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Chair

Mr. Anthony Housefather

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• (1520)

[English]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Good afternoon, ladies and gentlemen. Welcome to this meeting of the Standing Committee on Justice and Human Rights.

We are proceeding with our study on access to justice and are looking at specifics in legal aid. Today we have the pleasure of being joined by two groups, and a witness who is testifying as an individual. I welcome all of our witnesses.

From the Canadian Association of Refugee Lawyers, it's a pleasure to welcome Mitchell Goldberg, the president.

[Translation]

Also joining us is Stéphanie Valois, an executive member.

It's a pleasure to have you here.

We will also hear from Paul Faribault, as an individual.

Good afternoon, Mr. Faribault. We are glad to have you with us.

[English]

Appearing as an individual, we have Mr. Aneurin Thomas, the executive director of the Law Commission of Ontario.

Mr. Thomas, it's a pleasure to have you here as well.

We've agreed that we will start with the Canadian Association of Refugee Lawyers.

Mr. Goldberg and Madame Valois, the floor is yours.

Mr. Mitchell J. Goldberg (President, Canadian Association of Refugee Lawyers): Thank you very much, Mr. Chair.

The Canadian Association of Refugee Lawyers—otherwise known as CARL, to make it easier—has about 350 members across Canada, consisting of lawyers and law professors, as well as law students. We have chapters in several universities across the country.

We focus on refugee protection as well as the human rights of migrants. Since our inception, we've been very active in the courts and in advocacy efforts before the government.

I want to emphasize the grave and huge differences between Quebec and Ontario in legal aid rates for refugees. My colleague, Maître Valois, is going to talk about the situation in Quebec. I'm going to focus on Ontario.

The main idea here is that there is a huge impact on the quality of representation, based on a tremendous difference between Quebec

and Ontario in the legal aid tariffs. I believe the Quebec tariff for refugee claimants is something in the range of one-third of what it is in Ontario. We'll give you a brief synopsis of the impact that has had.

As an example, Legal Aid Ontario has a test fund, which has been used to fund court cases that create a precedent. This legal aid test fund money has been used to fund many of the main constitutional challenges in the field of refugee immigration law. It has been absolutely instrumental in enabling us to partake in complex cases, such as cases where individual lawyers who are working on legal aid tariffs could not possibly hope to mount a successful challenge, cases where you need expert affidavits and a tremendous amount of research.

For example, there's what's commonly known as “the doctors' case”, when we challenged the previous government's draconian cuts to health care for refugees and refugee claimants. That successful challenge was funded primarily by Legal Aid Ontario's test case fund.

The refugee law office, in particular, which is based in Toronto.... As a Montrealer, it's painful for me to have to say something positive about Toronto, but I'll overcome my—

The Chair: I totally understand.

Voices: Oh, oh!

Mr. Mitchell J. Goldberg: Mr. Chair, you would understand too, and I hope Maître Valois doesn't tell anybody in Montreal that I'm saying this, but it has to be said that the refugee law office in Toronto sets the standard. They have budgetary struggles and limitations as well, but they are the backbone in every major legal intervention, whether at the Supreme Court, the Federal Court, or the Federal Court of Appeal.

They have been crucial in providing counsel and expertise that has enabled my group, and also other groups, to make successful constitutional challenges that have had an impact on the lives of thousands of refugee claimants, thousands of vulnerable people. This has also enabled the creation of more efficient, consistent standards for applying refugee law in Canada. We can give many examples if there are questions about that.

I have been told by the chief justice of the Federal Court that it would be okay to tell you today that the Federal Court has also noticed a major impact on the differential legal aid rates. We had a discussion with the chief justice, and when I say “we”, I mean the Barreau du Québec. That's another hat I wear as a member of the Quebec bar's immigration committee. We had discussion with the chief justice about the impact.

Over the years, I can tell you that many Federal Court judges have told many of us that they notice a big difference in the quality of representation, which we all believe very much has to do with the fact that Quebec lawyers are struggling to work on tariffs that are greatly inferior to what our Ontario colleagues are paid.

They say that you get what you pay for, and objectively speaking, there's a study, which the Chief Justice cited to me, by an academic at the University of Toronto indicating that leave grant rates are far lower in Quebec. When I say “leave grant rates”, I am referring to our having to ask the Federal Court for permission to hold a hearing when we want to appeal a refugee decision. Over the years, we've been able to document that the success rate in Quebec is far inferior to what it is in Ontario.

Now I would like to pass the microphone to my colleague, Maître Stéphanie Valois.

• (1525)

[Translation]

Ms. Stéphanie Valois (Executive Member, Canadian Association of Refugee Lawyers): I am going to speak in French.

I want to emphasize that legal aid is a huge and crucial component in refugee law. This is a very specific field of law. Refugee claimants are commonly eligible to receive legal aid for reasons you can well imagine. When they arrive in the country, they have no money to pay a lawyer.

The vast majority of lawyers we represent agree to take on legal aid cases because they are interested in refugee law and want to practise it.

It's important to understand the types of clients we see in our offices. It is easy to talk about the rights of refugees, but when someone walks into our office, the rights that need defending are basic rights such as the right to life, the right not to be raped, and the right to live reasonably well.

The reality of a refugee lawyer is that they must submit their client's file within 15 days of that person's arrival. The lawyer must then present the case to a member at an RPD hearing, and the member will determine the person's fate within 30 to 60 days. It's extremely fast, and the work has to be done with great skill and care.

We have to build trust with our clients, because they need to tell us everything, sharing extremely difficult events and details. We have to take the time to build trust with our clients and to understand the reality of the country they are from.

When we present a case before the IRB, we must know what is going on in our client's home country. If, for instance, we are representing someone from Yemen, a country where things are constantly changing, we have to make sure we are abreast of the

current situation. We have to know who the various tribes are and take the time to understand the client and their reality, and the law, of course.

These requirements are not compatible with the high-volume nature of our work, but, unfortunately, that is what we have to do in order to survive and pay the mortgage. At the same time, I don't think we should have to face such a reality. Lawyers should not be forced to decide against representing refugee claimants because they won't be adequately paid for the work they do.

The right of asylum is a federal right across the country. It is administered by the federal government, not by the provinces. Nevertheless, discrepancies exist from one province to another. Some provinces do not provide legal aid, and the three largest provinces, Ontario, British Columbia, and Quebec, all have rates that vary greatly.

If a client's case is difficult or demanding, they can have trouble finding a lawyer who will agree to represent them. There may be a temptation to ask them to move to Ontario in order to find a lawyer. That is extremely hard for us to tell people because Quebec's refugee lawyers are very competent, but we can't do everything. We are not here to do volunteer work but, rather, to do a very important job.

I would be happy to answer any questions.

The Chair: Thank you very much. That was very informative.

We will now move on to you, Mr. Faribault.

Mr. Paul Faribault (As an Individual): Thank you to the committee for inviting me.

Allow me to tell you a bit about myself. I spent 37 years working as a legal aid staff lawyer, which means that I was a paid employee. I practised in the Joliette region and the Eastern Townships, so mainly in Quebec.

Social law accounted for about half of my practice, family law represented a third, and general civil law made up the rest. I also did a fair bit of work with community-based social and consumer advocacy groups.

I was also the president of the Fédération des avocates et avocats de l'aide juridique du Québec. In that role, I was involved in negotiating collective agreements for legal aid lawyers and active in coalitions working to defend the legal aid system in the face of threats and cuts. I also called for increases to the eligibility threshold. For many years, it remained very low in Quebec and did not go up. Just about a year ago, it was raised to match minimum wage, which means it is still quite low.

I'd like to take a few moments to tell you about legal aid in Quebec. One of my colleagues spoke to you about one aspect of the system. When Quebec implemented its legal aid system, it opted to have staff lawyers all over the province and to ensure that eligible clients could choose to be represented by a staff lawyer or a private bar lawyer. Private lawyers representing clients have to agree to be paid at legal aid rates, which are very low when compared with those in Ontario. In comparing Quebec and Ontario, I should also point out that, despite having half the budget Ontario does, Quebec's legal aid system handles nearly twice the requests. Clearly, then, the choices that were made come at a cost. I think it's important to put that into perspective.

The idea behind having staff lawyers was to build expertise in what was called at the time poverty law. There was a recognition that poor and disadvantaged individuals had unique legal needs and that it was important to build expertise in the problems they encountered and in the ways to approach those problems. Those are the general features of Quebec's legal aid regime.

What assessment can we make of the regime today? Quebec's system is widely considered by Canadian observers to provide good coverage as compared with the regimes of other provinces. It is, to some extent, seen as efficient given that it operates at reasonable cost.

I should also note that the competition between staff lawyers and private lawyers helped ease the bureaucracy associated with the services of staff lawyers, although not eliminating it altogether. The fact of the matter is that, if clients can go to the private practice across the street for representation instead of yours, there is an interest in providing quality service.

Another important observation is that those who administer Quebec's legal aid regime unfortunately evaluate the work done by lawyers solely on the basis of case volume, thereby favouring mass practices rather than principle-based challenges or more difficult and demanding cases.

● (1530)

The system isn't exactly favourable to lawyers who do want to take on these cases. Nevertheless, the overall assessment remains positive when it comes to Quebec's regime, which could even be held up as a model for other provinces in some respects.

I would also like to share with you some observations that come from my personal experience and that, in my view, reflect the ideals that should characterize Canada's legal aid systems.

My first observation is that the law is not neutral. We teach law students that it is the emanation of immanent justice and so forth. The reality, however, is entirely different. The law also reflects the balance of power in society. Laws are not designed to help the poor or vulnerable. Lawyers who represent poor individuals must go beyond the normal limits of a lawyer's work, in my view. They must convince the judge to view the law in a different way and to change the jurisprudence. It takes imagination and, what I like to call, the capacity to elicit outrage, meaning that, when confronted with a situation that is unacceptable, the lawyer must find a way to bring it to the court's attention and to sway the judge. That works sometimes,

but not always. It has to be done, however, and taking up those kinds of challenges must be one of the functions of legal aid.

My second observation is that, when you are poor, you are essentially living without the power to control your own life. The fact of the matter is that others always make decisions for you. For that reason, lawyers working on legal aid cases have to learn how to work with people rather than for people. Lawyers have a tendency to want to reassure people and tell them that they are going to take care of everything, but that does not help the person take control of their destiny. It is important to be mindful of that.

My final observation pertains to individual cases, trials, and even precedent-setting cases. All of those elements lead to some progress, but what really leads to progress is the work that lawyers and legal aid networks do with community groups in calling for changes that will lead to a more fair and equitable society.

Thank you. We will probably have an opportunity to discuss this further during the question and answer portion.

● (1535)

The Chair: Thank you very much, Mr. Faribault.

[English]

Now we will go to Mr. Thomas.

Mr. Thomas, the floor is yours.

Mr. Aneurin Thomas (Executive Director, Law Commission of Ontario): Thank you.

On my and the Law Commission of Ontario's behalf, I'd like to thank the committee for the opportunity to talk about this very important topic. Just by way of background, the Law Commission of Ontario is an independent agency in Ontario dedicated to advancing law reform and promoting access to justice. Some of you may have heard of our predecessor organization, the Ontario Law Reform Commission. The closest federal equivalent would be the Law Reform Commission of Canada.

I'm the executive director of the organization. Also, in a previous life I was responsible for developing policy at Legal Aid Ontario for a long time, so I'm coming at this from both a law reform and a service provider perspective.

By way of introduction, I would like to adopt the submissions of other organizations, such as the Canadian Bar Association and others, about the need to improve funding for legal aid and access to justice; the need for national benchmarks to gauge the progress of that funding; and, finally, the importance of establishing access to justice as an important national priority.

I actually don't want to talk about those topics. Other witnesses have spoken about those issues quite thoughtfully, and I don't have anything to add beyond what they had to say. I can answer questions on these topics, but that's not what I want to talk about. I want to bring to your attention what are, in my view, the additional components, the other parts, of what I think would be a comprehensive legal aid or national access to justice strategy. In my view, funding, benchmarks, and establishing legal aid as an important national priority are necessary but not sufficient components of a national strategy. In my view, again, there are six or seven things the committee should keep in mind if it is considering recommending or developing such a strategy.

First, I believe that a national strategy should acknowledge that there is a national access to justice crisis and that this crisis has many facets. There's a crisis in criminal law, family law, and poverty law, and in the civil justice system. There's a lot of commonality among legal needs and services and legal aid programs among these different areas, but they're not all the same. It's important that any national strategy combine both national benchmarks, for example, with the recognition that local priorities and local services have to be decided on, at either a local, a regional, or a provincial level. It needs to balance both the national perspective and the regional or provincial perspective.

Second, I think it's important to further acknowledge that in the last several years there's been a lot of work done on access to justice and legal aid policy-making. Indeed, on the civil and family side, we have something close to a blueprint or a plan. That, of course, is the 2013 report of the national action committee, the Cromwell report, which set out many good ideas and recommendations for how to address the access to justice crisis on the civil and family side. I don't think the Cromwell report was either complete or perfect, but it's a good start. I would caution you against any recommendation to redo work that's already been done. We are well down the road to identifying what might go into this national strategy, and I don't think we have to spend time and resources redoing thoughtful work that a lot of people have already participated in.

Third, further to Cromwell and other initiatives, there is something close to a national consensus on what the elements of legal aid should be and which services or what should go into the legal aid basket to have a healthy, really good legal aid program. Sometimes people talk about that as being the core services, essential services, or foundational services. There are different ways of describing it, but it really involves a number of different elements, a number of different areas of law. You have criminal law, family law, child protection law, poverty law, and immigration and refugee work. There's an acknowledgement that legal aid should focus on low-income populations. There's a further acknowledgement that legal aid services and priorities have to take into account the needs of vulnerable communities, be they racialized communities, persons with mental illness and addictions, or indigenous peoples. There is wide acknowledgement amongst everyone in the system that legal aid programs and priorities have to focus on the most vulnerable clients.

• (1540)

When people talk about a wish list for legal aid or access to justice, that's really the stuff they're talking about. Those are the

constellations of services and priorities that people are interested in. There are certainly debates within the legal aid world and in the access to justice world about funding, but they're debates about whether you should spend more on criminal law versus family law, poverty law versus criminal law. They're not debates about the overall objectives of a really good system. They're debates driven by constraint. The system has to make hard choices between these different services.

Just for your information, I'll let you know that there is also a consensus, I think, about what the boundaries of a good legal aid program are. In my experience, no one suggests that legal aid should be doing insurance litigation, for example, or that legal aid resources should be used to fund a neighbour suing a neighbour over some kind of civil suit. There is a kind of consensus that the basket of services really should be the ones I listed.

I would also add that this is pretty much an international consensus within the Anglo-American world. There are equivalent conversations in England, the United States, Australia, and New Zealand. Those kinds of services really are the sort of legal aid services and access to justice objectives that people are talking about in those jurisdictions as well.

The fourth point I want to make to you may seem obvious, but it bears repeating because I think it's crucially important. That is, any national legal aid strategy should acknowledge that client needs have to drive the system, not institutional needs or the professional interests of lawyers or service providers. This is crucial. It's a debate in the legal aid and access to justice world that's been going on for some time. Client needs have to be the touchstone on which we judge all programs' priorities: services, funding, everything. It's not about providing lawyers with a living. It's not about ensuring that people make lots of money doing this kind of work. It's about what we do with public dollars to ensure that clients are being served properly.

That said, in my experience the interests of lawyers and of clients, in most cases or in the vast majority of cases, intersect. There is a perfect congruence between the interests of a lawyer or a clinic or a judge who wants to do good work and a good legal aid program. It's not true in every case, however. In cases where there is a conflict between the professional interests of the bar and client interests, in my view a national strategy should prioritize client interests and should be explicit about that.

The fifth point I want to make is that any national legal aid strategy should acknowledge that there is actually quite an expansive federal role in access to justice and legal aid. To give an obvious example, we know about our criminal law and the shared jurisdiction. Provinces administer justice, but you have important pieces of legislation—the Criminal Code, and narcotics legislation, for example—that are in the federal sphere. That's an obvious example of where there is a federal role and mandate. So too is immigration and refugee law an obvious area of federal jurisdiction. So too is the area surrounding indigenous issues. That's another area very important to legal aid programs. There is obviously a federal role there.

It's equally true in family law, although people don't know this as much. The Divorce Act is federal. Child support guidelines and unified family courts are all important access to justice initiatives, programs, or services, whatever you want to call them, that are in the federal sphere but have important implications for provincial legal aid programs.

Finally, it's not well known that in the poverty law area, where people typically think of provincial services—housing, for example, or landlord and tenant work—there are a couple of very important federal tribunals for income support, including the CPP and employment insurance. If you talk to poverty law advocates, they do a lot of work in those areas. So that's another area where there is a direct congruence of a federal program and access to justice.

As well, as has been talked about at this committee previously with regard to mental health and addictions, there is appropriately a national mental health strategy. As you have heard from many people, that has very important implications for legal aid at the provincial level. There is an important federal role. It's not just the provinces.

• (1545)

My sixth point is not one that is talked about a lot in the access to justice conversations or in the legal aid world. I'm coming at this from my law reform perspective. In my view, any national legal aid strategy, access to justice strategy, or provincial strategy, for that matter, has to look at issues respecting both the supply and demand for legal aid services. When we talk about funding, service gaps, benchmarks, or efficiencies, typically we're talking about the supply of legal aid. If we were economists, not lawyers, we'd say that's great, that you're talking about how to increase supply. Then we'd ask if you are talking about demand. How can you reduce demand for services in the first instance so you don't have to keep on worrying about making services more and more efficient, to try to squeeze more and more services out of every particular dollar? When you talk about reducing demand for legal aid services and promoting access to justice, you're talking about law reform or about changes in practices that advance access to justice goals, but you do it in a different manner.

I'll give you two examples, one federal and one provincial. The first example is the obvious one. It has to do with bail. Bail reform is on the agenda of folks across the country. It's been well documented and well researched that there are systemic problems with the provision of bail in Canada. The most obvious manifestations of that are the high remand population and the systemic issues for racialized communities, indigenous communities, in bail.

What's less well known is how bail policy drives legal aid costs. I'll give you a classic example, and it's a very real one. I'm speaking from Ontario's perspective, because that's the one I know best, but I think this is generally true across the country. The test for getting a legal aid certificate in Ontario, the most expensive form of service at Legal Aid Ontario and in criminal law, is the risk of loss of liberty. It goes without saying that if you are denied bail, if you're being held on remand, by definition you have lost your liberty and you meet the test for getting the most expensive service. That's a clear example of where a bail policy is a direct driver of legal aid costs. If there were work done to ensure that remand was done more thoughtfully, more

fairly, and more equally, that would have a very beneficial impact on legal aid costs. Those resources saved from that area of law, from that service, could then be reinvested into other parts of the program.

I'll give you a second bail example. I think you've heard about this at the committee. It has to do with bail conditions. Again, we know through research and experience, as documented by the Canadian Civil Liberties Association, the John Howard Society, and other organizations, the very serious consequential impact of bail conditions. What that means on the legal aid front and the service delivery and service demand front is that although a person may be released from bail and is free and isn't being held in remand, the bail can have a number of conditions. A lot of those conditions are controversial, as I'm sure you've heard. From my perspective, a lot of those conditions are unnecessary. When someone is out with a number of conditions, it's often easy to breach those conditions. Once you've breached those conditions, you're brought back and, suddenly, you're not being assessed for a simple assault or something—which, in the scheme of these things, is considered less serious—but are up on a fail-to-comply charge or a fail-to-appear charge. These are contempt of court charges, which are more serious. These put you back into the loss of liberty threshold, and so on and so forth.

There's a family example. I hope someone will ask me about it because I'm running out of time.

The final thing I want to draw to your attention for a national strategy is that I strongly recommend, in addition to talking about funding, benchmarks, services, efficiencies, and demand, that you also talk about the importance of the provision of high-quality services. The quality issue is something that has been talked about in other jurisdictions at some length. In the U.K., the U.S., and some other jurisdictions, there is real emphasis at the federal level, the provincial level, and the service-provider level to improve the quality of lawyering so that you get better services. Hopefully, the services become more efficient at the same time.

• (1550)

You will often hear that quality is about paying lawyers more. That's part of it, but that's not all of it. There are other things that can be done that require a smaller investment. Training, panel management, peer reviews, mentoring, non-legal supports are the elements of a thoughtful and comprehensive quality strategy that I recommend be included in your deliberations.

Those are my submissions. Thank you very much.

The Chair: Thank you very much, Mr. Thomas, and thank you very much to all of the witnesses.

We're now going to move to questions from the committee.

[Translation]

I would just like to let our witnesses know that it is perfectly acceptable to answer questions in the language of their choice. Simultaneous translation is available to all the members, so feel free to answer a question in French even if it was asked in English.

[English]

We're going to start with Mr. Nicholson.

Hon. Rob Nicholson (Niagara Falls, CPC): Thank you very much.

Thank you very much for your testimony here today.

I'll start with you, Mr. Thomas.

You said that one of the things we should focus on in legal aid is low-income people. Don't you think that's almost a bit of a problem when we see some of the thresholds? You know what I mean? Yes, I can appreciate that you're giving aid to people who earn less than \$12,000 or \$18,000, or families...but in fact there are a lot of low-income people who don't meet that threshold. They make a bit above that, but they're still—

Mr. Aneurin Thomas: Yes, that's very true.

Typically—and, again, I'm speaking from the the Ontario perspective—there are different financial eligibility thresholds for different services. The most expensive services, the certificate services, are for the poorest of the poor. Other services, such as duty counsel services, have a higher financial threshold. Then there are services that are available to everyone, such as public legal education.

In my view, a thoughtful legal aid program in fact offers a little bit of services for everybody. PLE, public legal education, for example, doesn't have to be means tested. Duty counsel services can have a much more generous threshold.

However, when it comes to the most expensive services, the most serious legal needs, I think it's appropriate to focus those on people who are the poorest.

Hon. Rob Nicholson: You made a very good point about focusing on the needs of the clients or the individuals who find themselves caught up in the system, whether that's the criminal system or civil system, or our refugee system. You said it's not a question of whether lawyers can make a living, but isn't that a component of having a good legal aid system? You heard from other colleagues here that they're getting paid one-third of what lawyers in Ontario are getting for the same services, that in fact you don't get the very best legal representation on occasion. Lawyers basically have no choice, but they have to look at the bottom line somewhere along the way.

● (1555)

Mr. Aneurin Thomas: I have two views on this. One is that I think lawyers should make an appropriate wage or tariff on legal aid. My second view is that, as a legal aid program, the primary responsibility is to use dollars as effectively and efficiently as you can. It is not within the mandate of a legal aid program to ensure that, overall, the bar is doing well. However, it is within the mandate of the legal aid program to ensure that there is a sufficient pool of lawyers to do the work for the legal aid program.

Hon. Rob Nicholson: But sometimes they go hand in hand. If you don't pay lawyers enough, you're going to have people who will not bother to get involved.

Mr. Aneurin Thomas: In most circumstances, they go hand in hand. It is not axiomatic, however, that they always go hand in hand. That's the point I'm trying to make.

Hon. Rob Nicholson: One of the interesting points you made was about bail, that it has to be more thoughtfully done. I'll get to that point in a minute.

It seems to me that with the individual who's been arrested, if they have to go through the application and all the process of getting a legal aid lawyer, then in fact they're going to be detained for a longer period of time than they might otherwise. They may not still do this in Ontario, but I remember acting as duty counsel.... You were right there when people came in, and if the crown didn't have very much in the way of conditions and everything else, you were able to get the person basically immediately. But if that individual then had to apply for a lawyer who could do more thoughtful research, in a sense the person has been detained then. Isn't that part of the challenge?

Mr. Aneurin Thomas: Absolutely, certainly. I mean, the bail issue is complex. Before you even get to the bail hearings, there are a lot of choices about what happens to the accused. Of course, the police don't have to bring someone to court. They can release them on a notice to appear. There are all kinds of choices that can be made to reduce demand, to reduce bail, even before you get to the actual bail hearing. The bail reform analysis that's being done typically looks at those steps even before you get to the bail hearing, to ensure that a fewer number of people are held on remand when the time comes.

Hon. Rob Nicholson: You made a very good point that we've heard before. Don Piragoff from the Department of Justice was making the same point with respect to the conditions of bail, that we are basically criminalizing activity that otherwise is legal. It's legal to be out of your house after 8 o'clock without these conditions, and it's legal to drink in Canada, even if you have a problem with it. By criminalizing those, we are basically clogging up the system and everything else.

Madame Valois, you indicated—and I think Mr. Goldberg said the same thing—with respect to lawyers looking after refugee cases in the Province of Quebec, that they're getting one third the rate of those in the Province of Ontario. What does the province say? Presumably, they want to make the refugee system work. Everybody has a stake in that. It seems to me that this would be an essential component of it. Paying one third the salary would certainly complicate the system, besides slowing it down and making it more inefficient.

[Translation]

Ms. Stéphanie Valois: In Quebec, legal aid rates are negotiated by the bar association, which represents the lawyers, and the justice department, which holds the funding. The current agreement on the tariff of fees is expiring in September, I believe, and will need to be renegotiated.

I will tell you that we have been putting pressure on the Quebec bar for a few years now, and we have been especially active since the Immigration and Refugee Protection Act was amended. Those changes made things even harder for us. The bar agrees that the rates are ridiculous and make no sense. At the same time, we have ethical duties that we must fulfil, no matter how much we are paid.

The pressure has been brought to bear, but we have still not reached an equal footing; in fact, we are nowhere near being on equal footing. The issue is that, in Quebec, we are paid on a mandate basis, according to the service rendered, whereas, in Ontario, lawyers are paid mainly by the hour. Philosophically, then, the approach is entirely different. Of course, if you calculate the average number of hours a refugee claim takes, the comparison doesn't hold water.

• (1600)

[*English*]

Hon. Rob Nicholson: Mr. Faribault made the same point. It seems to me that if you're being paid by the volume of cases, the quality, research, time, and effort put into an individual case would inevitably decline.

Mr. Goldberg, did you have something to say?

Mr. Mitchell J. Goldberg: Yes. Mr. Nicholson, I thought it was very interesting that you brought up detention and the costs to the system from not having proper representation. That's indeed a reality in the refugee determination process, the immigration system, because there are people who are detained by it. In Montreal, legal aid lawyers are paid \$200 for the entire process, including trying to meet their clients, who are held in most cases in Laval—the lawyers would have to get to Laval to see their clients—then coming to the Immigration and Refugee Board for a detention review hearing, and the preparation. You can imagine there are very few. It's extremely difficult to find competent counsel in Montreal who is going to do that for \$200.

This means, I believe, that there are many people who are held longer in detention and who might have been able to get out had they had proper representation. That has costs for the federal government, because detention is federal jurisdiction. It's a huge cost, because detention is extremely expensive—whereas in Ontario, you have proper funding tariffs for private lawyers, and you also have the refugee law office, which devotes considerable resources. They actually have a presence in the immigration holding centre, where they get information, find out who is being held, and react very quickly to provide excellent representation.

I can talk about a case in which they set the standard because they're well resourced. Children are being held in detention. It's an absolute disgrace that in Canada children are detained. The way this happens, for the most part, is that you have Canadian-born children and others who are not officially held. Their parents are being held, and they're infants and have nowhere else to go, so they're considered guests. Their interests were not even considered until Legal Aid Ontario and the refugee law office went to court and challenged the decision that said that the best interests of a child who is officially a guest cannot be considered. They went to the Federal Court, and they negotiated with the Minister of Immigration's office. They created a precedent that applies all over Canada, so that now, the best interests of children who are Canadian must be considered

as part of the decision-making process. That's an example of how, when you have a well-resourced office and tariffs that are proper, you can have a huge impact all across the country.

Hon. Rob Nicholson: I think I've finally run out, and I'll just make one comment, if you don't mind.

That's pretty incredible: \$200 to handle a refugee case. Just for the record, in the Province of Ontario 35 years ago, you used to get \$200 to handle a summary conviction offence all the way through. So that's what we're dealing with.

Thank you.

The Chair: Thank you very much.

[*Translation*]

We now move on to Mr. Boissonnault.

Mr. Randy Boissonnault (Edmonton Centre, Lib.): Thank you, Mr. Chair.

Fellow members, thank you.

Thank you to the witnesses we heard from today.

I'm going to get right into my questions.

Ms. Valois and Mr. Goldberg, approximately what percentage of your refugee clients belong to the LGBTQ community?

Mr. Mitchell J. Goldberg: Our clients?

Mr. Randy Boissonnault: Yes. Is it 10%, 15%, 30%?

Ms. Stéphanie Valois: I would say it is around 15%.

Mr. Randy Boissonnault: What parts of the world are they from?

Ms. Stéphanie Valois: I have many clients from Africa.

Mr. Randy Boissonnault: Africa?

Ms. Stéphanie Valois: Yes, from north and central Africa.

[*English*]

Mr. Randy Boissonnault: Okay, I have a similar question for Mr. Thomas. Of the most marginalized people whom you deal with, what percentage are LGBTQ and what percentage would be indigenous, in rough numbers?

Mr. Aneurin Thomas: I don't know the answer to the first question. On the second question regarding the proportion of indigenous clients, I think it depends on the area of law. In criminal law, it's approximately 15% or 20% of the clientele. In child protection law, the legal aid caseload—and here I stand to be corrected—I think is somewhere between 20% and 30% of the overall caseload, so it's very high.

•(1605)

Mr. Randy Boissonnault: I'll start with Mr. Thomas, and then come back to Mr. Goldberg and Madame Valois. What is the difference in success between a person who is represented by somebody who is providing legal aid, and someone who can't get representation? Where do you see the numbers? What is the rate of success for the plaintiffs?

Mr. Aneurin Thomas: To my knowledge, there is no Canadian research on that topic, which is not to say that people don't have opinions about it, as I do. In my view, having a lawyer or some kind of legal representation, either a staff lawyer or a private lawyer, or whoever, is absolutely fundamental and crucial to being able to vindicate your rights. Even if you are, at criminal law, found guilty in the end, you nevertheless have important procedural rights, process rights, charter rights. You need an advocate to help you, who will speak on your behalf.

There is American research that talks about the difference between self-representation and clients who are represented. I don't have that at my fingertips but I can provide it to the committee. I'll track it down.

Mr. Randy Boissonnault: That would be great.

Madame Valois, and Mr. Goldberg, on the refugee and immigration side, have you any sense of the success rates between those who are represented versus those who go on their own?

[Translation]

Ms. Stéphanie Valois: Sean Rehaag, from Toronto, actually did a study on the subject. I don't have the exact percentages he arrived at, but he found that there was a considerable difference in the success rates of cases where people have representation and those where they do not. I will also tell you that refugee claimants who are not represented do not know how to make their claim. They do not know what evidence to provide, and that means a lot of wasted time for the tribunal.

Mr. Randy Boissonnault: They don't know what they don't know.

Ms. Stéphanie Valois: The delays are quite significant. It's really not efficient. The officers of the tribunal lose a considerable amount of time with unrepresented refugee claimants, having to explain the process to them, make copies, and so forth. It gets a bit complicated.

[English]

Mr. Randy Boissonnault: As someone from the management consulting world with some economics training, I was interested, Mr. Thomas, in your allusion to supply and demand. Both in your world and then again that of immigration and refugees, what percentage of the demand out there does your current funding allow you to serve? What is the total basket of that, if you had all the funding you needed? What is that number, and what percentage of that are you able to serve with the current levels of funding?

Mr. Aneurin Thomas: In my current job, I'm not sure I can answer that. I've been out of the Legal Aid Ontario world for a while. I do, however, know people who can provide an answer to that question for you.

Mr. Randy Boissonnault: It's be helpful for us to understand the scope of the issue. If we try to move the needle 50%, but it's only

going to make a 2% difference to the demand, then what are we doing here? However, if we are able to make a 20% jump and that would help us cut the demand significantly in addition to some of the demand issues that you raised in terms of law reform, then that interests me.

What about on the immigration and refugee side?

[Translation]

What is the total share of the demand, and what percentage of people are you able to help at the current funding levels, particularly in Quebec?

Ms. Stéphanie Valois: Right now, anyone who requests a legal aid mandate for a basic application can be represented, but the system has hit the saturation point. Refugee claims are on the rise. We are getting a lot of people, especially since 2017 began. The lawyers are burnt out as well. Young lawyers don't necessarily choose to work in the legal aid system. I think we're at a critical point right now.

Mr. Randy Boissonnault: Would you be in favour of adding certain countries to the Refugee Protection Division expedited country list? If so, which countries would you suggest?

Mr. Mitchell J. Goldberg: As far as the expedited process is concerned, we used to have a system whereby all claimants could be considered. We would examine the cases to determine whether the likelihood of success was high. Currently, that is done only for three countries, and even then, there are problems. Ms. Valois could elaborate on that. Very few cases are chosen, as things stand.

I think the IRB is fully aware that the process could be a lot more efficient.

•(1610)

[English]

Mr. Randy Boissonnault: I'm running out of time, but in a future answer maybe you would let us know how we could have better coordination between all the players in the system as well. If you have any follow-up recommendations on countries we could look at, or on ways to make that process better, I think that would also inform our study.

[Translation]

Thank you.

[English]

The Chair: Thank you very much, Mr. Boissonnault.

I would appreciate it, Mr. Thomas, if you could furnish the statistics that you mentioned, whenever you are able. Thank you very much.

Mr. MacGregor, you are next.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Thank you very much, Mr. Chair.

I'll start with you, Mr. Goldberg, if I may.

When we began this particular part of our study on access to justice, we started by interviewing members of the Department of Justice who could give us a technical briefing and overview of the plan. I was going over their testimony and they were giving us the facts and figures. Since 2001, the federal legal aid program has provided an annual contribution of \$11.5 million to six provinces for the delivery of immigration and refugee legal aid services.

Here we are in 2017, and I'd just like to hear your feedback on that static number and how it has compared with client demand over that time.

Mr. Mitchell J. Goldberg: Client demand has fluctuated greatly and, as Maître Valois indicated before, there's been a considerable increase recently as a result of several developments. We expect that the numbers of refugee claimants will be going up, particularly because of what is going on in the United States right now.

In Ontario, there has been great concern about being funded adequately because of the increase in numbers of refugee claimants. One thing that could make the system a lot more efficient is to have more immigration and refugee board members, both at the refugee protection division and at the refugee appeal division. It's unacceptable that right now, people are waiting a year for an answer before the refugee appeal division. At the refugee protection division, more and more people's cases are being postponed. This means more money is being spent on lawyers, because you prepare for a hearing, then it's postponed, then it goes back and people have to start preparing again. This is particularly so in Ontario, where the lawyers are paid by the hour. The system is getting bogged down because of the huge number of postponements.

The key to achieving an efficient and effective system is to make sure that the immigration refugee board is well resourced. That will create huge savings for the provinces in the form of fewer people on welfare, and for the federal government—as I mentioned earlier—in the form of fewer people in detention, as well as in many other areas. You don't have to be brilliant to come up with a very simple way of getting costs down throughout the system.

Mr. Alistair MacGregor: I also remember hearing from an earlier witness, the Metro Toronto Chinese and Southeast Asian Legal Clinic. In part of their submission, they noted that many clinic clients are immigrant and refugee women living in or fleeing from domestic violence, whose immigration status and income support are often tied to or dependent on their maintaining a relationship with their abusive spouse. We have this nexus of immigration and refugee law with family law, and of course the civil portion of legal aid is tied up in the Canada social transfer, so it's interesting to see that both areas have their struggles.

I also noted that your association, the Canadian Association of Refugee Lawyers, was one of the signatories urging the federal government, notably the Minister of Immigration, Refugees and Citizenship, to suspend the safe third country agreement with the United States.

Mr. Mitchell J. Goldberg: Yes.

Mr. Alistair MacGregor: You argued quite forcefully that, because of the executive orders there, the United States could not be considered safe for refugees. We have seen evidence of some

refugees fleeing through -22° conditions, over several kilometres, to try to make it to Canada.

We've gone over the state of the legal aid system. Do you see a relationship between Canada's current ability to handle an increased caseload and what the federal government's decision was? Do you think the federal government saw that we'd not be able to handle any more than we're currently taking?

● (1615)

Mr. Mitchell J. Goldberg: I could tell you that the numbers of refugee claimants have been much higher historically than they have been in the last few years. I'm not sure if this is outside the range of what this committee is studying, but I think it's important to say that, yes, Canada can do a lot more. It's a question of putting the resources in place. It's very true that our group and other human rights groups and lawyers groups have been asking the Canadian government very strongly to suspend the safe third country agreement because the United States is no longer a safe country. We have a report from Harvard Law School, from academics and law students, that was sent to us yesterday—and you may have seen a report about this in the *Toronto Star*—stating just that. We're providing that evidence to the Minister of Immigration, and we sincerely hope that the minister will see fit to act upon this evidence. It's extremely crucial for the lives of thousands of people who could be impacted.

Mr. Alistair MacGregor: Okay, thank you.

I think that's about six minutes.

The Chair: Thank you, Mr. MacGregor. You actually hit the six minutes.

As we know, the minister has an ongoing duty under the act to keep reviewing it. I'm sure he'll be reviewing the documents that you provided.

Ms. Khalid.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you, Chair.

As a follow-up to Mr. MacGregor's question, Mr. Goldberg, what's the difference between an asylum seeker and a refugee claimant, and how does that impact the safe third country agreement?

Mr. Mitchell J. Goldberg: There's no difference. The United States traditionally uses the terminology “asylum seeker”. In French we say *demandeur d'asile*.

Ms. Iqra Khalid: Thank you.

Mr. Thomas, you gave some very compelling testimony with respect to the challenges we face and stating that funding is not always the answer, but really the implementation of a proper process. You had begun to talk a little about family law. Are there any—and I think there are—gender implications of the lower level of funding for family law as opposed to criminal law? Can you please comment on that?

Mr. Aneurin Thomas: Yes, certainly.

It's a truism in legal aid circles that criminal services tend to go to men—and, to be even further refined, tend to go to younger men. It's not always true, but proportionally that's the group of society that tends to commit more crimes, and therefore is more eligible for legal aid. On the other side, family law clientele are typically women, typically older women, typically with kids; often a very high percentage of our clients are victims of domestic violence. So there's a gender imbalance there.

You can look it from a gendered perspective, and appropriately so. What should also be considered in the mix, however, is that a lot of other legal aid civil law services, poverty law services, tend to be accessed by women more often than not—concerning landlord and tenant issues, social assistance, and things like that. But that's in Ontario, where, of course, there is not just a criminal program, but a good family program and a very extensive poverty law program. In jurisdictions that are focused primarily on criminal services, with perhaps a bit of child protection work, and maybe a bit of family law, the gender balance is much different. I think it's a very fair inquiry and something that people try to keep in mind when they're thinking about policy priorities.

Ms. Iqra Khalid: Thank you.

You had talked about a national strategy, and some possible recommendations as to how to deal with providing adequate legal aid services throughout the country. We know that different provinces have different challenges. What would you recommend as benchmarks, or the starting point perhaps, for a national legal aid strategy, if such were to be developed?

Mr. Aneurin Thomas: The CBA has, in my view, made very thoughtful submissions about what those benchmarks should be. I don't have a lot to add beyond that.

I think when you're doing any kind of benchmarking exercise you want to start with something that's reasonable. You don't want to set the bar too high because that's a recipe for long-term disappointment.

Some of the benchmarks I would recommend to you are fairly simple, such as what percentage of each province's population is financially eligible for legal aid. That's an important measure of the scope of legal aid services. The percentage of clients who may be self-represented, particularly in family court, is another important measure of the access to justice. How many lawyers are participating in the legal aid program is a measure of the health of the sustainability of the legal aid program, particularly in a program that relies heavily on the private bar.

I think those are the kinds of measures that are thoughtful and a good place to start. They're something that can be counted comparatively easily, and they're something to build upon going forward.

• (1620)

Ms. Iqra Khalid: Thank you.

Do you think that self-regulated bodies, such as the Law Society of Upper Canada, in your instance, have a role to play? I know they do contribute somewhat to access to justice and legal aid, but do they have a bigger role to play? For example, with regard to articles, could self-regulated bodies use creative ways to kill two birds with

one stone, such as finding article placements while also providing legal aid for those who need it?

Mr. Aneurin Thomas: That's a little out of my field. I'll give you my observations from Ontario. The Law Society of Upper Canada actually takes its access-to-justice mandate quite seriously. It takes its training mandate, its continuing professional education mandate, quite seriously as well. There are often, as you no doubt know, debates about the scope of articling and law practice programs and those sorts of things. What I think the bar and the regulated profession have to do is to ensure that there are a sufficient number of young lawyers going into areas of legal aid law, which from the planning perspective is a real area of concern. There just aren't as many lawyers going into our kind of work these days.

The Chair: You have time for one short question, Ms. Khalid.

Ms. Iqra Khalid: Is there any policy or any consideration that would help young lawyers come into that area of law?

Mr. Aneurin Thomas: Yes, there are things like loan repayment assistance programs. Debt is a big issue. It often precludes young lawyers who are coming out of law school with their BAs and with a heavy debt from going into work that isn't paid as well, such as public interest work.

There are ways to promote articling away from big firms. There are ways to promote articling in rural and remote parts of the province. There are ways to promote articling in criminal law, family law, refugee law. There are policy matters that can be taken to promote the development of a bar doing public interest work, and I think that steps should be taken to do so.

Ms. Iqra Khalid: Thank you very much for that.

The Chair: We've finished our first round. I think we'll now do some short “snappers” of questions, where I'll go to whichever committee members have questions. I ask committee members to try to get their questions out quickly, and I ask the witnesses to give quicker answers if possible, so we get to everyone's questions.

I know, Mr. Grewal, that you had a question.

Mr. Raj Grewal (Brampton East, Lib.): Thank you, Mr. Chair.

The Chair: Welcome to the committee, by the way. It's a pleasure to have you here.

Mr. Raj Grewal: It's a pleasure to be here. Thank you so much.

Thank you to the witnesses for coming today.

I practised law for about a year on Bay Street in corporate mergers and acquisitions, but I didn't go to law school to practice corporate mergers and acquisitions. I went to law school because I felt that it would give me an opportunity to correct some wrongs that I felt were happening in society. I did a JD/MBA. The cost of it was quite high, so I found myself on Bay Street before I was elected to the House.

In my experience as a member of Parliament, the best part of the job is being able to help people. In my constituency office, we've stopped seven deportations, and we're working on our eighth.

Equally, I will say, the most disappointing part of the job is when I'm not able to help somebody because of the system and sometimes as a result of poor legal advice that the constituent has received.

My question is for the Canadian Association of Refugee Lawyers. Do you keep data on your success rates? Also, do you interact with the offices of the members of Parliament? We do have resources that could help to try to alleviate some of your caseload. I'm working with your association on a case right now in my neck of the woods. I'd just like your comments on that and on how we can partner across the country—the 338 offices—to help solve some of your issues.

• (1625)

Mr. Mitchell J. Goldberg: Thank you for that question.

On behalf of the Canadian Association of Refugee Lawyers, I'm happy to say there were two cases in which we were the litigants, the parties, not just intervenors. I'm very happy to say we have a 100% success rate. One of them was the doctors' case I mentioned earlier, when the former government decided to slash health care for refugee claimants and the Federal Court concluded that it was cruel and unusual treatment, that lives were at risk, that the government was intentionally inflicting suffering on a vulnerable group. Those were the conclusions of Justice Mactavish of the Federal Court. That was our case, along with our partners, the Canadian Doctors for Refugee Care.

In the other case, we challenged the constitutionality of the former government's designated country of origin regime, which discriminated on the basis of country of origin. That law is actually still in place. We're very much hoping the government will remove that. We've had encouraging signs from the Minister of Immigration that in fact it will be scrapped. In that case, the Federal Court decided that denying an appeal on the basis of your country of origin was a violation of the charter and was discriminatory.

To answer your second question, yes, many of us do work with our members of Parliament on individual cases. I'm glad to say that since the last election it has been a successful thing. It used to be something that didn't help, and now it does in many compelling cases across Canada. As an association, we have been in very close contact, as I mentioned, with the former immigration minister, Mr. McCallum, and Mr. Hussen, the current immigration minister, as well as many members of Parliament. We'll be meeting with many of you, many members of Parliament, next week when several of us will be coming to Ottawa. We've also met with Public Safety Minister Goodale. We've very much appreciated the opportunity to have this kind of dialogue and sharing of information and working together to improve the determination process and refugee protection across Canada.

Mr. Raj Grewal: Thank you.

The Chair: Do you have another question?

Mr. Raj Grewal: Yes, if the committee doesn't mind.

Mr. Thomas, is there a role model that Canada can look towards in terms of legal aid funding? Does any country do it better than us?

Mr. Aneurin Thomas: First, I would commend Ontario. Around the world, Ontario is considered to have a very good legal aid program. It's not perfect. It's good because it provides a comprehensive range of services: criminal law, family law, and poverty law. That's unique, to have that constellation of services. It uses a mixed model, with private lawyers, staff lawyers, and clinics. That's another best practice.

Where Ontario falls short, broadly speaking, is in terms of financial eligibility. Until recently, financial eligibility thresholds in Ontario were less than half the low-income cut-off. So in many respects, Ontario is a high-water mark.

Other jurisdictions that have good legal aid programs include some of the states in Australia. The U.K. for a long time was considered to have the Cadillac model of legal aid. It was very generously funded, much better funded than anything in Canada, the United States, or elsewhere.

There isn't one jurisdiction that's perfect. There are jurisdictions that have really good parts, and if you pick and choose between the different parts, you'd have something that's quite comprehensive and successful.

Mr. Raj Grewal: Thank you.

The Chair: Are there any other questions?

Mr. MacGregor.

Mr. Alistair MacGregor: Thank you, Mr. Chair.

Mr. Thomas, thank you for really going into quite a lot of detail about the points you want to see included with a national access to justice strategy. I think your testimony is going to serve this committee really well in formulating its report and recommendations, and of course, you reference some reports that I know our analysts are certainly going to use.

I want to concentrate specifically on the area of family law, civil law. We've had a lot of testimony at this committee, a lot of presentations of the problems of having the money bundled up in a Canada social transfer, and there's a lot of finger-pointing between the two levels of government about whether it's funded or not.

Keeping in mind that the ultimate aim of this committee's project is to formulate recommendations to the federal government, I just want to hear how you envision this reform happening. We've heard concerns that the provinces might not like the federal government meddling in what are provincial affairs, but there is a template. We have the Canada health transfer, which allows the provinces to still have jurisdiction over health policy, but they have to meet several conditions if they want the federal money. Is that something that you would use as a template?

• (1630)

Mr. Aneurin Thomas: Yes, I think that makes sense.

That said, it's very important to ensure that there is local, regional, or provincial priority-setting as well. Like other witnesses, I am completely in favour of the idea of national priorities and national benchmarks, but there has to be a lot of room for local interpretation and local priority-setting, because there are a lot of unmet needs.

Frankly, I don't think the federal government's Department of Justice, notwithstanding their skills, has the ability to go to rural Saskatchewan and say, "You should be doing it this way," or to downtown Toronto to say, "You have to be providing this". I think there's a real benefit in having local decision-makers establish local priorities within a national framework or, as you might call it, a national aspiration.

Mr. Alistair MacGregor: Does anyone want to add anything?

[Translation]

Ms. Stéphanie Valois: Actually, it would probably be easier and more useful to have the ability to track the money. Transfers are made on the immigration side, but it's somewhat challenging to figure out what happens to that money and where it goes. The federal government could certainly have a specified number of conditions tied to funding.

[English]

Mr. Alistair MacGregor: Thank you.

The Chair: Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you, Mr. Chair.

To follow up on Mr. MacGregor's question for Mr. Thomas, we certainly have heard a lot of testimony about the fact there is a major gap in most provinces in terms of legal aid's coverage of family law matters.

You've talked about national standards. Mr. MacGregor raised the issue of the Canada social transfer and blocked funding. You made reference to the Cromwell report. You've noted that it was a fairly comprehensive review of family law and legal aid, with some concrete steps that could be taken, but you said that it wasn't necessarily complete. You didn't elaborate on what is missing. Maybe you could elaborate on whether there's anything to add to the Cromwell report and anything specific that we or the federal government could do to deal with this gap.

Mr. Aneurin Thomas: The Cromwell report is really good on civil and family law.

What it doesn't address in detail are the issues around poverty law. Poverty law advocates say that the Cromwell report is really good within the parameters of its scope, but it doesn't address a lot of important poverty law issues.

Another comment on Cromwell is that it doesn't talk a lot about rural and remote services, which obviously is an important issue in a country such as Canada.

These are not fundamental critiques of Cromwell. We just wish that Cromwell had gone a bit further to address these additional issues.

In terms of how the federal government or a federal strategy might address poverty law, for example, I think Cromwell is a good start,

and the Cromwell process is a good start. There are a lot of people across the country who do poverty law, who know a lot about poverty law, who are aware of what the needs are, and who I think would be helpful in terms of developing a strategy.

From the perspective of access to justice, I would say, just apropos of the timing, that the re-establishment of the court challenges program is a very good thing, because that's another means of achieving access to justice through test-case litigation, as opposed to having to replicate the services on the ground over and over again.

The Chair: Do other members have questions?

I have one short question for anyone on the panel who might be familiar with the Australian system. Mr. Thomas referenced it.

In terms of the federal state agreement that exists in Australia and the memorandum of understanding, is that a template that you would consider we should look toward in Canada, where there are also mixed jurisdictions and there is mixed funding?

• (1635)

Mr. Aneurin Thomas: Yes, although as has been said at the committee before, I think, it's early days in the history of that agreement, so it remains to be seen how it will turn out. At first blush, it seems like a good model to me. It seems like a good start.

The Chair: Thank you very much.

Is there anyone else?

Mr. McKinnon.

Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.): I have a question for Maître Faribault, who has a long experience with Quebec legal aid.

Quebec, of course, has a different tradition in civil law. I wonder if that presents unique challenges in respect to legal aid and legal aid funding.

Mr. Paul Faribault: I didn't understand your question. I didn't hear it.

[Translation]

The Chair: He asked whether Quebec's tradition of civil law gives rise to any unique issues in terms of legal aid and legal aid funding.

[English]

Mr. Paul Faribault: Not really, because poverty law is governed more by specific legislation, which does not interfere with the civil code or the civil French tradition on that. The civil code takes into consideration contracts, and most poor people do not get into complicated contracts or matters like that.

It's more in matters of family law that the Quebec civil code intervenes and is used on a day-to-day basis, versus the Divorce Act that is applied generally around Canada. That is federal. There's a kind of mix-up on that.

Mr. Ron McKinnon: Thank you.

The Chair: Thank you.

I want to thank all of our witnesses today. You gave us really compelling and very interesting testimony.

[*Translation*]

[*English*]

I would also like to thank the members of the committee and Mr. Grewal for joining us.

Your being here is much appreciated.

The meeting is adjourned.

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