realities of their particular disability, nor does it speak to the contributions that this person might make if they come to Canada. I think those are contributions our society wants and needs.

Ms. Jenny Kwan: Mr. Waldman, I'm wondering if you have come across cases where someone was denied based on the excessive demand provision by just a small amount of dollars. Given the fact that we now know that how the government came up with the figure to determine what is deemed to be the appropriate measure is flawed, I wonder if you can share with us your experiences of how often this has happened, where people are denied because, by a fraction of the dollars, they exceeded the amount that was deemed to be the average cost.

Given that this is the reality, what should the government do about those kinds of cases, if anything?

Mr. Lorne Waldman: I think probably it's too late to really deal with past cases. They've been refused based upon data we think is inaccurate. We see it in two ways. First of all, the government has to estimate what they think the likely cost will be for the individual who's applying to come to Canada. That's based upon arbitrary assessments of services the government believes they might need.

I'll give you an example. We have people who have some kind of a mental handicap and the government says they're going to need special education, and they factor that into the cost. Special education is quite expensive for sure, but what we see, for example, is that people who come at a certain age don't speak English, and are not likely to be able to speak English, and the special education programs aren't offered in the language in which they speak, yet they're being costed as if these programs exist, when in fact they don't really exist.

That's the kind of arbitrariness we see in the system as it now develops. When you couple that with the fact that the number the government has been using for the average cost.... Because remember the average cost isn't the average cost of a Canadian, it's an average cost of a person of the same age group, so as you get older the cost goes up and the average goes up, but the government's estimates have been off.

When you put those two things together, there are a lot of people who are being rejected unfairly. If they've been rejected unfairly in the past, there's not much we can do about that, but we have to make sure that if this program continues—and I hope it doesn't but if it does—it's based on fair and accurate data.

• (1915)

Ms. Jenny Kwan: On a similar track, we've been talking about people with various different abilities. There is also another issue related to this, and that is for people who have HIV and AIDS, for example. That would also be deemed under this provision to be an excessive demand.

I wonder, Mr. Waldman, if you have some comments about that.

Mr. Lorne Waldman: It's been an interesting question because, as the treatments for HIV have gone up, it's certainly not a problem that creates any kind of public danger but we do see people refused because the cost of the medication is quite high. People are being refused because the government estimates the cost of the drug cocktails they're going to need and says it's above the average. This creates a serious problem, and I've seen quite a few cases where people were rejected on that basis.

Ms. Jenny Kwan: Then to fairly apply a policy in this area, to make sure that we have a fair system, what I'm hearing from the both of you—and I'm sorry, to our folks from CIHI, it's not that I'm trying to exclude you but it's because you can't really comment on policy—is that the thing the government really needs to do is to get rid of this provision. That's what I'm hearing from both Mr. Rae and Mr. Waldman.

Mr. John Rae: If you look at the history of Canada's immigration system, in the past other groups were arbitrarily excluded and Canada has changed sometimes more slowly than various groups would have liked. Now we just think it's time that Canada continue that incremental improvement in its system by removing this. We

think it's our turn to be more fairly dealt with than is currently the case.

The Chair: Thank you, Mr. Rae.

Mr. Sarai.

Mr. Randeep Sarai (Surrey Centre, Lib.): I want to thank you all. I think it's abundantly clear that most of us here are very sympathetic to this and think it's time for change in the right course. By my own calculations, it appears that 44% of immigrants are exempt from this and about 56% of immigrants are the ones who have this legislation apply to them, the economic, and the parents and grandparents.

To CIHI, you provided data used to calculate the average Canadian's health needs. Do you believe this data is the most appropriate metric to decide whether a potential immigrant would introduce excessive demand to the health service?

Mr. Brent Diverty: What we provide is the estimated and actual costs of health care for Canadians. What we hope and aim to do with that is to make it available so that it can be used for policy-making and system performance, etc. But at the end of the day, it's really important to say these are simply budget estimated numbers for the current year that come out of provincial budgets and some other data sources that we use. We create an estimate of the expenditure for the country, divide by the population, and get a number. We can also do that by age groupings, and we can do that for each province and territory. You get a range of estimated average costs for different aspects, as I mentioned, but really I think that's where our job stops and that's where we make those available for policy and system performance.

Mr. Randeep Sarai: You say the average cost ranges from province to province, but \$7,000 is just an easy number I'm using. If you have 900 who were refused, that's approximately \$6.3 million that would be the average cost for those people, but what would you consider the average cost of somebody who is currently refused or considered inadmissible? Is there an average number that you guys have been able to calculate on that?

Mr. Brent Diverty: The way the data comes to us is often in aggregated amounts, and we're not able to disaggregate it by things other than age groupings and provinces.

Mr. Randeep Sarai: If you took all the immigrants who are coming in, and you allowed the 900 who are currently considered inadmissible, and you put the cost that they had versus the average cost of the others, would it not be the same averages as we currently deem? Wouldn't it average out? Obviously, in the Canadian population, we have people with excessive demand, and so has the public coming in.

Would the average not be \$6,300 in British Columbia or \$7,000 on average? Would it not come out to the same average?

Mr. Brent Diverty: It's a good point that you make. I think we're saying we're going to spend roughly \$242 billion on health system expenditures this year divided by our population. That's the average. There is a range of people within that number who use different health care. We know, for example, if you're below one, it's about \$10,000 a year. If you're above 80, it's over \$20,000 a year, and there are amounts in between. I think there's nobody being excluded from that number. That's based on the numbers we're getting from provincial budgets.

• (1920)

Mr. Randeep Sarai: Would it be possible for you to calculate the cost of the, say, potential 900 who are considered in the excessive demand category if you looked at the Canadian population to see what that cost is? I'm not saying that this is a cost issue, but obviously, anyone who's going to prove this is going to look at a number to see what it would cost, and \$6.3 million would be what it would cost anyway if they're a healthy individual by their normal demographic.

What I want to know is, would it cost \$15 million for them, or would it cost \$14 million, because then the Canadian public and our government could know it's only another \$3 million, another \$5 million, or \$10 million, or whatever the cost would be.

Would that be something you could...? Out of the data you have based on Canadians who are considered in the excessive demand category, what would an average cost be for 900 people?

Mr. Brent Diverty: Unfortunately, the way the data comes to us, we're not able to disaggregate it in the ways that you describe. What we are happy to do is to make available any of the data that we have on this issue so that, if someone wanted to do some modelling work around that, it could be done. It would largely be based on the data we've provided here, which really, as I said, disaggregates by age groupings, by provinces, etc.

Mr. Randeep Sarai: If we took an average aggregate of the average population that comes in, the number would come out to the same as what Canada has, so if we did not exclude the 900, and we took 300,000 immigrants of which 0.2% were considered excessive demand, the average cost would still potentially be the same as the average Canadian cost, so on average they would not be a burden.

Mr. Brent Diverty: Based strictly on averages, it's hard to imagine how 900 people in 35 million could affect our average health care per capita of \$6,600.

Mr. Randeep Sarai: Thank you.

Mr. Waldman, immigrants denied PR status due to alleged medical inadmissibility are allowed to provide a letter explaining how they would mitigate the costs that would otherwise fall to our health system. In your experience, how likely is it that such a letter or such mitigation factors are deemed admissible? How many are successful based on their application?

Mr. Lorne Waldman: It's important to note that this only applies to the social services aspect, not to the medical aspect. If a person is found inadmissible because they're going to cost a lot of money to social services, special education, or respite care, those types of services, then they can produce a letter explaining how their family is going to help, or that they're going to hire private individuals.

My experience is that, in most cases, they are not successful because the health authorities are very reluctant to accept this type of undertaking. Having said that, I have been successful in a few cases, but the vast majority of the cases where the fairness letters are provided, they're not accepted.

Mr. Randeep Sarai: You also said it makes no difference from a cost-benefit perspective. Can you just quickly elaborate on that?

Mr. Lorne Waldman: What I'm saying is, given the overall cost of health care, when you're talking about 900 people, which is such a small number of people, even if those people exceed the average cost by double or even triple, when you consider that as.... As you said, if you multiplied 900 by \$7,000, that's \$6.3 million. Even if we said these people on average, these 900, are going to cost triple, you're looking at maybe \$12 million extra. It's really not worth it.

The Chair: I need to end there.

Ms. Rempel and Mr. Maguire, you have five minutes.

Hon. Michelle Rempel (Calgary Nose Hill, CPC): Thank you, Mr. Chair. I'll be brief.

I would like to give notice of the following motion:

That the committee invite the Auditor General to appear in a televised meeting with respect to Report 3 of his Fall 2017 reports dealing with settlement services for Syrian refugees, and that officials from Immigration, Refugees, and Citizenship Canada also be asked to appear at the same meeting, no later than December 7th, 2017.

Thank you. I'll pass the microphone over to Mr. Maguire.

The Chair: Thank you. That has now been received.

Mr. Larry Maguire: Thank you, Mr. Chair.

I want to carry on with where Mr. Sarai went, with the whole process and your last comments, Mr. Waldman.

From the numbers that you gave us, Mr. Diverty, was it a cost of \$20,000 to the health care system for a senior over 80?

• (1925)

Mr. Brent Diverty: I have a more specific number, if you like, but it's around \$20,000.

Mr. Larry Maguire: Okay.

I look at 900 seniors, then, as an \$18-million cost, and you just indicated, Mr. Waldman, that if we tripled this, it would be somewhere in excess of \$12 million more. I did the numbers, and according to the CIHI number here of \$5,782 for an average person's spending in Canada on health care, it's \$5.2 million. If you triple it, it's \$15.6 million.

I look at your situation, and whether or not it's exactly 900 people who would be impacted by this, or 1,900. Do either of you, Mr. Waldman or Mr. Rae, have any idea what those costs were in regard to administration, or would you have those numbers, Mr. Diverty, from CIHI, for the costs of the admissibility, for doing the paperwork and that sort of thing, for each individual? As you've given us for health care costs, is there an average for paperwork, just for health care in Canada as well, that would apply here?

Mr. Brent Diverty: No. I don't have any such number. We track administration costs for health care overall. They're roughly about 2%, but that's largely ministries of health. It doesn't include the administrative costs of organizations, but I don't have a number specifically for what you're looking for.

Mr. Larry Maguire: Someone mentioned earlier the costs of family reunification and the costs of the family impacts. I happen to come, Mr. Waldman, from Manitoba. You mentioned it earlier. There's a situation of human capital involved here, where the families can't get on with their regular lives because they're so busy worrying about the person in the family who has this disability, and they need to be able to deal with that locally and in their own family. In this case, the person was trained in a particular occupation that was deemed to be a fairly high-paying occupation, I would say, and they're working in one here in Canada now at a much lower rate. Because they have been held up for six years, or some years, to become permanent residents of Canada, they can't even train to get the upgrading they need to go back to their previous profession.

This is a detriment to the community they live in because there is a very big need for the person's skills in that area. The town has come together fully to adopt and accept this young person into the school system, into the community, yet there's still a situation here a few years later that we're dealing with.

Can you comment on that whole human capital part of it?

Mr. Lorne Waldman: I think what we're seeing—and your case shows this—are a lot of situations where people who have a huge amount to contribute to Canada are not able to do that. Either they can't come because of the medical issues, or they have to spend so much of their time worrying about dealing with the problems of the people who aren't able to come that they're not able to make the contributions.

When you factor that in, and you add to that the limited amount of money we're going to save, I think we have to seriously rethink this whole process.

In terms of the costing, I think if you ask the officials at immigration, they do have to do a costing for the application process. I would expect that they probably could provide you with a figure as to how much it costs for the medical processing.

Mr. Larry Maguire: Thank you.

The Chair: Mr. Rae.

Mr. John Rae: I'm glad that—

The Chair: You have 10 seconds. You can do it.

Mr. John Rae: You raise an interesting example. I wish we could get back to discussions about the humanity here rather than just the overall cost. I think settlement organizations can help us a lot. I think your example shows how community creativity can help mitigate

some of the perceived costs and can help individuals settle in our country.

The Chair: Thank you, Mr. Rae.

We have time for two minutes from Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): Thanks very much.

Mr. Waldman, you made the fairness point about hardship, and Mr. Rae reiterated just now that it's dehumanizing, in many ways, to reduce a person to a number. But you also made the point that as a society we are losing otherwise contributing new members of our society by virtue of this analysis.

Just as a clarification point, when the excessive demand consideration is made, that's just in relation to the one individual, not a holistic consideration of the family as a whole and the contributions that other families would make. That's correct, right?

• (1930)

Mr. Lorne Waldman: Yes, that's right. That's a problem.

Mr. Nathaniel Erskine-Smith: Second, in your experience, of the 900 applicants—a tiny fraction of the total immigration number—that you deal with specifically and have dealt with in the course of your career, how often is just a single individual coming where there isn't a contributing member in the same way, or to the same degree, in the excessive demand rejections?

Mr. Lorne Waldman: I'll point out that there are two categories. One category is the parents and grandparents. Usually you have the parents, with maybe one parent who is inadmissible and the other who is not. In the economic category, often several people are contributing, with maybe one child who has an issue. That can be the impediment. Those are the cases that are really problematic from a practical point of view.

I want to clarify that I agree with Mr. Rae in terms of the moral issues involved, but I'm trying to appeal to your practical notion of what makes sense economically as well.

Mr. Nathaniel Erskine-Smith: Thanks for making the case. The fairness point is important. The economic considerations would then underline the support, hopefully.

I know you publish in this area, and other jurisdictions face similar questions. Do they have similar answers, or have they moved away from categorizations like excessive demand?

Mr. Lorne Waldman: I think it depends on the country. I think a lot of countries are proving to be much more flexible. Canada has to start worrying about the fact that we're competing, and we're going to lose good immigrants.

Mr. Nathaniel Erskine-Smith: Do you have examples of model countries in this regard?

Mr. Lorne Waldman: I'll send them to you.

Mr. Nathaniel Erskine-Smith: Okay.

Thanks very much.

The Chair: Thank you very much.

Thank you to our panel of witnesses. You've set the bar high for the next panel. We thank you for your time.

We'll take a few minutes to change our panel.

● (1930) _____ (Pause) _____

● (1935)

The Chair: We'll reconvene. Could I have everyone take their seats?

I know you're happy to be here, so let's begin. We will start with Michael Battista and Adrienne Smith.

Mr. Battista, I believe you are going to begin.

Mr. Michael Battista (Barrister and Solicitor, Jordan Battista LLP): Yes. Thank you very much.

We're very pleased to be here. We're very pleased that the committee is looking into this very important issue.

The Chair: Could I have people's attention, please? I would like members to please take their seats.

Thank you.

Mr. Michael Battista: Thank you, Mr. Chair.

My name is Michael Battista, and I'm joined by my colleague Adrienne Smith, from Jordan Battista LLP.

We really consider ourselves, among the bar, as being medical inadmissibility specialists. We do a lot of this work. Our expertise really started in dealing with cases of applicants with HIV, but it has now expanded to cover a broad range of health and social services. Medical inadmissibility files are about 20% of what our office does, and I wanted to start off by talking about wait-lists for a moment.

Wait-lists are a little bit of a red herring. We have seen hundreds of procedural fairness letters in our office, and I can't think of one letter that has relied on wait-lists, or increase in wait-lists, to justify a refusal on medical inadmissibility grounds. Part of this is the problem the government has in justifying, or pointing to an applicant who would significantly increase a wait-list such that it would increase morbidity or mortality of Canadians.

Our main point is that paragraph 38(1)(c) is not sound public policy, and this is aside from the constitutional issues. This is aside from the anguish that it causes people. I want to reiterate what Mr. Waldman was referring to before. If we just look at cost alone, it's very questionable that this provision actually saves money. If we look at fixing the provision, the provision will be very expensive to fix.

First of all, let's look at the unlikely cost savings. Let's take the high-water mark of \$27 million. That's the figure government witnesses were using to say what the savings were. We have really strong concerns about this figure. We think it is artificially high, but for the sake of argument, let's use the \$27-million figure. We urge the committee to look at the costs of enforcing and administering this

provision, and to take that into account to see whether there is, in fact, a net savings in administering and enforcing this provision. This provision really deals with layers and layers of government administration and decision-making.

I'm going to give you some costs that you might want to consider. One is the cost of panel physicians, worldwide, who are the first assessors of this information. There's usually a back and forth between family doctors and panel physicians. There are regional medical offices. There's the central medical admissibility unit here in Ottawa that's responsible for preparing the procedural fairness letters, researching costs. There are visa officers who have to deal with whether to uphold the findings of the central medical inadmissibility unit. These visa officers not only make those decisions, but they often have to deal with requests for waivers on humanitarian and compassionate grounds. They deal with requests for temporary resident permits. All of those costs have to be factored in.

In our office, we challenge these findings on a regular basis. There are also the costs of proceedings before the immigration appeal division. There are costs in Federal Court. When you're in litigation, costs rise dramatically.

I urge the committee to consider all of these costs, weigh them against that \$27-million figure, and really determine whether, in fact, this figure is saving public resources. Our feeling, our gut instinct, is that there are actually probably very little savings here, and in fact, there's probably a net cost in terms of public resources.

I'm going to touch on the mitigation plan. Mitigation plans are done by applicants. They frequently pay us to construct these mitigation plans for them. They're really designed to ensure the government knows that a particular applicant won't access the services that are feared to present an excessive demand. The problem with these mitigation plans is that they basically disappear. They evaporate after a permanent resident becomes a permanent resident, so there's no enforcement at all of these mitigation plans even though they're relied on heavily to approve permanent residence for applicants. It's entirely possible that individuals who have been approved on the basis of a mitigation plan for whatever reason—for a change of circumstances, for instance—actually access those resources the government has assumed they wouldn't access. There's very little recourse from this.

● (1940)

We are not advocating that an enforcement scheme be put into place to enforce these mitigation plans, because I think that would just cost more public resources. Any time you set up an enforcement scheme, you're just sinking public dollars into a system.

Overall, I think it's very questionable whether this provision saves the government any money. I think it's probably more possible that it's costing the government money and the mitigation plans are very ineffective in assuring the government that excessive demands are not accessed.

I'm going to turn it over to Ms. Smith to talk about procedural fairness letters.

Ms. Adrienne Smith (Barrister and Solicitor, Jordan Battista LLP): As Michael said, our firm really does specialize in representing people who deal with medical admissibility issues, so I want to focus on two examples from our practice where we've seen these real problems with procedural fairness letters.

One problem is the fact that this excessive demand threshold, which is currently set at \$6,655 a year, is not accurate. We saw that the Global News investigation from July 2017 found that IRCC isn't even considering the social service costs. They're costing it at \$356 per Canadian per year. That number doesn't include special education services, which we know are required by one-third of the people that we're talking about under medical inadmissibility. I think there's a real problem with the number. As Michael said, the resources that the IRCC would have to pour into making this number accurate are going to be significant, so we're coming to the situation now of "is this a system that's even worth saving?"

This number of \$6,655 per year is really important. It means everything to the client. If you're one dollar over this number, it makes you inadmissible to Canada.

We had a case recently in our office where the IRCC said the cost of our client's HIV medication was \$400 over the excessive demand threshold. Our client had an advanced degree. He had years of management experience at an international accounting firm, and there was no opportunity to take into account the fact that he would contribute significantly to the Canadian tax base. The interesting thing is that his desirability as an immigrant to Canada was really reduced to this \$400 over the \$6,655 per year.

The second example that I want to give from our practice deals with the discriminatory nature of this section of the law. The IRCC has repeatedly stated that medical inadmissibility is tied to the cost of services, not to the health condition, but if every single child with a disability is getting one of these procedural fairness letters, then in fact it is de facto discriminatory.

We're questioning the implementation of this law. We're urging the committee to repeal it. You'll hear from other witnesses, and we've heard from the panel before us, that this is a system that discriminates against persons with disabilities.

In 2015 we represented the mother of a 14-year-old teenager named Jazmine. She was found inadmissible because she was deaf. Her case was heavily publicized in the media. The procedural fairness letter that Jazmine's mother received essentially said that her daughter would be a burden on Canada. I think the sad part about this is that Jazmine's disability really is just one part of her identity, but IRCC saw this as the only relevant part of her identity.

I think it is discriminatory to see persons with disabilities as a burden. If you speak to any parent who has a child with a disability, you can see the positive change and impact they have on their

families and their communities. Jazmine's mother worked for seven years in Canada. She paid taxes every single year. I met Jazmine last year in Vancouver, and she's thriving in her school. She has so many friends. It's one of those situations where she really isn't a burden on the social system; she's attending a public school in B.C. Jazmine and her mother should never have been subjected to this discriminatory process.

• (1945)

The Chair: I'm going to need to get you to wrap it up.

Ms. Adrienne Smith: That's actually where I'm going next.

Because of these two examples from our practice, we really have to come to the question of whether there is a solution or whether this section should be repealed.

We are recommending that the section be repealed, because we feel that fixing the issues with the procedural fairness letters is going to require, as Michael said, significant government resources. If the purpose is to save the government money, it doesn't make more sense to put money into a system that is broken. We strongly feel that this is a system that's broken and it's not worth fixing.

Thank you. I look forward to your questions.

The Chair: Thank you.

First, we'll have Mr. Tomlinson and then Ms. Johnston.

Mr. Maurice Tomlinson (Senior Policy Analyst, Canadian HIV/AIDS Legal Network): Good evening, committee. I'm a Jamaican lawyer working with the Canadian HIV/AIDS Legal Network where I collaborate with local groups to challenge HIV in the Caribbean.

As a Caribbean immigrant to Canada, I'm aware of our shared history of discriminatory colonial-era laws. Canada has excluded immigrants with disabilities, since before Confederation, when it denied immigration to persons considered physically and mentally defective.

While the Immigration and Refugee Protection Act no longer employs such reprehensible language, the excessive demand regime is rooted in discrimination and conceals outdated prejudices that people with disabilities are a burden on Canadian society. Ironically, the U.K., which was the source of these discriminatory laws, got rid of them, while we cling to a regime that fails to serve its stated purpose.

In 2010, Canada celebrated our ratification of the UN Convention on the Rights of Persons with Disabilities, and the federal government has expressed its commitment to upholding and safeguarding the rights of persons with disabilities and enabling their full participation in society.

Article 18 of the convention specifically calls on states parties to “recognize the rights of persons with disabilities to liberty and movement, to freedom to choose their residence, and to a nationality”. The excessive demand regime clearly violates this convention.

The UN has also repeatedly called upon countries to eliminate HIV-related restrictions on residents and described HIV-related discrimination in immigration as a violation of the right to equality before the law. By effectively preventing people who are living with HIV from becoming legal residents, the excessive demand regime also violates the rights of people living with HIV and other disabilities to education, employment, and health, as provided for in numerous international human rights laws that Canada has ratified.

Several countries do not have any laws or policies that deny immigration based on HIV status. For example, the U.K. does not impose mandatory HIV testing for those entering the country as immigrants. Driven by increasing public pressure to reduce the number of migrants to the U.K., on the grounds that they were overburdening the social welfare infrastructure, nevertheless, the U.K.'s All-Party Parliamentary Group on HIV and AIDS concluded that the U.K. government cannot look to exclude individuals on the basis of poor health in the U.K., while simultaneously working to provide access to health in developing countries.

The same can be said of Canada, which has invested roughly \$350 million between 2001 and 2011 on international projects with a focus on disability and recently pledged over \$800 million to the Global Fund to fight HIV, TB, and malaria, yet the excessive demand regime would deny some of the very persons who we fund overseas from coming to Canada.

On a personal note, my brother and I now live in Canada, while my ill parents are left alone in Jamaica. Neither would qualify as Canadian permanent residents because of excessive demand. When one parent eventually dies, we will have the hard choice of what to do about the other. Our parents have been a great source of support to us. Now, Canada's discriminatory immigration regime excludes them and many others like them from the care they need simply because they are deemed undesirable.

This is a legacy that we should not continue to defend.

Thank you.

• (1950)

Ms. Meagan Johnston (Staff Lawyer, HIV & AIDS Legal Clinic Ontario): My name is Meagan Johnston. I'm a staff immigration lawyer at HALCO, the HIV & AIDS Legal Clinic Ontario. We serve people who are living with HIV in the province of Ontario.

At HALCO I witness my clients' pain and frustration caused by the discriminatory excessive demand regime on a daily basis. Even for people who are ultimately accepted after all the paperwork, dealing with excessive demand is a terrible way for someone to start their new life in Canada, and the sense of exclusion that it creates stays with my clients for years afterwards. I want to illustrate this with some examples from my practice.

First, I routinely advise international students who have contracted HIV here in Canada during their studies. These students had planned to pursue their studies, gain work experience, and then apply for permanent residence. Their futures are now turned upside down because their application to stay in Canada can now be refused because of excessive demand. This threat of refusal is particularly ironic since international students represent a group of immigrants that Canada states it most wants to attract.

Second, at HALCO we often represent clients in their humanitarian and compassionate applications, H and Cs. Our clients' H and C applications take years longer to process than those of other applicants because they have to request waivers for medical inadmissibility due to their HIV before they are granted approval in principle. During this time, my clients remain in limbo, unsure of whether their application will be approved and they will get to stay in Canada. It's harder to successfully integrate when you spend years here not knowing if you'll be able to stay. One client's child aged out of the definition of dependant while her H and C application was being processed. This meant the child could no longer be sponsored after my client got her permanent residency.

Third, the excessive demand regime creates a climate of fear for people living with HIV. New clients regularly ask me on the phone or in person if their HIV status will be a problem for immigration, or even for citizenship, where it's completely irrelevant. Even people who are exempt from excessive demand still get the message that someone's HIV status can be, as so many of my clients put it, “a problem” for Canada.

The discrimination inherent to the excessive demand regime isn't just in the refusals. It's in the way the excessive demand regime forces people living with HIV and people with other disabilities into a different process with more hoops and longer wait times because of their disability. That is discriminatory.

Excessive demand is still discriminatory even if it focuses on the cost of health or social services and not the medical condition itself. This is a false distinction. It doesn't make a difference to my clients to know they're not begin refused because of their HIV status but because of the cost of their life-saving HIV medications. They're still being refused.

The department justifies excessive demand on the grounds of cost savings, but there are many costs associated with immigration, such as settlement services, language classes, and the costs of educating newcomer children. These costs, however, are not considered in the immigration application process. By only considering the costs of health and social services, and by using these costs as grounds for exclusion, the excessive demand regime relies on outdated and discriminatory stereotypes that people with disabilities are a burden, and it erases the important contributions that people living with HIV and other disabilities make to Canadian society every day.

We urge this committee to show leadership and recommend removing excessive demand inadmissibility by repealing paragraph 38(1)(c) of the IRPA.

Thank you.

•(1955)

The Chair: Thank you very much.

Ms. Schweitzer and Ms. Benitez, welcome as well.

Ms. Mercedes Benitez (As an Individual): Good evening. Thank you for inviting me to share my story.

My name is Mercedes Benitez, and I am a mother and a caregiver. I came to Canada in March 2008 under the live-in caregiver program. My husband, Romeo, and sons, Harold and Bill, are in the Philippines. When I first came to Canada, Harold was nine and Bill was 14 years old. I applied for permanent residence in 2010, after working for two years. In my application, I included my son and my husband. While I was working in Canada, I missed Bill's high school graduation because my husband and I agreed that I should focus on completing the requirements of the live-in caregiver program. Even though it was very hard for me not to be there to celebrate my son's graduation and to miss my boys' birthdays and all our Christmases together, we could bear it because we knew that eventually we would be reunited. You cannot imagine the pain of a mother knowing that her sons are growing up without her.

In November 2015, after waiting five years, I received a letter from immigration saying that we might be refused because of Harold's intellectual disability. I was devastated. It hurts me to feel that Canada thought we were not good enough. The months of uncertainty since we received the letter have been some of the hardest months of my life. I had chest pains; at times I thought I was having a heart attack from the stress. There were so many sleepless nights worrying that any day I could be refused and sent back home after working so hard for so many years. I was afraid. Who would provide for my family? Sometimes it was too much to bear and I thought of giving up, but my family relies on me for support. I am the sole breadwinner. I needed to be strong.

In Canada, it is said that everyone has equal rights, but the decision to find me and my family inadmissible based on my son's disability made me question this. I was eventually able to get legal assistance, and just two weeks ago I was told we would be approved for permanent residence on humanitarian and compassionate grounds. I couldn't believe it. I feel as if I won the lottery. I am so grateful, but I wonder about others who are also in the same situation that I was. I'm not sure how many of you are parents, but put yourself in the shoes of a mother who is being told that she cannot

stay in Canada because her child has a disability. Excessive demand should be eliminated because there should not be any more mothers crying every night or children discriminated against based on their disability or health condition. We need change now.

Thank you for listening.

Ms. Toni Schweitzer (Staff Lawyer, Parkdale Community Legal Services): My name is Toni Schweitzer. I'm one of the lawyers at the Parkdale legal clinic in Toronto, and we were able to work with Mercedes. She came to us almost on the cusp of her and her family being ultimately refused. We were able to work with her and, as you have heard, her case was ultimately successful but on a discretionary basis, on humanitarian grounds.

What I think you have just heard is a first-hand account of what this section does to people. This was a family who, for at least five years, was living with the threat hanging over their heads that they were going to be refused because one of their family members was non-desirable.

You've heard lots of lawyers and bureaucrats talk, and now you've heard what this actually does to people, the amount of mental and psychological stress it causes people who are here or who are applying, who are going to contribute. That's exactly what Mercedes did. She has worked for many years as a caregiver to an elderly man in Toronto. As we are an aging population, we all know there's an increasing need for people who are going to do this kind of work. That's exactly what Mercedes was doing, yet at the end of that, we as a country were prepared to say she wasn't good enough: "Thanks, now it's time to go."

Her case didn't turn out that way, but that's not an answer to the unfairness of the law. It is simply not acceptable to say that we can fix a law that is arbitrary and unfair by saying there can be discretionary decisions made in the appropriate case. Then you're in a position where you're saying that only those people who have the ability to mount a case, to build publicity, to get the media involved, are the ones who are going to benefit. That's simply arbitrary and unfair, and I don't think any of you would agree that this is a country where we should say that is okay.

I want to make two other points.

Basically, I want to supplement what others have said, and I want to take issue with a couple of things that you have already been told by other people who have appeared before you. You, as some members of this committee, had asked other officials who have appeared before you whether this law has ever been found to be unconstitutional. Previous witnesses have left you with the impression that this law has been carefully considered and found to be constitutionally sound. I think it's important that you understand that's not entirely true.

There are in fact two cases where this issue has come up, one in which the court didn't really address it. It was a case of the Federal Court of Appeal in 2002. The way in which the case came before the court didn't allow them to look at the issue from the point of view of the applicant who was being discriminated against. It was in the context of a sponsorship appeal, and therefore, it was the sponsor in Canada. The court said it was hard to see where the discrimination was against the sponsor. That case certainly does not stand for the principle that this law is constitutionally sound, or that the Federal Court of Appeal so found it.

The other case in which this law was looked at was the Chesters decision, which I don't know if any of you are familiar with. It was a challenge to the excessive demand provision as it stood under the old act. It was brought in relation to a woman who was the spouse of a Canadian citizen, who at that time was subject to the excessive demand provision. The court ultimately found that it was not an issue of discrimination because it wasn't based on disability; it was based on cost.

I think you have now heard from enough people that, while the language of the provision is in terms of cost, the way in which it is applied and interpreted is solely on the basis of a person's disability.

• (2000)

The Chair: I need you to wrap up.

Ms. Toni Schweitzer: The important thing is that case was literally on the cusp of the law being amended. It was in relation to a spouse, and as you know, spouses are not subject any longer to the excessive demand provision, so in that case it clearly had an influence on the judge. By the time the decision came out, the law had changed.

You are in the position I think to understand that it is not at all clear that this law is constitutionally sound. I'd certainly say that in a case that came before it that had the proper preparation, I think it would be found to be unconstitutional.

The Chair: I need to have you end there. You may get a question through which you get to answer that. I'm going to be a bit uncharacteristically firm in our timing so that everybody can have a round.

We'll begin with Ms. Zahid.

Mrs. Salma Zahid (Scarborough Centre, Lib.): Thank you, Chair, and thanks to all the witnesses.

Thanks, Ms. Benitez, for your heartbreaking testimony.

My first question is to Ms. Schweitzer.

As I understand it, the medical inadmissibility rules do not apply to convention refugees, protected persons, and in many cases some members of the family class such as spouses, partners, and direct dependants. This seems somewhat arbitrary to me. Does it make sense to you that these rules apply to some categories and not all of them?

• (2005)

Ms. Toni Schweitzer: No, it doesn't, if you look at the way the law functions. As you've heard now in a number of different circumstances, the law is discriminatory. It's not a matter of saying that we shouldn't discriminate only against this person, because there

are situations, such as Mercedes', in which the law does apply. If you accept that there is a problem with the law, then the issue is not who is exempted.

Mrs. Salma Zahid: My next question is to Mr. Battista.

Could you provide insight on the cost of legal representation involved in making an appeal of a finding of inadmissibility and providing a detailed plan to mitigate those costs that is likely to be viewed favourably by the department?

Also, the Federal Court has held that it is unreasonable to find medically inadmissible an applicant who has submitted a detailed plan for the payment of costs. Does this create a two-tier system of entry, whereby those with the financial resources to secure legal advice and mitigate their medical costs stand a better chance of entering into Canada and those who can't afford to pay for those legal costs don't get a chance to come to Canada?

Mr. Michael Battista: I think it's a very good question. As I said earlier, we actually benefit from this medical inadmissibility provision, because people turn to us for advice, assistance, and expertise, which we provide to them. It's a very resource-intensive endeavour to provide adequate submissions and to go on that journey with a client to build the case that they are not medically inadmissible.

Our fees are high. Most lawyers who practise in this area have high fees, because it is very resource-intensive. Yes, there are clients who cannot afford our fees who probably cope with a refusal. I have often reflected upon the fact that this provision does seem to be economically biased toward those who can afford the legal fees to fight the determinations.

Mrs. Salma Zahid: Do you have any ballpark number for the actual cost?

Mr. Michael Battista: Yes. I can say that our fees solely on medical inadmissibility are probably in the range of about \$4,000 to \$5,000. That is without the expert opinions that we often have to seek from doctors, specialists, psychologists, or autism specialists.

The fees, then, are very high; however, most people are willing to pay them, because at that stage of their immigration journey they're very close to obtaining permanent residency. It's the last hurdle. In some sense, they will give it everything they can give it, because they feel that they are close, that they have a shot at it.

Mrs. Salma Zahid: In your opening remarks you talked about the enforcement of the mitigation plans. How enforceable is a promise to pay medical costs when someone is a permanent resident and has the legal right to access the public health care system? Other plans may change. Sometimes people move to a job in which they have a different health plan under their employer. Barring an outright and obvious case of fraudulent misrepresentation, are these plans really enforceable?

Mr. Michael Battista: There's no enforcement mechanism in place to follow through with these plans, and that's part of the injustice and unfairness. Clients sink a lot of resources into building these plans only to become permanent residents, and then, as I said before, they evaporate into thin air. Some of my clients have said to me, "Why was the government so concerned that I had to invest all of this money and work with you to build a plan, and then I'm a permanent resident and there's no follow-through at all?"

I should also mention that in order for there to be follow-through, the government has to be prepared to sink significant resources into tracking these mitigation plans. The government would have to establish a mechanism for the provinces to report on individuals who create mitigation plans so as to track their health and social service spending in every province. If they move, the government would basically have to speak with every province to track what they've been doing. That would raise huge privacy concerns, so it might be impractical as well as very costly. Then there's the whole enforcement mechanism that would need to follow. We're talking about removal orders, appeals, challenges.

It would be an extremely expensive project for the government to come up with some kind of enforcement for these mitigation plans.

Mrs. Salma Zahid: Once a plan is submitted, and a person is accepted by the visa officials and they get the right to come to Canada and become PRs, where does this plan go?

• (2010)

Mr. Michael Battista: I have no idea. Nowhere. It goes into my storage cabinet. There is no follow-through at all.

Mrs. Salma Zahid: I have a question for Ms. Johnston.

As provinces and territories shoulder the cost of public health care, should they have the ability to overturn a finding of medical inadmissibility if they feel an individual or a family makes a contribution to the community that outweighs the provincial costs?

Ms. Meagan Johnston: Sure. As Mr. Waldman mentioned in the previous panel, there used to be a mechanism that did allow the provinces similar powers in this area. This points to the unfairness of the provision as a whole, and also the unworkability of the system.

I don't think it makes sense, and I certainly would not advocate that this committee just tinker with the system. If it's already been recognized that there is a problem, that this system is discriminatory, then allowing the provinces additional mechanisms to circumvent this discrimination is not a fair way to approach the issue.

With respect to the point that it's the provinces who shoulder the burden of health care costs, we have some concerns with the cost savings estimates that have been provided. My colleagues and I have reviewed the transcripts of the first day when the department bureaucrats were here, and—

The Chair: I'm afraid I have to cut you off there. If you'd like to submit something to us in writing, that would be very helpful, or someone may follow up in another question.

Ms. Meagan Johnston: It's in our brief.

The Chair: Perfect.

Ms. Rempel.

Hon. Michelle Rempel: Mr. Maguire has some questions, I believe.

Mr. Larry Maguire: Thank you.

Ms. Johnston, please continue.

Ms. Meagan Johnston: As you can imagine, my organization has been working on this issue for quite some time, we're very keen to see any cost savings estimates that the department can provide. We were very interested by this figure that was mentioned, which was the \$135 million over five years, which, I guess, people narrowed down to about \$27 million a year.

However, if you look through the transcript, it would appear that the cost savings estimates are coming from the procedural fairness letters themselves. How is the department estimating its cost savings? It is taking the cost estimate that's given to an applicant in that procedural fairness letter, and it is using that to estimate how much cost is actually saved.

The issue, of course, is that my colleagues here have spoken to the inaccuracies in the procedural fairness letters. For example, for clients who are living with HIV, they may have switched to a generic HIV medication, which is much cheaper than the medication that's set out in the procedural fairness letter, but also, for example, with my H and C clients, we request, and often receive, waivers of medical inadmissibility.

These cost estimates, from what we can tell from the transcripts, do not factor in any revisions to the cost estimates that applicants may submit or any cases where a waiver is granted. Our concern, based on the information that the department has provided to these proceedings, is that there is a significant overestimation of the actual cost savings.

Lastly, those cost savings do not take into account the cost of actually administering the excessive demand program. As my colleague, Mr. Battista pointed out, and as Mr. Waldman pointed out in the previous panel, there is an incredible amount of cost that goes into administering this program. From what we're seeing from this transcript, those costs are not taken into account either.

Mr. Larry Maguire: Mr. Battista, you hit a home run too when you were talking about the dollars that are involved and that they can't be based on cost alone. Can you tell me, if medical admissibility or rejections for medical purposes were dropped, do you think there would be an increase or an influx of people with disabilities wanting to come to Canada?

Mr. Michael Battista: No, I really don't think there would be. It's not my impression that there are a number of people who have health issues who are just waiting for Canada to drop its medical inadmissibility provision, so that they can enter. Most of my clients are actually quite shocked when I tell them on the telephone, or by Skype, that Canada does this. Their typical response to me is, "I thought Canada was a fair country. I thought Canada wouldn't discriminate." They still pursue it because they're very interested in Canada, but I have nothing really to say to them when they make those comments of surprise that Canada would discriminate in this way.

● (2015)

Mr. Larry Maguire: Thanks.

Ms. Benitez, I am very glad for the outcome of your situation. The situation I was talking about earlier, in the previous panel, was one in the same area. Not everybody is fortunate enough to be picked or chosen, or whatever, on compassionate and humanitarian grounds. That is why I raised the humanitarian issue in the previous panel.

While I appreciate the fact that it's there, it's where I was going when I asked whether a province could have some say in the finality of this. Never mind the province wanting to pay for this—I have a community that would have paid for the extra costs of having that individual live in the community. The parents would have been making far more—just in the taxes they would have paid—than what the costs would have been. There would have been a net benefit to the community, but it can't be a net benefit if they are all rejected as a family, and of course they weren't going to stay if the youngest person in the family was rejected.

Do you have any comments on that, Ms. Schweitzer?

Ms. Toni Schweitzer: That's part of the problem with this. Those cases that get a certain public profile.... There is the ability for IRCC to resolve those cases on humanitarian grounds, but that simply can't be an acceptable answer to a problem with the law. It is entirely arbitrary whose case gets that kind of profile and who is able to get the kind of help to do that. We are not that country, and I would certainly hope that none of you would be prepared to say that this saves a law that's problematic.

Mr. Larry Maguire: Thank you. The arbitrary part was exactly what I was getting at. It's too arbitrary in that regard for individuals who just can't afford it.

Ms. Toni Schweitzer: For all the Mercedeses and the outcomes of their cases, there are however many other cases of people who don't yet have—or may never have—a solution. You've heard what the law does to people. You have to think about that in determining whether there is any way it can be said that continuing this situation is fair.

Mr. Larry Maguire: Thank you.

The Chair: Ms. Kwan, go ahead.

Ms. Jenny Kwan: Thank you very much, Mr. Chair.

Thank you to all our witnesses.

First I want to say, congratulations to you, Mercedes. Your story.... You had the courage to speak up and bring this to the public realm; that's why we are here today. You won your case less than two weeks

ago, and you still show up to make the pitch and say why this law needs to change. I can't tell you how much that demonstrates the value that you, and people like you, add to our society and to our country. That is what we are talking about. I don't know how to measure that—not in dollars, not in cents—but I'll tell you that it is worth its weight in gold in terms of what you stand for and the humanity that Mr. Rae talked about earlier, about who we are as Canadians. Thank you for that.

I want to talk about the international law issue, and the fact that Canada.... We say we're back, and it's so good to say we're back. Let's measure, on this policy, how we're back. Canada has made commitments to equality and human rights of people with disabilities in our Canadian Charter of Rights, and we have done so provincially and federally with our human rights legislation. We are also a signatory to the UN Convention on the Rights of Persons with Disabilities, yet we have this law, the Immigration and Refugee Protection Act, which states that an individual would be discriminated against based on their different abilities. To that end, for us to say we're back on this score, what does the government need to do?

I'm going to go down the line to everybody. Perhaps you could get your comments on the record for us by way of recommendations—in a short answer, because we have limited time.

We'll start with Mr. Tomlinson.

Mr. Maurice Tomlinson: Quite simply, we have to repeal this section. It is in complete violation of our international obligations, and any reasonable assessment would prove that. It is a violation.

What is ironic is that we ratified the UN Convention on the Rights of Persons with Disabilities at the start of the Vancouver Paralympic Games, when we welcomed the world of disabled individuals to Canada. You could play here; you just couldn't stay here. That's the message that was sent.

● (2020)

Ms. Jenny Kwan: Thank you.

Ms. Johnston.

Ms. Meagan Johnston: We also recommend a full repeal of the provision. The discrimination is not in keeping with the idea, as you phrased it, that "Canada is back". We also think that the resources that could be poured into tinkering and making the system more accurate and getting more information is not worth it. We oppose all discrimination and we recommend a full repeal.

Ms. Jenny Kwan: Thank you.

Ms. Toni Schweitzer: As I've already said, I think that the law discriminates when it acts to refuse somebody with a disability from being eligible to immigrate to Canada. I think there's a serious problem with discretionary waivers or exceptions to overcome that problem. Also, Mr. Battista made reference to the *Global News* piece about where the numbers come from, and I just wanted to add one quick thing to that.

The last time Mr. MacKinnon testified before you, when he talked about how the *Global* piece was wrong because they were taking into account too many things, and that, in his words, "we consider only a narrow basket of social services". He said they don't consider social assistance and don't consider social housing. That's not entirely the case. We have seen cases where they have looked at housing and they've looked at social assistance.

I think the takeaway from that is that the way they came up with those numbers is arbitrary and that perhaps Mr. MacKinnon himself doesn't entirely know all the decisions that are being made by officials underneath him because he didn't seem to be aware of that. I think that arbitrariness is simply unacceptable.

Ms. Jenny Kwan: Thank you. It goes to highlight the point that the issue of assessment is entirely flawed, and there is just no way to fix the issue before us.

Could I get a quick answer from you, Mercedes, please?

Ms. Mercedes Benitez: Even though my case is already resolved, I think the excessive demands should be repealed. I still feel the pain when they say I'm good to work, but not good enough to stay because of my son. This morning I had a chance with the press conference, and there are still cases there. A Filipina colleague, Josarie Danieles, who has two young daughters in the same situation as me, and I cried with her. She is so devastated.

I still feel the pain in my heart. There was a time when I couldn't even write the word "Canada" in my letter, because I'm thinking that some day I cannot write Canada anymore as my address. I've lived here for almost a decade and some day in my mind they will just send me home because of my son's condition. I'm here to stand for them and in my heart it's still fresh. I can still feel what they're feeling right now. A lot of people from my village, from my country, and maybe other countries who are really impacted by this kind of discrimination through excessive demands.

Thank you.

Ms. Jenny Kwan: Thank you.

Mr. Michael Battista: With the exception of this provision, in every other aspect of Canadian society—business, government, our education system—we are encouraged to see people with health issues and disabilities for what they can contribute, not that they are a burden. This law is completely out of step with Canadian society. It's a relic of our past and I think it should be repealed.

Ms. Jenny Kwan: Thank you.

Ms. Smith.

Ms. Adrienne Smith: If we look at the practicalities of how many people the system is catching, it's 900 applicants per year, or 0.2% of all the people who are applying to Canada. We've heard about all the problems with the system, and the amount of resources the

government is going to have to sink into making the system workable. If the goal is cost savings for the government, it just doesn't make sense to keep this program in place.

The Chair: Thank you. We need to end there.

Mr. Whalen, bring us home.

Mr. Nick Whalen (St. John's East, Lib.): I'm sharing my time with Mr. Anandasangaree. He will start and I will finish.

Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.): I have a very brief comment for Ms. Schweitzer. Welcome.

Both my wife and I are Parkdale alumni, and thank you for your advocacy over the last four decades.

With respect to your comments relating to the legality of this provision, it still hasn't gone to the Supreme Court for adjudication, if I recall.

• (2025)

Ms. Toni Schweitzer: It hasn't. Whether or not this provision is constitutionally sound has not gone before the Supreme Court of Canada.

The issue that went before the Supreme Court of Canada, which was in the Hilewitz decision, had to do with whether or not people were having what could be considered individualized assessments, and it led to this process that both Ms. Smith and Mr. Battista have talked about, the mitigation plans.

The court did not directly address the issue of the constitutionality.

Mr. Gary Anandasangaree: With respect to the mitigation plan, what other options are available other than repealing this particular provision?

How do you ensure that those cases are adjudicated in a manner that takes into account the reality that currently exists with excessive demand? How do you do that without repealing that particular provision?

Ms. Toni Schweitzer: I don't have any suggestions, actually.

I think that the law discriminates, and the numbers that have been provided as a justification are arbitrary and inaccurate. It appears even that senior officials are not aware of some of the things that are being done by decision-makers. That's a situation that is unacceptable.

I don't know what else I could say to that. I can say that the system as it stands is unacceptable and shouldn't continue.

Mr. Gary Anandasangaree: Thank you.

Mr. Whalen.

Mr. Nick Whalen: Thank you very much.

Thank you all for coming tonight. I'm not sure if you've been listening to some of the previous testimony that we've had, but there have been a lot of misgivings from all of us here about excessive demand and why we are quantifying individuals in this way. We don't do it in any other aspect of our lives. I just want to be clear with each of you about exactly what the ask is, or what the recommendation is regarding repeal.

I want to confirm that you're not asking us to repeal paragraphs 38(1)(a) and 38(1)(b) with regard to dangers to public health and public safety. It's just paragraph 38(1)(c), which is with respect to excessive demand—or if you are asking for repeal of all, please provide some explanation. Maybe we could just run down the table starting with Mr. Tomlinson.

Mr. Maurice Tomlinson: Paragraph 38(1)(c) is what we wish to see repealed. Excessive—

Ms. Toni Schweitzer: I may be speaking out of turn, but I think he probably can speak for all of us.

Mr. Nick Whalen: That's wonderful.

In previous meetings, we talked about the prices. Whatever the prices are, when you take all of the costs associated with Canadian health care into account, it's a giant insurance scheme. Some people are healthy and some are not. We try to get by as best we can. We have immigrants who are coming into our country. Some are healthy and some are not. They're human beings. I'm not sure what else to say other than that.

Thank you very much for your testimony today.

That's the end of my question.

The Chair: All right.

Did you want to ask another question, Ms. Kwan?

Ms. Jenny Kwan: If I may, Mr. Chair, I will just put on the record that, at my office, I have received over a thousand letters or emails regarding this issue, calling for the government to repeal the excessive demand provision. I want to get this on record, and I would be happy to give a sample of those emails to the clerk so that we can register this. I suppose I could print out a thousand copies for you, but maybe—

The Chair: I would sooner not.

Ms. Jenny Kwan: —I'll just do it that way.

I want that on the record, if I may.

Thank you.

Mr. Maurice Tomlinson: If I may, Chair, I would also like to say on the record that Canada is behind nearly a dozen countries that have no excessive demand provision. These are countries that, as was repeatedly said, we are competing with for talent. Most of Scandinavia, our friends to the south, the U.K., Ireland, and many other countries have no such provision, and they seem to be getting on quite fine.

The Chair: We'll get information on that, I'm sure.

We're going to end this part of the meeting and take a brief moment to show our witnesses out. It's not an in camera meeting, but

we have some business we need to do following this. I would like to resume as quickly as possible once we've done that.

Thank you, witnesses.

● (2030)

_____ (Pause) _____

● (2030)

The Chair: We're going to call the meeting back to order.

Just before we get into the business portion of the meeting, I'll note that there was a request from Ms. Kwan for a copy of a 2004 baseline study upon which the rates were set and then increased through inflation and experience over the time. I think it would be very good for our committee to have it before the minister is here; however, it is available in English only, and it is about 50 pages.

I'm going to seek unanimous consent to have it before the committee, knowing that we would have French translation immediately following as soon as it's available—just to have that available for people to understand. I am going to seek unanimous consent on that.

Some hon. members: Agreed.

The Chair: We recognize this as an exception and that all the documents will be bilingual, and it will come hopefully as quickly as possible. We're doing a compressed study, so I think it is an exception.

Mr. Anandasangaree.

Mr. Gary Anandasangaree: Is this the one and only time for this exception?

● (2035)

The Chair: Yes, the exception is noted by that.

We're going to continue our discussion.

At the end of the last meeting, Ms. Rempel presented a motion. I can't tell from the blues who actually had the floor at the end of the meeting, so I'm going to turn it to Ms. Rempel.

Hon. Michelle Rempel: As a point of order, Mr. Chair, is this component of the meeting being televised?

The Chair: Yes, we're continuing.

Hon. Michelle Rempel: My understanding is that right now it's not being televised on ParlVU. It said that the meeting was suspended.

The Chair: We're not in camera. We're continuing as normal, but we also have people who may need to leave. I don't know.

The Clerk of the Committee (Ms. Erica Pereira): We're on.

The Chair: We're on.

I'm going to turn it over to Ms. Rempel, who has the floor and the camera. If you would restate your motion, reread it, we can begin again and continue debate on it.

Hon. Michelle Rempel: Yes.

I move:

That, notwithstanding the motion adopted by the Committee on October 16, 2017, the Committee hold an additional meeting prior to December 20, 2017, on the resettlement issues related to Yazidi women and girls; and that the Committee report its finding to the House; and that the government table a response.

For the committee's benefit, I'll give a little bit of a background on my week last week during our constituency break. I had the opportunity to meet and have calls with several of the community groups that are providing resettlement services for the Yazidi community across the country, and they watched what happened at committee last week.

To my colleagues opposite, the Liberal government has a majority government right now, which means they have a majority on this committee. This means that the Liberals, should we adopt a report, have the ability to basically word the report as they see fit. Opposition members can put a dissenting report on the end, but the thing with a report is that the government is required to respond. I don't understand why the committee members would do anything other than have a report attached to the findings of this committee, outside of the fact that they have been directed by the centre that it doesn't want the government to respond to this.

Here is what happened last week. I sat in the living room of a Yazidi family's home and I had to listen to stories about how they have family members in other parts of the country who have been redirected. They're isolated. They're struggling. We don't have enough translation services for people. It was never the intent of this committee—and I certainly hope it was not the intent of the government—to bring these people here who have suffered so much just to leave them to their own devices when frankly their lives are still at risk.

Frankly, I want to take issue with something that was said at the last meeting, that moving this motion was Conservative—I can't remember the word that was used—histrionics or hyperbole or theatrics. Yes, I get worked up on this issue, but every Canadian should get worked up on this issue. The member who said that... I would like to ask for an apology on it. I do not understand why every single time this issue comes up before this committee we can't just do something that resembles work.

My understanding is that somebody from across the table is going to move a motion that this is going to be a letter to the minister, which the Liberal members will do anyway. It removes the responsibility of the government to respond to the work of this committee. If the government members want to respond to the centre, if they want to take direction from the centre rather than from people who are sitting at the end of the table, that is fine. That's your prerogative. You can write the recommendations in that report how you see fit. I want the government to have to respond, because if we don't get this right, we are failing the world's most vulnerable.

I am so sick of sitting in the living rooms of these people's homes, of listening to these women, and of us failing to act on their behalf. I don't want to have to come to our chair and to each and every one of you every three months asking for another report on this because we are not making ends meet. I don't want to have to keep asking our chair in the House of Commons what we're doing. I don't want to have to keep listening to department officials saying that only five women have had access to care. I just want it done, and I don't understand why this is so hard for this government that makes their

brand “welcome to Canada”, doing something that's compassionate. If somebody across the way is going to entertain amending this motion, I don't accept it. I'm just going to pre-empt you right now.

We need to have a report out of this study. We need to have some concrete recommendations on how the government is going to go forward. The Liberals in this committee can do as they see fit. Every single person I met with and called this week does not understand why there is a disconnect between the message that the Liberals put forward with the Syrian refugee initiative and what is happening with this particular cohort of people. I don't understand it, either.

I ask each and every one of you from the bottom of my heart, from a place of genuine concern for women whose lives are at risk, to just issue a report. Your minister can put forward whatever he responds, but you cannot have good government unless you have good opposition. I am so tired of keeping my staff involved in this. I'm so tired of spending so much time on something your government is supposed to be good at.

● (2040)

I look at you as members who are not part of the government. Your job is to hold the government to account too, even if it's the same party.

If you're going to amend this motion, no, I don't accept it. If you want to put forward a letter to the minister, that's cowardice. If we are going to do this, we should do it right. There is absolutely no reason outside of cowardice and bowing to the centre, abandoning these women, that we would not put the findings of this committee study into a report.

I rest my case.

The Chair: Ms. Zahid.

Mrs. Salma Zahid: Thank you, Mr. Chair.

I would like to move an amendment to Ms. Rempel's motion. I would like to amend it by deleting everything after “women and girls” and replacing it with the following:

and that the Committee write a letter to the Minister of Immigration, Refugees and Citizenship Canada reporting on the testimony it has heard during this briefing.

The Chair: We will now debate the amendment.

Ms. Kwan.

Ms. Jenny Kwan: Thank you very much, Mr. Chair.

The Chair: Could I just clarify one thing? When you say “a letter”, are you referring to it as an open letter or a confidential letter?

Mrs. Salma Zahid: An open letter.

The Chair: Thank you.

I just wanted to clarify because there are two kinds of letters that can be sent.

Ms. Jenny Kwan: Thank you very much, Mr. Chair.

I would not support the amendment. I think that the reason is quite obvious, really, and that is for us to do our work. We had compelling information that came forward from the officials and from the witnesses who came before us. To write a letter...some people would say, "What is the difference between a letter versus a report?" Well, there's a significant difference.

A letter is simply to say, "Here's what we heard." A report will speak to recommendations and the government would have to respond to those recommendations as per the rules as they apply to committee. I think that there is value in that. I think there's value in that for the opposition, but also for the government members too. More importantly, I think there's a lot of value in that for the people who came before us.

I can't get out of my mind the victims, the survivors, and particularly Nadia, who spoke with us in her first meeting in the summer. It seems so long ago now, but it really wasn't that long ago. I remember meeting her at my office and how looking at her I could see how her trauma was haunting her still. In spite of that, she found the courage to come before us, to advocate, to do this work, and to continue to do this work. The work is not done. The job is not done. We've only just begun this work. In that process when we heard from the witnesses in the summer, I had always envisioned that the first phase of this work was to do this immediate 1,000-plus people in terms of coming forward, and that there were steps to follow. We all heard that at the committee.

● (2045)

Hon. Michelle Rempel: I have a point of order, Mr. Chair.

I have a staff member who very loudly was interrupting my colleague and disrespecting her by saying, "Just let her talk it out."

That's disgusting. You should be ashamed of yourselves.

It's a point of order on decorum.

The Chair: I would say it's not a point of order.

Would the member, please, continue?

Ms. Jenny Kwan: Thank you, Mr. Chair.

I won't bore the members. I have to say—

Hon. Michelle Rempel: Don't give me a look like that.

Mr. Marwan Tabbara: I can look.

The Chair: Order, please.

Hon. Michelle Rempel: No, you can't. You don't have the right to look at me with a sneer when we're dealing with something like this.

The Chair: May I have order?

Ms. Kwan has the floor.

Ms. Jenny Kwan: Thank you, Mr. Chair.

I will finish by simply saying that it was always my hope—and I thought it was the committee's vision as well—that we would do this work in the summer as phase one, which the government did act on and which was to bring the 1,200 Yazidis over by the end of the year, but we always knew that work was not complete. We always knew. At least in my heart, I knew that work was not complete and that we needed to continue. The witnesses who came before us in the

summer said that as well. That's exactly what the witnesses in this round said to us in terms of the work that needs to continue. I really don't understand why there is harm for this committee in doing our work independently.

Mr. Chair, you are a new chair of this committee and you have said to me—and I don't think you mind me saying this publicly—that this committee works independently of government and independently of the minister, and that we have our own minds and our own capacity to do our work. The chair before you, Mr. Oliphant, reiterated the same thing. He said to us that the work we do here could be some of the most important work that we will do as members of Parliament. We have the chance to make a difference in putting forward this report.

We're talking about saving lives: the lives of people, of women, of victims who have been raped. There are victims who are being killed, and there are those who are coming out to plead for help. There is a genocide against this community. We owe them that much, to say that this work will continue. We owe them that much to do our work as committee members to put a full report to the minister and to have the minister respond to us accordingly. That is accountability. That's transparency. If we do that, we should all be very proud of what we're doing here, even when we disagree, Mr. Chair.

I hope the members will retract the amendment. Let's get on with it. Let's get on with it and do something that's really cool, you know. I think we can do it.

The Chair: I have Ms. Rempel and then Mr. Maguire.

Hon. Michelle Rempel: I'd like to propose a subamendment to my colleague's amendment, so that following onto her amendment it would read "and that the content of the letter be developed in a televised meeting, and that the minister appear before committee to respond to the letter prior to February 28, 2018".

I would like my colleagues to have to go on the record to defend the fact that they are not requiring the government to provide a response. If they don't want a report because the centre, or their parliamentary secretary, or the staffer in the green shirt who just told my colleague to talk it out...

You should be embarrassed.

The next time, honestly, Mr. Chair, I would invite that staff member to come and meet with me when I have to meet with these Yazidi women. I would love that staff member to come and watch and listen to those women, and we'll see afterwards who's talking it out.

Shame on you.

Mr. Marwan Tabbara: On a point of order, Mr. Chair, I think she's being a bully and harassing staff members, and I think she should apologize for that.

Hon. Michelle Rempel: Mr. Chair, I would like my colleague who said I was being theatrical in the last meeting to apologize to me. I would like my colleague opposite who gave me a sneering look to apologize. This is serious, and I make no apologies for being serious on this issue.

Mr. Marwan Tabbara: Stop being a bully, Michelle. Come on.

The Chair: Order. Ms. Rempel has the floor.

Hon. Michelle Rempel: Thank you.

If we are not going to issue a report on this, I do not understand why the minister should not have to come in front of committee to answer to this.

The other thing is that I've had experience in drafting letters in this committee before. It has not been a pleasant experience. If the Liberals, using their majority, are going to draft a sunshine-and-roses letter to the minister that he's not required to respond to, I would like that to be done in public so that the witnesses we've had before this committee can see the deliberations. I would like the minister to come and respond to this.

I am furious. I don't understand why we can't act on this. I do not understand why we are not requiring the government to respond to this—honestly. There are real challenges. We're doing something new. The government, to their credit, they're doing something new, but the reality is that this group of people has different needs than other groups of refugees who we have brought in, and we are not capable right now of meeting their needs.

That is the role of this committee. We have had recommendations. The government might not agree with it. The government side might not agree with it. That is fine, but we need to do our work as parliamentarians and say that the system we have, the siloed system of a standardized support for GARs, is not meeting the needs of this group of people, and their lives are at risk. I do not want to have to come back here because one of these women has taken her life, and that is what we're talking about here. I don't want to have to do that.

I do not understand why we can't have a report. If we cannot have a report, I want the content of this letter deliberated in public, and I want the minister in front of committee to respond to it by the end of February.

• (2050)

The Chair: Mr. Maguire.

Mr. Larry Maguire: Thank you, Mr. Chair.

First of all, now that there's another motion, I want to speak to that.

I feel strongly that a letter is not required here. I see nothing wrong with having a report. When we last spoke to these witnesses, we specifically asked them whether or not this met the criteria to be a recommendation, and this topic was a recommendation. We did that about five or six times, and I believe all members on the committee, all three major parties, did that. Recommendations came forward. Recommendations usually go in a report; they don't go in a letter. The word "recommendations" was used. I jotted a number of things down in my own notes that I remember witnesses saying at the time.

In the spirit of collaboration, I was of the understanding that while we're having the four meetings this week on medical inadmissibility, we would possibly be able to have another meeting to look at hearing directly from the Yazidi women who have been injured or persecuted by the situation they've been put through, and that we would be able to hear about, and Canadians would get a better feel

for, the need for the changes that may be required. They're not that outstanding, given the number of people involved, as we've seen in the admissibility situation this evening.

I strongly believe that there is a need to have this recorded as a report, as opposed to an open letter, for the accountability of the whole process. We have a responsibility as Canadians and as members of the backbench and the opposition to make sure that the recommendations are going forward. The government doesn't have to act on them. I believe that they probably would, in some cases, make some adjustments in the whole process.

I think it's very reasonable to ask for that letter to be dealt with. We've already seen, I believe, some of what would be public in it. We could put those forward, if we were to secure another meeting with witnesses to have the opportunity to strengthen what would go into the recommendations. It then gives us an opportunity to be able to respond to it.

I think the motion put forward by my colleague, Ms. Rempel, is the best that you could get out of the amendment the government side has brought forward, the backbench committee from the Liberal government, regarding wanting to have a letter, particularly when it was apparent that it was already coming. I can't believe that the recommendations that everyone in this room knows are already out there couldn't be accepted. They're on the table already. They were there the last time we met two weeks or 12 days ago. I believe that we could live with the opportunity of developing those recommendations in the committee, and then have the minister come and appear before us to deal with such an important issue—the government is the one that said they would bring in 1,200 Yazidi women—and to move as quickly as we can to accomplish the goal the government has set for itself.

I think the witnesses all know the difference between a report and a letter, and I think they would feel much more included in the whole process if they knew that there was going to be a report. They witnessed what happened 11 or 12 days ago at the last meeting that we had. I believe it would be very valuable for the government to have this in their hands as a report.

I'll leave it at that for now and see if there are any other concerns, but I would certainly recommend that we drop both amendments and go back to the original motion.

• (2055)

The Chair: I have Ms. Kwan and Ms. Rempel on the list.

Go ahead, Ms. Kwan.

Ms. Jenny Kwan: Thank you very much, Mr. Chair.

Speaking to the subamendment, the amendment that Ms. Rempel has just moved, I will simply say that my preferred option is to do a report. I think that's the proper thing to do.

If that is not to be, I would support this subamendment for the purpose of accountability. I think that, above all else, we need to be accountable. We need to be accountable to the people who elected us, to the people who got us around this table to be committee members, to the witnesses who took their time out to present to us, and to the international community. If Canada wants to be recognized for its humanitarianism and compassion, we need to demonstrate that. I think that, at the minimum, we need to ensure that there is absolute transparency with respect to this process and with respect to an issue such as genocide.

Thank you, Mr. Chair.

The Chair: Go ahead, Ms. Rempel.

Hon. Michelle Rempel: Mr. Chair, the last time this committee wrote a letter was following the hearings we had in the summer of 2016. There was at that time, I believe, a desire to do more. What ended up happening was that this committee wrote a letter to the minister. It was a self-congratulatory do-nothing letter.

I'm looking at a CBC article here right now. This letter came out July 22, 2016, with no requirement for a response. One of my colleagues' offices had said that it was the best that could be done right then. It took another four months of browbeating to come up with some sort of a motion or a solution and then another year.... We're now a year and a half into this.

I don't find it acceptable that the government feels that their response to this situation is a self-congratulatory letter that requires no government response. This is not what the resettlement services agencies need. This is not what these women need. They need help now.

Mr. Chair, you have done good work in chairing other committees. You have been very passionate on some of these issues. To prove my colleague, Mr. Sarai, wrong in saying that this is somehow Conservative theatrics, I would implore you and I would ask you to talk to your colleagues. Suspend the meeting briefly. Hopefully they can caucus. There is no reason why there cannot be a report. The Liberals have a majority on this committee and they can write whatever they want. I want the government to be required to respond to the testimony that was put forward at this committee. That is what members of Parliament do. A self-congratulatory letter disrespects the community effort that is being put forward to help these people and it disrespects the government actually doing something on this particular file.

Canada should be developing best practice on this, not trying to sweep this problem under the rug. We had this committee meeting, hopefully, to do something that resembled work and get some help out. A self-congratulatory letter that is developed in secret and that requires no government response does not do that. I will be before this committee every single time, every time we hear an issue, every single time something happens in the community, reminding the members of the fact that we wasted time and we wasted the resources of the government in closing our response to this with a nice, flowery letter from Liberal members, who are listening to staffers and the centre, to the minister.

If this is what the members want to do, if they just want to push this away.... I'm sure they have something drafted already. I ask you,

as the chair, to perhaps talk to some of the other members on this team. They can write whatever they want in this report. They have the majority on this committee. It can be there. There is no reason why we would not have a report, or not have the minister come to committee, outside of the government wanting to hide this or sweep this under the rug.

Yes, I'm going to get theatrical about this Randeep, because I don't get this. I don't get why this is the fourth time we've had to go through this conversation. I don't get why you've given me half an hour on camera to get angry at you when you could have just voted to have a report. The government will respond. We'll make sure that the minister gets here somehow. Why don't you just let the government respond in a written report? This is insanity, it's lunacy, and it's not what we should be doing with a parliamentary committee.

I ask you, Mr. Chair, to take even five minutes, and maybe people across the aisle will want to caucus for a minute and talk about something that is more reasonable than what's on the table right now.

• (2100)

The Chair: If you would like to request that we suspend for a few minutes so that anyone who'd like to caucus could do so, that would be appropriate.

Hon. Michelle Rempel: I would like to request that, with this caveat: I hope...and I would love for my colleagues to caucus with you. I would love them to caucus without the "talk it out" guy standing in the middle of it.

I would just really love for this report to be issued. It doesn't have to be long. It will get tabled before committee; the government doesn't have to respond until after the Christmas break. I just want motion on this.

With that, I—

The Chair: Whenever I have a request to suspend for a few minutes, I accept it.

Hon. Michelle Rempel: Thank you.

The Chair: We'll suspend for five minutes. Anybody can caucus with anybody they would like to caucus with.

Thank you.

• (2100)

_____ (Pause) _____

• (2125)

The Chair: We're resuming the meeting.

Ms. Zahid.

Mrs. Salma Zahid: Thank you, Chair.

I would like to withdraw my amendment to Ms. Rempel's motion, but I will do another amendment.

The Chair: Withdrawing the amendment would withdraw the subamendment, and I would hear your amendment.

Mrs. Salma Zahid: The motion would read:

That, notwithstanding the motion adopted by the Committee on October 16, 2017, the Committee hold an additional two meetings prior to December 20, 2017, on the resettlement issues related to Yazidi women and girls; and that the Committee report its finding to the House; and that the government table a response.

The Chair: Do we need to debate, or would you like to vote on that? It's an amendment to have two extra meetings instead of one, that we have a report, and that there is a response from the government.

I have Ms. Kwan, and then Ms. Rempel.

Ms. Jenny Kwan: Thank you, Mr. Chair.

This is not a point of debate, but rather a point of clarification. If this motion passes, we would have two additional meetings. I'd like to get clarification on how we would proceed in terms of witnesses—names and timelines.

The Chair: I would send out a note through the clerk to ask for additional witnesses. We could have maybe up to two additional meetings, because I want to make sure everyone has a chance to put in all their witnesses. If we need two meetings, we'll have two meetings. If there's only enough for one meeting, we'll have only one more meeting and then do the report after that.

We have time to get this done before the House rises in December. We won't get the report fully written and translated and all that, but we're going to get the two meetings, if we need them. We may need only one. It will depend on how many witnesses you submit.

Ms. Jenny Kwan: I'm sorry. Did I hear you correctly to say that we will have a chance to table the report before...? No. Okay, thank you.

The Chair: The analysts advise us that even if we don't have any more meetings, we're not going to get that done.

Ms. Jenny Kwan: I just wanted to clarify.

The Chair: In full disclosure, the reality is that I want this to be done well. I want to make sure we have enough time. If we don't

need two meetings, we'll take one, but I have a feeling that there are a bunch of questions. I also asked the analysts to prepare a summary of evidence so that you can all look at it and decide who you would like to have in terms of other witnesses. The summary of evidence will be ready for Thursday distribution to be fair so that you can really do the work of the committee.

Are you okay with that?

Hon. Michelle Rempel: I'd just like to thank my colleagues for this consideration.

The Chair: All right.

(Amendment agreed to)

(Motion as amended agreed to)

The Chair: Ms. Kwan.

• (2130)

Ms. Jenny Kwan: Thank you, Mr. Chair.

I'd like to put a motion on notice, if I may. The motion would read as follows:

That, pursuant to Standing Order 108(2), the Committee undertake a study of the increasing incidence of forced internal displacement globally and how Canada can best respond to the humanitarian crisis involving forced internal displacement; that this study should be comprised of no fewer than three meetings; that the Minister of Immigration, Refugees and Citizenship be in attendance for at least one meeting; and that departmental officials from Global Affairs Canada and Immigration, Refugees, and Citizenship Canada be in attendance for at least one meeting; and that the study be concluded; and that the Committee report its finding to the House; and that pursuant to Standing Order 109, the government table a comprehensive response thereto.

The Chair: Thank you. That has been received.

Is there any other business that is to come to the committee?

I will see you in about 10 hours. The meeting is adjourned.

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: <http://www.ourcommons.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : <http://www.noscommunes.ca>