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Chair

Mr. David Tilson

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• (1530)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):
Good afternoon. Order, please.

This is the Standing Committee on Citizenship and Immigration, meeting 55, on Monday, October 29, 2012. This meeting is being televised. Pursuant to the order of reference of Tuesday, October 16, 2012, we are studying Bill C-43, An Act to amend the Immigration and Refugee Protection Act.

For the first hour, we have two witnesses before us, two guests.

We have Julie Taub, an immigration and refugee lawyer.

Good afternoon to you, Ms. Taub.

From the Schizophrenia Society of Ontario, we have Irina Sytcheva, the manager of policy and community relations.

Ms. Sytcheva and Ms. Taub, you each have 10 minutes to make presentations, which will be followed by questions from the committee.

Ms. Sytcheva, you may go first.

Ms. Irina Sytcheva (Manager, Policy and Community Relations, Schizophrenia Society of Ontario): Thank you for having me here.

First things first. I will let you know who I am and about the organization I represent.

If I speak fast at any time, please do ask me to slow down.

I'm from the Schizophrenia Society of Ontario. We are a non-profit, charitable organization. Our constituency is individuals, families, and communities who are affected by schizophrenia and psychotic illnesses. In those terms, we are the largest organization representing that population in Ontario.

Through our justice and mental health program, we often hear about instances of individual clients and family members who come to us because they have a number of issues, not only mental health issues but also when they come in contact with the criminal justice system. Working with those cases, we become aware of a lot of the barriers and challenges people encounter when they're dealing with both of these situations.

In respect of Bill C-43, we also learned a while ago that compounding that is the immigration consequences of criminalization. So you're not only having to deal with the mental health system

and the criminal justice system, you're also having to deal with the immigration consequences if you come into contact with the latter.

We often find that there is a general awareness of what mental health does and what mental illnesses mean for individuals.

I will take you through a very brief overview to contextualize why mental health is an important factor to consider in the context of this bill.

First and foremost, there is no such thing as a monolithic mental illness. There is a plethora of different conditions and symptoms, and everybody experiences it individually.

Mental illnesses are very prevalent, as I'm sure everybody here knows. They affect quite a huge chunk of the population. The most conservative statistic is one in five. About 2.5% could be considered serious mental illnesses, such as schizophrenia and bipolar disorder, conditions that are really quite devastating for both the individual and the family when folks are not doing well.

Mental illnesses are episodic in nature and are what we call invisible disabilities. When people come into the immigration system, when they're dealing with officials, it's really hard to pick up who has a mental illness and who does not, because, again, often it's not visible. People do not often disclose it because of the stigma and the shame they may feel are associated with their conditions.

What we also know about mental health is that for many of the immigrant and newcomer groups, their mental health is exacerbated not only by the trauma of coming here, for instance, as refugees, but also through dealing with the immigration process and the stress that comes about when they're filing applications and not understanding the process, not understanding the language. There are also unique circumstances where people come from different cultures and have a different understanding of what it is to be mentally ill. They may not fully understand how the Canadian mental health system works, and they may not fit into the same definitions of mental illnesses that we have, so they do not seek treatment or they hide the condition and hence often fall through the cracks of the mental health system. Unfortunately, they often do come into contact with the criminal justice system.

Over the last 10 years, we have witnessed the proportion of people with mental illnesses in the criminal justice system here in Canada skyrocket. You have only to look at our prison populations, in both the provincial jails as well as federal institutions, to see that a large number of individuals have either diagnosed or undiagnosed mental health issues.

We have a government that has put forward the first national mental health strategy, for which we applaud them, yet we still have a long way to go to understand how mental health and mental illnesses play a role in every single policy and legislative area in Canada.

To go back to mental illness and criminal involvement, the relationship between the two is quite complex, but what we do know is that after de-institutionalization back in the 1960s, the mental health services pulled out. What we see now is that more people are being picked up the criminal justice system because our mental health system and addiction systems are so fragmented and so uncoordinated among themselves.

Often, people come into contact with the law for what we call minor crimes, such as uttering threats or being a nuisance, or just being extremely visible in the community where they live and making people uncomfortable. Some of them do commit violent, serious crimes, but oftentimes it is associated with an untreated mental illness. When people get the treatment and support they need, they are able to function and to lead full, productive lives.

• (1535)

Within the criminal justice system, we have mechanisms for picking up and diverting those individuals who need extra support. We're not seeing that in the immigration system. Hence, we have very serious concerns about the implications of Bill C-43, in particular for our population of individuals and families who have very serious mental health issues and unique needs that often are not acknowledged in an immigration setting. They do not come into play when people are considering applications for permanent residency, refugee claims, or not being deported from Canada.

In 2010 we did research to look at these issues in more detail to understand what was going on and to try to come up with solutions to make sure that folks were not falling through the cracks in the system. What we found was that our immigration system does not consistently take into account the mental health conditions of the appellants and the deportees.

We also know that mental health needs are not being considered from the perspective of what's going to happen to individuals should they be deported to their countries of origin. People are often deported to countries where mental health systems are non-existent. The services are not available, are inaccessible, or are inadequate. At the same time, the stigma associated with mental health conditions in those countries is quite prevalent, and people are subject to human rights violations. We dealt with one case just recently. An individual was sent back to Jamaica and was set on fire. I'm putting it out there, because we see these things almost on a daily basis. It's really hard to disconnect what you see in the paper about the crime the person may have committed from the individual behind it and his or her family.

I'm going to walk you briefly through some of the major findings of our research as they pertain to the consideration of Bill C-43.

First, we're finding that people with mental health issues often do not have the same access to justice as many other individuals. That starts when they come into contact with the criminal justice system. Oftentimes they deal with lawyers, if they're able to access one, due to the cost and other considerations, who are not trained to represent

individuals with mental illnesses. They do not understand how mental illness came into play in their conviction or when they committed the offence. They are often advised to plead to a greater charge, because the advice given by lawyers is that if they go down the mental health route, they may be in a mental health institution for much longer. Many individuals make the choice to do that, on the advice of the lawyer.

At the same time, we know that when they get to the immigration system, it's really hard to get quality legal representation from lawyers who really understand how to address a client's mental health concerns and how mental health plays a role. We find individuals who may have filed an application and mental health was never flagged. They get to the point where they have exhausted all other avenues and they are deported. Only after the fact does someone say, wait, it may have been a mental illness situation.

Another thing we've seen is that often people are asked to provide proof of their mental illness. They are requested to provide psychiatric assessments and to follow through with quite stringent medication regimens or a regimen of seeing a doctor. For anybody who has ever dealt with the mental health system, it's quite an insurmountable barrier, because often it takes about six to 18 months just to see a psychiatrist for one assessment. For immigration purposes, the cost associated with providing a psychiatric assessment is quite high. It ranges from \$1,500 to \$3,000. The lawyer does not pay that. The onus is put back on the individual.

Again, that evidence is not being considered in immigration circumstances, and people are not able to fully express what their needs are, what their circumstances may have been, why they committed the crime, or why they need special consideration under the immigration—

• (1540)

The Chair: Perhaps you could wind up, Ms. Sytcheva.

Ms. Irina Sytcheva: All right.

Our biggest concern with Bill C-43 is the expansion of the serious criminality definition, which would make essentially anybody who had been convicted and had spent six months in jail unable to appeal on humanitarian and compassionate grounds.

What we're seeing right now, even with the two years, is that it's quite an unreasonable period of time, because often humanitarian and compassionate grounds are the only way for an individual to express his or her mental health concerns and put that information out there. In other instances, when you look, on paper, at what the charge may be, it really looks at what the offence is. It doesn't look at their circumstances. It doesn't look at the judge's discretion and the crown's discretion in the criminal justice system. It's really quite black and white.

The Chair: I'm afraid we'll have to move on. Perhaps you can raise the issues in questions, Ms. Sytcheva.

Ms. Taub, you look familiar. I think you've been here before.

Ms. Julie Taub (Immigration and Refugee Lawyer, As an Individual): Yes, I have.

The Chair: Welcome again.

You have up to ten minutes.

Ms. Julie Taub: Thank you.

I would just like to expand on my role here. I'm here as an immigration and refugee lawyer, but also in my capacity as an immigration lawyer. I have represented those who have been found to be criminally inadmissible to Canada, and I have gone to the Immigration Appeal Division to get a stay of removal for them, successfully in almost all cases. They give a conditional stay of removal, between two and five years depending on the severity of the crime, etc. Unfortunately, the majority of the clients I have represented reoffend or they breach their conditions. Then, when it's time to go back for another hearing, the minute I hear that they have reoffended and they've breached their conditions, I step away and I tell them, "I'm sorry, I can't represent you anymore." I go through a lot of trouble, look at all the humanitarian and compassionate considerations, bring in their families, spend a lot of time, and I listen to their heart-felt apologies and promises, but time and time again they reoffend and they breach the conditions.

I have two or three clients left waiting for their hearings, and I have decided to remove myself from that area. This is based on the experience that I have had.

Now, I am here also as a naturalized Canadian, a mother and a grandmother, and a Canadian who's worried about the effects of criminality in Canada. I'm sure you've all heard the lists of all these people who've been in Canada, foreign nationals who have not been deported. One of the most outrageous examples would be Mugesera, the Rwandan war criminal who was found by the Supreme Court of Canada to be complicit in the genocide in Rwanda. He remains in Canada. They have still not been able to deport a war criminal implicit in genocide.

Then there's the classic case of Mahmoud Mohammad Issa Mohammad, a Palestinian terrorist who was found guilty but released in some kind of prisoner exchange. He made a bogus refugee claim, and then when his terrorist background was discovered, he was ordered deported in 1988. We're 2012. He's had appeal after appeal after appeal and he lives quite happily and contentedly in Toronto. His last appeal to Federal Court was based on health conditions—he claims he cannot get the same health care in his old age in his home country as he can here.

Then there's Masoud Boroumand. In 1985 he filed a refugee claim, and then was deported in 1993 after three heroin convictions, including being part of an international drug trafficking ring. Then he made another claim in 1994 and 1995, and they were rejected because they thought there'd be no risk for him to return to Iran. He got married and went underground for seven years. Nobody knew where he was. He reappeared, and when they finally found him, the IRB changed its position and decided that Iran was not so safe, so he was able to stay in spite of his many criminal convictions.

I'm not sure how many of you remember Charles Ng in the 1980s, the California murderer who came to Canada. He escaped California

custody after having been convicted of murdering several women. He was a serial killer. He escaped to Calgary and made a refugee claim not based on his innocence, but based on the fact that he might face a death penalty if he would be returned to California. It had to go all the way up to the Supreme Court of Canada, five or six years, millions and millions of dollars, before he was finally extradited.

I have a long list, if anybody's interested. There's Singh Khosa, this Sikh permanent resident in Vancouver, who lost control of his car when he was street racing. It took seven years to deport him. Seven years. He killed somebody in that accident. A very rich man. He wasn't somebody poor. A spoiled young man racing his car in the streets of Vancouver.

• (1545)

These are the reasons I support this bill. I really support this bill because criminals remain in Canada who are not Canadian, and it's almost impossible to deport them. There's no choice with Canadian citizens.

I dare say that if we had Adolf Hitler in Canada, it would take years and years to deport him back to Germany. That's how bad the system has become.

As my friend has said, there is the mental illness issue. First of all, all criminal judges take mental illness into consideration; they must. They also take humanitarian, compassionate, and immigration issues into consideration before passing sentences; they must. Criminal lawyers are very knowledgeable about the mental incapacity full defence against any criminal charge.

As for not being able to afford this...two of my clients had mental issues, and I used to go to the Royal Ottawa to prepare them for the hearing. They were on legal aid, which is readily available. I've gotten mental assessments done that were fully paid for by legal aid, as were my fees. So those services are available to deal with issues of mental health.

There are those who ask, should we deport people for a DUI, driving under the influence? When somebody's charged the first time with a DUI, simply over the limit but there's been no accident, no bodily harm, they're not sentenced to prison. They're given a \$600 fine. I have the Criminal Code of Canada here, and it says for a first offence, "to a fine of not less than six hundred dollars"; a second offence, "to imprisonment for not less than fourteen days". They're still not deportable. For each subsequent offence, "to imprisonment for not less than ninety days". We're not at six months yet. But if it causes bodily harm and it causes death, then it's going to be a sentence of more than six months, and then they are subject to deportation, as they should be.

I thought perhaps a representative from MADD Canada would be here, because I think they would have something to say to this issue about DUIs and deportation. I support them generously, and I did speak to one of the directors there. They had no idea this was going on. She told me that perhaps somebody could still have one of them come as a witness, that they fully support deportation of foreign nationals who are found guilty of a DUI causing bodily harm or death.

I support Bill C-43, and I think there are enough safeguards in place for the mentally ill. Lawyers are available under legal aid for both the criminal justice system and the immigration system. I have been very active in this field for many years.

• (1550)

The Chair: I thank both of you for your presentations, and all members of the committee will have questions.

Ms. James is first.

Ms. Roxanne James (Scarborough Centre, CPC): Thank you, Mr. Chair, and thank you to both of our guests.

I listened to both of your presentations. I'm going to direct my first set of questions to Ms. Taub. You mentioned a number of foreign nationals who committed serious crimes in Canada—

Ms. Julie Taub: There's a longer list.

Ms. Roxanne James: I know there's a much longer list—unfortunately. One of the persons you did not mention was Clinton Gayle.

Ms. Julie Taub: Oh yes, I've got him on my list.

Ms. Roxanne James: I want to touch on this first, because I think most of us remember the Toronto police officer Constable Todd Baylis, who died at the age of 24. My father was a police officer with Toronto as well, so it hit me hard, but I can tell you it did not hit me as hard as it did the families of Todd Baylis—I believe he also had a fiancée. I know the city grieves for him and for that loss.

You're familiar with Clinton Gayle. Todd Baylis was shot and murdered by the serial criminal and drug dealer Clinton Gayle while trying to disrupt or stop a crack cocaine drug deal. Clinton Gayle was still in Canada because he had appealed to the IAD. I think I know what your answer may be, but do you agree with the abilities of criminals like Clinton Gayle to be able to appeal the deportation, even though they have been convicted of serious crimes?

Ms. Julie Taub: I think there should be absolutely no appeals available for any non-Canadian who has been convicted of a serious crime. It is, first of all, an abomination to the victims of the crime, and it is an incredible waste of taxpayers' money.

We still haven't gotten rid of this war criminal Mugesera, and they spent millions and millions of dollars. I believe it cost \$5 million to get rid of Charles Ng, the mass murderer from California back in the 1980s.

• (1555)

Ms. Roxanne James: Thank you.

You did touch on another particular case, Mahmoud Mohammad Issa Mohammad, who has been in Canada for 25 years. I have to tell you, I was a bit alarmed when you said that one of the reasons he is

still fighting deportation is because he cannot get the same health care in another country as he can get here. I find this to be outrageous, first of all, to Canadian taxpayers—25 years. You didn't mention the figure, but it's actually \$3 million that it has cost to keep him here for 25 years while he fights appeals, and I'm sure that number is probably even higher.

Ms. Julie Taub: I mentioned that Charles Ng was \$5 million.

Ms. Roxanne James: The minister was here last week, and I asked him a very simple question. I asked him how long he thought it would take an average Canadian to actually earn and save \$3 million. It kind of sets the tone for how ridiculous it is to allow convicted criminals, foreign nationals, to remain in Canada at the expense of taxpayers.

I really do thank you for your presentation.

The next question I have is regarding the Canadian Association of Chiefs of Police and the Canadian Police Association. They are obviously strongly in favour of Bill C-43, saying it will make Canadians, including the vast majority of immigrants in Canada who are honest and law-abiding, much safer. Do you agree with that statement?

Ms. Julie Taub: Absolutely. I really do.

I would like to add that there are some critics who say we are criminalizing immigrants. Well, nobody criminalizes somebody who commits a crime; they criminalize themselves. When somebody commits a crime, it isn't Immigration that criminalizes them. It's not the minister who criminalizes them, and it's not society. If you commit a crime, you have free will. You're an independent person. You criminalize yourself.

Ms. Roxanne James: I have another question along this line. You mentioned the Rwanda war criminal—

Ms. Julie Taub: Mugesera.

Ms. Roxanne James: Was he the one you mentioned had to go to the Supreme Court of Canada?

Ms. Julie Taub: Yes, all the way up.

Ms. Roxanne James: And you say we're still not able to deport him.

Ms. Julie Taub: Even though the Supreme Court has.... It's something to do with...they can't get a guarantee that he won't face the death sentence or he won't be killed when he returns to Rwanda.

Ms. Roxanne James: It's interesting that you said that, because part of this bill will remove the humanitarian and compassionate grounds that certain serious criminals seek after they've been asked to leave and they've gone through all the other avenues of appeal.

When I talk about serious criminals, I talk about human rights violators, organized crime war criminals. When I think of those things, the words "humanitarian and compassionate" don't really jibe with me. To have those things in the same sentence is, to me, outrageous.

Ms. Julie Taub: It's an oxymoron, yes.

Ms. Roxanne James: Thank you.

We touched on the victims...and I know, Ms. Sytcheva, you're talking from possibly a different perspective.

I'm always surprised when people talk about the families of convicted criminals; they always leave out of the equation for the families of the victims. I think what this bill says to Canadians is that we're going to reduce the number of victims in Canada.

I want to ask a final question. With this bill, do you think we're going to see a reduction in convicted foreign nationals who commit crimes? Do you believe we're going to see a reduction in reoffending?

Ms. Julie Taub: I believe we will.

But I would also like to know what will happen to the others who have managed to stay here for years. Will this be retroactive? Will they now be deported from Canada? Will the Mugeseras leave? Will the Mahmoud Mohammad Issa Mohammads be required to leave as well? I truly hope so.

Ms. Roxanne James: Thank you.

May I ask how much time I have left?

The Chair: One minute.

Ms. Roxanne James: I'm going to very quickly turn my direction over to you. I'm sorry for not asking you more questions.

I was a bit concerned. You were talking about refugees coming to Canada, and because of the immigration process they're under stress and then they might turn to crime. Is that what you said?

Ms. Irina Sytcheva: That's not exactly what I said. I said the immigration process itself has a detrimental impact on people's mental health, particularly those who may come from war-torn regions.

Ms. Roxanne James: If someone has committed a serious crime in Canada, you believe they should not be deported, but can I ask why it is Canada's responsibility to take care of someone who is a foreign national and has been asked to leave this country? Why do you think it's Canada's responsibility and not the country they actually came from?

Ms. Irina Sytcheva: I can only speak from the cases I was seeing. A lot of times "serious criminality" is a term that's thrown about a lot. In the cases I'm seeing, people are not serious criminals per se. I think my friend cited a number of serious cases. We agree some folks should not be allowed to stay here, but for our population it's health issues.

• (1600)

Ms. Roxanne James: I know you said causing a nuisance or a disturbance would not be considered a serious crime. I just want to make sure you're aware of that.

Thank you.

The Chair: Thank you, Ms. James.

Ms. Sims.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Thank you very much, and I want to thank our guests as well.

I want to start off by saying that New Democrats recognize the need for an efficient and responsive judicial apparatus for removing serious criminals who are not citizens. In the kind of way-out cases that we've had cited here, we're not going to find that much disagreement across the table. We are willing to work with the government to make sure criminals of all backgrounds cannot abuse our appeal process.

That being said, we share many of your concerns—and I'm talking specifically to you, Irina—with the legislation before us today; namely, we worry about consequences, and we worry about legislation that is brought where the justification seems to be these way-out cases. When you try to formulate legislation in this manner, it leads, whether it's intended or not, to an impact on groups. In this case you're talking about those suffering from mental illness. A news report you may be aware of from the CBC that followed the introduction of Bill C-43 raised concerns that the legislation could unfairly punish the young and the mentally ill.

In the report, the head of the Canadian Somali Congress said he believes the new bill will drastically increase the number of young immigrant males who are deported without appeal, including Somali refugees raised mainly in Canada. He notes that many of these young men have little or no connection to the land of their birth. They grew up here. This is their home.

In another article published last year in the *Toronto Star*, immigration lawyer, Carole Dahan, notes that an additional problem is that it is not uncommon for immigrants, especially those from the Caribbean, to wrongly assume they automatically become citizens after a lengthy residency in Canada.

I actually had that conversation with a taxi driver in Toronto. He was quite shocked to find out. I said to him, "Do you vote?" He said, "No. I am a Canadian. I've lived here for many years." I said, "No, there is a process you have to go through." I gave him the contact information for his local MP so he could seek some guidance on how to do it.

Have you encountered this problem with the permanent residents your organization serves? Do many assume that because they have spent most of their lives in Canada they are Canadian?

Ms. Irina Sytcheva: Yes, actually, we see it all the time, particularly in certain immigrant groups. It's just an assumption that if you come into the country, and you live here a certain period of time, then you automatically become a citizen. What we try to do is educate people on the difference between permanent residency and citizenship, but even with that, I don't think there's enough awareness.

Another issue is that a lot of folks we deal with are crown wards, meaning they are oftentimes in the custody of CAS, and their citizenship application is never filed because there are so many other issues that are happening. We see relatively young kids who come into contact with the criminal justice system because they have an undiagnosed mental illness, and they are not able to receive supports. They accumulate a number of small crimes, get to the point where they spend months in jail, often on remand awaiting trial, and then they're up for a deportation order. It really comes as huge shock to them, because they never see it happening.

I didn't get a chance to explain thoroughly, but this legislation is going to impact those who are really vulnerable in our society. They need our protection.

Citing those sensationalized cases is useful if you're going to focus on just those. Our concern is we're casting the net too wide, and a lot of people—I speak from personal experience—are going to hurt. A lot of people are going to die because of the changes in this legislation, particularly in the communities and constituencies that my organization represents.

As opposed to my colleague here, I'm quite concerned about the proposed changes, and I would ask that the humanitarian and compassionate provision under clause 24 stay as it currently is under IRPA, without changing it down to six months.

• (1605)

Ms. Jinny Jogindera Sims: When I was a teacher, I taught law 12, and one of the things we used to always talk about was that an important part of our legal system here is the appeal process. The appeal is not an extra carrot. It's not something that is extraordinarily granted to you. The appeal process is part of the judicial process.

As you know, this bill would remove any discretion for a judge to consider the nature of the crime and the context in which it was committed, including potential mental illness in refugees from war-torn countries.

Can you tell us a little bit about the impact of war on mental health?

Ms. Irina Sytcheva: Within the war itself, the trauma is huge. I think people experience symptoms of post-traumatic stress disorder years down the line. You can have flashbacks and it can be really incapacitating. At the same time, it's something that doesn't come through. You may have an individual who locks him or herself in a room for a number of days, sometimes months, and then they snap. They may experience an episode of psychosis and do something that brings them in contact with the law. At the same time, they are often not able to understand what the trauma has done, because trauma is a coping mechanism. You're trying to forget what happened to you. You're not able to process information, so you're not able to let people know that, "Hey, by the way, I'm experiencing X, Y, and Z because this is what I've been through."

Having been through the trauma, or having been through a war-torn country, coming here and having the hope of finally having a good life for themselves and their families, and then having to go through the immigration system and the process... My colleague here suggested that it's easy. We've seen the other side. It's not easy.

Oftentimes people are not able to navigate the system. There is the inaccessibility of the language in which information is presented.

When you're dealing with mental health issues, one of the symptoms is cognitive capacity. They may not be able to process information in the same way as another individual, especially if they're experiencing symptoms or if they're experiencing side effects of medication. They may not understand what's going on with them. They may not be able to communicate what their needs are. They may feel they will be persecuted if they fully disclose what the situation is. That compounds the stress. We're talking about the individual, the criminal, but there's also the family and—

The Chair: Thank you.

Mr. Regan, welcome to the immigration committee.

Hon. Geoff Regan (Halifax West, Lib.): Thank you, Mr. Chairman.

The Chair: I hope you enjoy your stay here, and you have up to five minutes.

Hon. Geoff Regan: Thank you very much.

Let me begin by moving the motion that Mr. Lamoureux gave notice of last Tuesday, the 23rd. I think you are aware of that motion. I don't know if you would rather debate that at the end of this meeting, or perhaps the beginning of the next, of course, but I'll just move it.

I move that the committee undertake a study on the subject matter of the section of Bill C-45 that falls within the mandate of this committee, namely part 4, division 16, and report its findings to the House no later than Monday, November 5, 2012.

Mr. Chairman, how do you wish to deal with this?

The Chair: This is not a good time to do it, but it is your turn. You have the floor and the motion is in order.

We have guests here—

Hon. Geoff Regan: I agree, and I—

The Chair: —but as far as it being in order, it is in order.

Hon. Geoff Regan: Thank you, Mr. Chair. I'll hold it in abeyance, if I may, and proceed with questions.

The Chair: Thank you, sir.

Hon. Geoff Regan: Thank you very much.

Ms. Sytcheva, you said you feel the net is being cast too wide with this bill, that you agree in general with the intent of the bill, particularly in terms of serious criminality, but in less serious cases you think that people with mental illness may be affected.

Would you like to tell us if you have thoughts and what they are...? First of all, would you like to give us examples of the kinds of people you have seen who you think would be caught by this?

Ms. Irina Sytcheva: An example that I raised is that some of the youth are crown wards. Another example is somebody who comes here with a family when they're very young. Sometimes we have cases in which somebody has come here at the age of a few months or a few years. They tend to experience mental health issues that go undiagnosed for years and years. They come in contact with the criminal justice system. Immigration picks them up down the line when they've already been here sometimes for 40 or 50 years. This is the only country they've known. They do not have any family. Oftentimes they don't speak the language and have no idea about the life in the other country.

What we know about mental health is that in order for people to keep doing well, they need continuity of support. They need the familiarity of the situation. Throwing somebody out into such an unknown situation, somebody who is already not doing well mentally, is often causing people to commit suicide. Unfortunately, we've had to deal with cases where folks took their own lives because they could not cope.

Again, I would like to say that while we support the idea of the immigration system being fair and responsive and not catering to individuals who are horrible people out there, at the same time we feel that the majority of permanent residents, the majority of foreign nationals, are not horrible people. They're people and they have needs, and for us, those with mental health issues require special consideration.

We cannot, on the one hand, have a mental health strategy, and go out there as a leader in mental health care, and at the same time completely disregard this population in our immigration process. We are really hanging them out to dry when we send them to countries they don't know, where they do not have any supports or systems in place to help them stay well.

• (1610)

Hon. Geoff Regan: Do you have recommendations in terms of amendments that you feel should be made to deal with the issues you've raised?

Ms. Irina Sytcheva: Essentially, our major recommendation is to leave section 64 as is, without changing it down to the six months provision.

Another recommendation that we always put forward is one to actually study the implications of these changes on our population. What we know right now is that the immigration department doesn't actually track mental health. We do not have statistics about how many individuals who come in front of the IRB, the IAD, and the CBSA officers actually have mental health issues, and even if those questions are asked, nobody is tracking the data.

I can speak anecdotally. We've seen a lot of those cases at our organization. We've seen a lot of those cases from the lawyers we deal with who assist on cases, but the immigration department does not have a clue—not to put it out there, but they really don't know because they don't keep track.

There's another thing we'd like to study: the implications of Bill C-10, which was passed just recently, and the mandatory minimum sentences and how those are going to impact on the number of six-month convictions, I guess, that would essentially cause individuals

to spend six months in jail. At this stage, it's hard to deduce how wide the net will be cast, but because we're increasing criminal provisions on one side and really casting a net wider in the criminal justice system, we cannot make a rational judgment around how immigration is going to be impacted by it.

Another recommendation I'd like to put forth is actual training on mental health and mental illnesses for the policy-makers who are dealing with immigration cases, for the adjudicators—such as the judges—and for the CBSA officers as well. We're doing that on the correctional side and we've seen some progress with the training. We'd like to continue doing that within the immigration department.

Another thing that we'd also suggest—

The Chair: Thank you. We'll have to move on. Maybe on another round you can get to your further recommendations.

Mr. Menegakis.

Mr. Costas Menegakis (Richmond Hill, CPC): Thank you, Mr. Chair.

Thanks to both of you for appearing before us today.

We are here to discuss an act that's going to amend the Immigration and Refugee Protection Act. In fact, we are calling it the Faster Removal of Foreign Criminals Act. As you know, we are a very welcoming country, perhaps one of the most welcoming countries in the world—if not the most welcoming. Over the last five years, we've averaged about 253,000 new Canadians coming here from countries all over the world. In fact, last year the number was 265,000.

We have a responsibility to our citizens, which is that the people who we allow to walk our streets, shop in our communities, be around our children, and be in our schools are safe—that it is safe for our citizens. We do not have a responsibility to another country to take on those who would perpetrate criminal activity.

I have a question. I'm going to start with you, Ms. Taub, if I may. Do you think it is fair or unfair for us to require that in order to retain their permanent resident status—and potentially become Canadian citizens—permanent residents not commit a serious crime?

Ms. Julie Taub: That is a bar to citizenship. Having a criminal record is currently a bar to acquiring citizenship.

I don't want to correct you, but I have to correct you. That was 265 permanent residents, people who became permanent residents. There were another 100,000 foreign international students, 100,000 foreign workers, so we're closer to almost a half a million each year, when you take temporary residents and permanent residents into consideration.

I just want to take two seconds to counter what she has said about people who come from war-torn regions, suffering from stress and possibly committing more crime. I have first-hand knowledge of a group of people, thousands upon thousands—Holocaust survivors—and that includes my late parents, and my sister, who's still alive. We came to Canada and there was no assistance in place. There was no welfare. There was no such thing as post-traumatic stress syndrome. There was no psychologist waiting for us. There was nothing. I was a baby. We had free English classes and you had five years to make it. If you didn't work and you couldn't make it, you had to leave.

No great crimes were committed by the Holocaust survivors, as there were no great crimes committed by those who were expelled by Idi Amin in the 1960s from Uganda when he decided that all East Indians must leave. They were given, what, a month to get out of country?

So I'm sorry, but there have been lots and lots of examples of those who have come from the most horrendous conditions and have arrived in Canada as temporary residents, permanent residents, and they didn't enter into a criminal sphere, committing crimes.

It's not an acceptable excuse, because I know from personal experience, it did not happen. And it doesn't have to happen. For those who do have a mental illness, again there was some inaccuracy here about a judge. I do not understand. What judge? There's no judge in the immigration system. The judge is a criminal judge. That was a completely mistaken fact, talking about a judge in the immigration system. A judge is a criminal judge. He must take into consideration mental health questions, and he is trained to do so. There is no judge. There is a member of the Refugee Protection Division. There is a member of the Immigration Appeal Division. They're not judges.

I had to correct that because I couldn't let that mistake stand. And the criminal justice system does take mental illness into consideration. They always have and they always do, and it is a full defence. The criminally insane—you must have all heard that they are innocent because of criminal insanity.

•(1615)

Mr. Costas Menegakis: Thank you.

Let me ask this. We know of many cases in which individuals who promote violence against women, violence against homosexuals, who glorify and promote terrorism against Canadians...they are not inadmissible to Canada because they do not have any previous criminal convictions or violations. This is not surprising, because in many countries in the world, spewing this kind of venomous hatred is not illegal.

The minister has been asked on numerous occasions by many people, including opposition MPs, to keep individuals out. For example, in 2011 the Quebec legislature passed a unanimous motion to bar extremists Abdur Raheem Green and Hamza Tzortzis from coming to Canada. This is what Abdur Raheem Green said, and it's a direct quote:

...Muslims and westerners cannot live peaceably together.

And that:

Dying while fighting jihad is one of the surest ways to paradise and Allah's good pleasure.

Do you agree that the minister should have the ability to bar individuals such as these two, who are not inadmissible in Canada, under any other grounds?

Ms. Julie Taub: Absolutely, without question, and it's long overdue. And this isn't a question of mental illness either. This is just a question of hate-mongers who are promoting jihad and promoting killing—I don't need to get into it. Anybody wanting to promote hatred in Canada, be it against homosexuals, Jews, women, Muslims, etc.—they should all be barred.

Mr. Costas Menegakis: Thank you.

Very quickly—I only have 30 seconds, Ms. Sytcheva—are you aware that in many other countries, such as the U.K., the U.S., New Zealand, and Australia, they already have provisions in place to bar individuals who would harm the public interest but who are otherwise not inadmissible? In fact, the provision in these countries is much broader and discretionary than under this proposed bill C-43.

Ms. Irina Sytcheva: And the question to me would be...am I aware?

Mr. Costas Menegakis: That's my question: are you aware?

Ms. Irina Sytcheva: I am aware. I don't see why that should affect how we as Canadians do our business here. I think we can use other countries as models, but we also have sometimes a much better approach—

Mr. Costas Menegakis: We want to keep criminals out, as they do. We have that same common goal.

Ms. Irina Sytcheva: I understand that.

Mr. Costas Menegakis: That's irrelevant—

•(1620)

The Chair: We have to move on.

Mr. Costas Menegakis: Thank you.

The Chair: That concludes the first round.

Ms. Freeman.

Ms. Mylène Freeman (Argenteuil—Papineau—Mirabel, NDP): Thank you, Chair.

Ms. Sytcheva, I'd like you to continue on with the recommendations you'd started earlier, if you could.

Ms. Irina Sytcheva: Okay.

Before I go there, I just want to correct something. I want to address the comments that my friend here made around the Holocaust survivors.

I think having the blanket understanding that everybody who came, fleeing the Holocaust, never committed a crime, and that everybody who comes from other war-torn regions commits a crime, is quite—

Ms. Julie Taub: I did not say that. Sorry, I did not say that.

Ms. Roxanne James: Excuse me.

A point of order.

The Chair: Stop the clock.

Ms. James, on a point of order.

Ms. Julie Taub: I did not say that, and I don't want to have—

Ms. Roxanne James: Thank you.

I have listened very carefully to both speakers, and I did not hear that comment whatsoever.

I would like to have that removed from the record, because I think that's unfair, unjust, to say something that was not said.

Ms. Julie Taub: [*Inaudible—Editor*]...slanderous.

Ms. Roxanne James: Thank you, Mr. Chair.

The Chair: I would rather the two of you not get into a debate. Ms. Freeman has asked you a question for further recommendations. If you have any, we would appreciate hearing them.

Ms. Jinny Jogindera Sims: Mr. Chair?

The Chair: A point....

Stop the clock again.

Ms. Sims.

Ms. Jinny Jogindera Sims: I just want to say that if we're going to say to one speaker that you cannot make a comment on what another speaker has said, then that rule should have been brought to light a lot sooner.

You know, it's unfair to say to one speaker that they may not comment on what they have heard—their own interpretation—when the other speaker has been very vocal in putting stuff out.

The Chair: You're absolutely right in what you just said, but I would rather....

Our time is slowly disappearing, and the committee would be interested in hearing what the recommendations are....

Oh, I'm sorry. Mr. Menegakis had a point of order.

Ms. James was first? Okay.

Ms. Roxanne James: Thank you, Mr. Chair.

While we don't disagree with Ms. Sims that you can comment on another witness's testimony, you just have to make sure that you comment correctly, and not misquote someone—

The Chair: Ms. James, I cannot stop people—

Ms. Roxanne James: I just want—

The Chair: Ms. James.

Ms. Roxanne James: Yes.

The Chair: It's not for me to say who's telling the truth and who isn't telling the truth. Ms. Sims is correct that comments can be made. I'm just trying to get to....

This lady has some recommendations, and I think we'd be interested in hearing them.

Mr. Menegakis has a point of order—

Ms. Roxanne James: I would like to just respond.

The Chair: Respond to my ruling?

Ms. Roxanne James: Yes. Perhaps this is a point of clarification.

To say that another witness said something, more or less putting quotations around it, is incorrect, and it should not be allowed to be on the record if that is in fact not what was said.

Hon. Geoff Regan: A point of order.

The Chair: I will repeat: I have no intention of saying who said what and who didn't say what. My job is to keep this meeting rolling, and I intend to do so.

Mr. Menegakis.

Mr. Costas Menegakis: Well, in the same vein, Mr. Chair, I think the point of order initially was that there should be a correction of an inaccuracy, of a fabrication, that was said here. That was the point. It was not whether one witness can comment on what another witness said. It was that one witness here was commenting on something that the other witness did not say.

I just wanted to get that point across.

Ms. Jinny Jogindera Sims: Mr. Chair, on a point of order—

The Chair: No. I'm in the middle of a long list here.

Mr. Weston.

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): I was listening very closely, and what I heard Ms. Taub say wasn't that every person who came over after the Holocaust was free of criminal activity. She didn't make that blanket statement.

I think that's the only thing we need to fix.

Perhaps if Ms. Sytcheva would retract that comment, we'd all be in a happier state.

The Chair: Mr. Regan....

Order, please. Order.

Mr. Regan.

Hon. Geoff Regan: Thank you, Mr. Chairman.

I understand what my colleagues are saying, and their reaction to this. However, I haven't heard a point of order. I think it's important to go on with the meeting.

The Chair: I agree—except I heard Ms. Sims say that she has a point of order.

Ms. Jinny Jogindera Sims: My point of order is that once the chair has made a ruling, you can challenge the chair's ruling, and then we can have a vote to sustain the chair or defeat the chair.

What my colleagues are doing is debating something from one side, and I refuse to enter this debate. I want to stick to the chair's ruling and get on with the business of the committee.

• (1625)

The Chair: Ms. Sytcheva, I'm looking forward to hearing further recommendations from you.

Ms. Irina Sytcheva: Thank you.

The Chair: We need some order, please. Our guest is about to speak.

Mr. Rick Dykstra (St. Catharines, CPC): Well, we have five more minutes, so...

The Chair: Go ahead.

Ms. Irina Sytcheva: Thank you.

Another accommodation I would...*[Inaudible—Editor]*...counsel in the criminal justice system. I think it may be helpful to have that in the immigration system as well, helping individuals, particularly those with mental health issues, figure out how to file their applications, how to navigate the system, and how to present evidence that would ensure that their mental health needs are put forward.

Again, within the recommendations, we would really like to stress that before any changes are made we want to have a study of the impact of the proposed legislative changes on our population. It hasn't been done to date with other changes to the immigration policies and laws. It hasn't been done to date with the changes to the criminal justice system and the Criminal Code of Canada.

What we're seeing on the ground is that people are really being disproportionately swept into this net of the criminal justice system and the immigration system, and their mental health concerns are not being addressed or acknowledged. From our perspective, we feel that in a country that calls itself fair and with a great health system, we cannot do that. That is not fair to the individuals.

I would like to apologize to my colleague here. My intention was not to paraphrase what my colleague said. I was just making a statement around the way it might be interpreted.

If you wish to strike that from the record, please go ahead, but I just want to make the point that if she can make those comments...I just want to be very clear that we are being cognizant of how they may be interpreted by others, particularly under the umbrella of hate speech and having certain judgments about certain groups.

Thank you.

Ms. Mylène Freeman: Do you want to speak about the problems some may face when they come to this country, if they're coming from a war-torn country or somewhere like that, that may cause them to end up in the criminal justice system?

Ms. Irina Sytcheva: It's not even so much an issue of somebody coming from a war-torn country or not; it's more about undiagnosed mental illness. It's an episodic illness. People may experience psychosis, which is a complete disconnect with reality; they may think and truly believe that something is happening and that they have to do something. For example, an individual might break into their neighbour's house believing that aliens told them to be there and that they're going to be harmed unless they go there. Well, that's a punishable offence and it makes a person inadmissible to Canada, essentially, under the current IRPA. Again, it's something that stems from symptoms of the mental illness that is not being treated.

Another thing I want to comment on is that under the conditions that are currently out there, people may slip with their treatment. Sometimes treatments do not work, medications may not work, they may not have access to a good psychiatrist, and, again, they may

become symptomatic and commit crimes, or they may be picked up because they're being a nuisance. They may accumulate quite an extensive criminal history on paper, but it may be minor things such as panhandling or uttering threats while on the TTC, or whatever the situation may be. These don't make somebody a "serious criminal", as would some of the other instances that were brought up by Ms. James and my colleague around some individuals out there.

I want to be very cognizant of how wide we're spreading the net and what the consequences would be. At this stage, we really don't know because we're not keeping that data. We don't understand the mental health issues and needs under the immigration system.

Ms. Mylène Freeman: Yes. I frankly think it is worrying to see that there has been no examination of how many people this would affect, and whether the reasons for this bill... Immigration Canada put forward five examples, but how many other types of people does it affect? Are we really only going after the serious criminals? Of course, none of us thinks there should be access to unlimited appeals, but are we going after other people by making it six months and things like that?

I'm really glad you came to explain that point of view. I've heard of some cases like this, and it is worrying, so thank you very much.

The Chair: Thank you, Ms. Freeman.

In the last round we only have one speaker, so I'm going to give Mr. Dykstra his five minutes.

Mr. Rick Dykstra: Thank you.

Julie, I have two questions for you, specifically dealing with the issues of change with respect to humanitarian and compassionate considerations, and also the whole issue around the ability to compel. I want to get your thoughts on both.

But I do have a question for Irina first, so maybe you could think about it a little bit and come back as soon as we've completed.

Irina, I do have a couple of things I want to ask you, because I haven't heard you say anything about this, and I understand your specific concerns with respect to immigration. I don't agree with them, but I understand them, and certainly you've presented them today. But you've said nothing about this government's efforts over the last six and a half or close to seven years in terms of the mental health strategy that we've implemented. I want to give you the opportunity to do that because you haven't referred in any way, shape, or form to the strategy that we've implemented since 2007 with respect to mental health in this country.

•(1630)

Ms. Irina Sytcheva: Actually, I mentioned that we applaud the release of the first national mental health strategy as a step forward. It's a first step. It would be great to see some of the recommendations they are putting forward, particularly around the criminal justice system and how that may leak into being implemented in the immigration—

Mr. Rick Dykstra: I don't think that justifies what we've done. In 2007, we put \$55 million over five years towards the Mental Health Commission of Canada, and we implemented the Kirby-Keon report. In 2008, we raised that funding to \$130 million because we wanted to combat the stigma attached to mental health. In 2008, we allocated another \$110 million to the Mental Health Commission to find ways to help fight the very issue you talked about here, homelessness. We also included a knowledge exchange centre to foster information sharing and research collaboration. The very issue you brought to the table today, we started in 2008.

In 2012, the commission came back and delivered a blueprint for a national mental health strategy. We funded five years of research, which included thousands of people coming to testify, scientific modality, and 100 recommendations on what would go across the country. They are not just for federal governments; they are for provincial governments. They are for professionals in the health care profession. You alluded to the fact that we've started down the road of assisting those in the criminal field, whether they be judges or lawyers. We've implemented it with health care professionals and businesses. Volunteers across this country are entering into programs. Since 2008, we've implemented 45 active projects across our country, working toward reducing the issue of mental health in this country.

I appreciate what you are saying, but when you come to the table, you at least have to acknowledge that this government, for more than any other issue with respect to health care, has identified mental health as a serious issue, a number one issue, a compelling issue. We have invested hundreds of millions of dollars across this country to say, "We're going to fix it. We're going to try our best to try to solve it." You are picking up one small aspect of it and saying you want more to be done. We're moving in that direction as we speak.

I'm giving you the opportunity to acknowledge that this government has done more.... I'm not speaking in a partisan way—the Kirby-Keon report is not written by Conservatives. It was written by one Liberal and one Conservative senator. The fact that we have moved in this direction has to make you think that from a mental health perspective we have definitely done more than just taken a first step. We've actually moved this issue onto the national agenda. We have said that in every community in this country we are going to face and deal with the issue of mental health.

Ms. Irina Sytcheva: We do applaud the research strategy. It's a huge step forward. However, we are not seeing what is proposed in the strategy leaking into Bill C-43. There are no specific mental health provisions under this particular legislation. This is what I have been asked here to comment on—

Mr. Rick Dykstra: That has less to do with the legislation—

The Chair: Mr. Dykstra, let her finish.

Mr. Rick Dykstra: I understand what she is saying.

The Chair: Well, she's in the middle of a sentence. Let's let her finish.

Go ahead.

Ms. Irina Sytcheva: I appreciate your bringing forward the mental health strategy and the great work your government did with the contributions and investments you made in this area. However, in

the context of Bill C-43, we are not seeing any special provisions to accommodate individuals with mental illnesses or even to study the impact on this population with the proposed changes. That is what I'm saying here—

Mr. Rick Dykstra: That is slightly different from what you had said earlier. I accept that. If there's work to be done, it has little to do with the legislation itself and more to do with the issue of mental health. I appreciate what you're saying. That brings it much more clearly into the context of what you're trying to identify here.

Julie, I wanted to give you rest of my time to comment on the two specific areas I mentioned.

The Chair: You have 15 seconds.

Ms. Julie Taub: First of all, the humanitarian and compassionate considerations start in the criminal justice system because a judge does take that into consideration—takes into consideration the background of every person who is charged, and takes into consideration their immigration situation. That has always been done, and that will continue to be done. As I stated several times before, they also take into consideration a mental illness if there is one. That's where it starts.

Currently, at the Immigration Appeal Division, humanitarian and compassionate considerations are just one of the many factors that are considered for a stay of deportation. There is also their establishment in Canada, their family in Canada, their remorse, if any, and their risk of reoffending. That is under the current legislation. It's so generous and so wide that I have been able to succeed with all my clients for stays of deportation. That is being removed. Based on my experience and what I have seen, not just with war criminals and terrorists, but there are also drug addicts, sexual assaults, etc.

•(1635)

The Chair: Ms. Taub, I'm sorry, but I have to....

Thank you, both of you, for coming and for making your presentations to us.

We will suspend for a few moments.

•(1635)

_____ (Pause) _____

•(1635)

The Chair: We will reconvene.

Thank you very much.

We have one witness in the final...less than an hour now. We had two, but the other witness called at the last moment to say they were ill.

Mr. Dykstra has a point of order.

Mr. Rick Dykstra: I guess it is a point of order.

We had two pieces that we didn't deal with in our last hour's session. The first is that Ms. Taub indicated that she had a list of criminals she would like to submit to the committee. I'd like to ask that she do that through the clerk, to then distribute to each of the members of the committee.

The second request I had—because I know we've already had one witness....

I'm sorry?

• (1640)

The Chair: I don't recall her saying that.

Mr. Rick Dykstra: As she was working through her list of examples, she said that she had generated a larger list and would be prepared to give it to the committee. If not, I'd at least like to get the list that she actually stated here at committee then.

The other piece was that we have had one witness who has indicated that they could not actually participate in Bill C-43. We had a suggestion that MADD Canada come to present to the committee. We have an agreement that in general, if there is a witness we'd like to add to the list, we bring that name to the committee, have the committee agree to it, and then add them to the witness list.

So I'd like to put forward MADD Canada as a witness here for Bill C-43.

The Chair: I think our agreement was, Ms. Sims, that all subcommittee members must agree to that.

Ms. Jinny Jogindera Sims: Yes.

The Chair: Mr. Regan.

Hon. Geoff Regan: Is it on this question that you're asking my...?

The Chair: Unfortunately, you're representing Mr. Lamoureux, so we have to look at you.

Hon. Geoff Regan: I'm sorry. You are asking my agreement to have witnesses...?

The Chair: The question was whether you have any problem with Mr. Dykstra's suggestion that MADD Canada appear as a witness in this committee.

Hon. Geoff Regan: No, I would not have a problem with that.

The Chair: All right.

On the first question—

Ms. Jinny Jogindera Sims: My understanding is that it's to replace one of the Conservative witnesses. Is that right?

The Chair: Yes.

I don't recall Ms. Taub making that request. If she agrees to do this, does anyone have any problem with that list?

Ms. Jinny Jogindera Sims: The limited list she mentioned, yes—

The Chair: You do have a problem?

Ms. Jinny Jogindera Sims: No. I heard Mr. Dykstra saying....

The examples she actually quoted, I'd like to have, though.

The Chair: All right.

What I'm going to do is ask the clerk to ask her. She's no longer before us. She's still here, so we will ask the clerk whether that information could be made available, and I'm sure it will be.

Mr. Brouwer, finally we get to you. You're a familiar face. You've been here several times, on security and Bill C-31.

Mr. Andrew Brouwer (Representative, Canadian Council for Refugees): Yes, I have been. Thanks.

The Chair: Thank you for coming again. We'd like to hear what you have to say.

You're with the Canadian Council for Refugees?

Mr. Andrew Brouwer: That's right.

The Chair: You know how the committee works.

You have up to 10 minutes, sir.

Mr. Andrew Brouwer: Thanks very much. It's a pleasure to be back before the committee. I've been here...this is my third time in seven months, I think. You've been busy; the minister has been busy. I think the fact that the committee has been this focused on immigration and refugee legislative changes is an indication of the massive reforms that are happening in the world I work in, so I'm grateful for this chance to talk with you.

On that note, though, I would like to mention that a number of us were surprised when Bill C-43 was tabled in the midst, as I understand it, of the proceedings that were already going on here at this committee with respect to the background study you've been doing on immigration security provisions. It looks as though there was a bit of a missed opportunity, because I know from a number of the witnesses who appeared before you in connection with the other study that there are a number of reforms to the provisions addressed in Bill C-43 that could have been proposed in the context of that study's report.

It would have been nice to have it all together in one package. That said, I'm going to comment on Bill C-43. I want to point out and make it clear that I'm not here as an individual this time; this time I am here on behalf of the Canadian Council for Refugees, for whom I'm a member of the legal affairs committee.

The CCR is an umbrella organization that works on issues of refugee protection and the settlement of immigrants and refugees in Canada. I'm on their legal affairs committee, as I mentioned, and I'm also a practising refugee lawyer in Toronto. We've provided a short brief, setting out our main concerns; however, because of the short notice, it probably hasn't been translated and circulated yet, but I presume will be before you're done your study.

I'm going to limit my comments to a few of the issues that are set out in the CCR brief, and I look forward to an opportunity to address those issues as well as some of the others during the question and answer session.

Overall, the CCR is concerned that Bill C-43 contains a number of provisions that will lead to less fairness in the refugee and immigration system, that do not honour Canada's international legal obligations, and that deny people the right to appear before an independent decision-maker for decisions that go to fundamental rights and interests.

The inadmissibility provisions that are already in IRPA are extremely broad and catch people who have committed no crime and represent no danger to safety or security. Among those who are affected already are people who are inadmissible simply because they worked against a repressive regime or an undemocratic government in their own country. It is by now a cliché to observe that the anti-apartheid hero Nelson Mandela—Nobel Prize winner, honorary Canadian citizen—could be caught up by the revised section 34, as it is drafted.

The CCR has produced a number—two, in particular—of excellent reports on the impact of those very broad immigration security provisions, and the impact upon certain communities in particular.

The more recent report is called *From Liberation to Limbo*, and it addresses the impact of the provisions on the Eritrean refugees who have come to Canada. The impacts are profound and devastating upon those who are labelled as terrorists under the act.

Bill C-43 would deprive those who are labelled as terrorists of fair consideration of their actual circumstances in a number of ways: it does it by limiting the scope of the exemption from inadmissibility, known as ministerial relief; it does it by denying access to humanitarian and compassionate consideration; and it does it by imposing mandatory conditions when released from detention. It's our position that those changes are inconsistent with the charter and with Canada's international legal obligations.

The limiting of ministerial relief will prevent some refugees from making a refugee claim, leading to their being returned to their countries of origin, directly contrary to Canada's obligations under the 1951 refugee convention. The proposed new wording for ministerial relief—I think it's in clause 18—will also prevent the minister from considering whether a refusal of relief and a finding of inadmissibility will violate the charter rights of the individual affected.

Elimination of access to humanitarian and compassionate consideration will prevent consideration of the best interests of any child directly affected, which is also directly contrary to Canada's obligations under international law.

• (1645)

Bill C-43 also denies permanent residents the right to appeal to the IRB, the IAD, if they're sentenced to an imprisonment term of six months or more. This means these permanent residents will not have an opportunity to have an impartial and independent decision-maker consider all the relevant circumstances of their case prior to their deportation.

This is a significant denial of access. For example, with someone who came to Canada as a young child and has lived in Canada for decades, that is no longer going to be taken into account prior to the deportation of an affected individual. The person will be sent back to a country where he or she may have absolutely no connection. Likewise, as one of the previous witnesses noted, people who are suffering from mental health problems that contributed to the commission of a crime will also be denied access to any consideration of those circumstances.

I'd be happy to give you some examples of these cases that we have in our office. That denial of access to any humanitarian and compassionate consideration, in our view, is inconsistent with fundamental Canadian values of fairness and justice, particularly in those cases where we have very long-term permanent residents of Canada facing deportation. These are circumstances where it's exile, practically speaking, not deportation. They have no direct contact, no connection, anymore with the country of origin.

I'd like to close my opening remarks by reading from *Hansard*. This is from 2001, at the time that the Immigration and Refugee Protection Act itself was under consideration in the form of Bill C-11. There was a comment made by a PC member, Gerald Keddy, from South Shore, when he was considering the impact of deportation of long-term permanent residents. He said this:

Somehow we will say that an individual, after residing in the country 30, 40 or 50 years, does not have the same rights as any other Canadian. Rather than sending them to prison for a criminal offence should they commit one, we would deport them to a country they may no longer have ties with. That is not what being Canadian is about. It is certainly not what I have always thought being Canadian is about.

A little bit farther in his comments to the House, he said:

...surely in this nation and at this period in our history we would not deport them to a country to which they no longer have ties.

I would like for Mr. Keddy to be right, but under this bill it would appear that he's wrong.

Those are my comments.

• (1650)

The Chair: Thank you.

We now have Ms. Taub's list, so we'll translate it. It's a list with statements underneath each name. We'll make that available to the committee.

Mr. Weston, you have up to seven minutes.

Mr. John Weston: Thank you, Mr. Chair.

Any time anyone, especially someone with professional credentials such as yours, Mr. Brouwer, says we're doing things unCanadian, it makes us pause.

It's important to make sure everyone is on the same page and understands that the provisions we're talking about are designed to apply to people who are not Canadian citizens, who are in fact from other countries and have sought to come here. They may be further along in their goal than the billion or two others who would like to be Canadians, but they are still somehow associated with another place of origin.

To put it into context, I was shocked to learn there is an average of some 850 serious criminals who appeal to the IAD every year to delay their deportation from Canada. To me, that's a significant number. To most Canadians who are not lawyers, like you and me, that would be a significant number.

Does that number concern you?

Mr. Andrew Brouwer: I don't know the details of the number. I have no idea what these offences are that the people have been convicted of.

Does the fact that there is a forum where people with these kinds of convictions have an opportunity, prior to removal, to have all the circumstances of their case considered before that deportation concern me? No. I think that's right; I think that's just.

I'm not saying—and certainly the IAD doesn't function that way—that every permanent resident with a serious conviction will go to the IAD and get a stay of removal. Certainly, they won't. I don't know what the success rates are, but they're certainly not a hundred per cent. The fact that there is a place to go to raise their mental health issues, their connection to Canada, the sixty years they've been in Canada....

There's a case that I heard about from a colleague of mine. It was an extreme case, but it shows you that extreme cases will also be caught up by this provision. A child was brought to Canada by her parents when she was four months old. The child is now in her fifties. She did end up with some addiction issues and she did commit some serious criminal activity, and she is now facing deportation to a country where literally she's never set foot. She wasn't even walking at the time she came to Canada.

I'm a lawyer. I understand what a citizen is and what a citizen isn't. I understand that citizenship is something that the executive grants to a person.

That being said, for the vast majority of Canadians, people who come to Canada at that age and live here all of their lives are Canadians.

Mr. John Weston: Mr. Brouwer, to take it in the broad context, Canada is renowned for its generous immigration and refugee policies. Those generous policies rely upon continued goodwill from the general populace. For people who are elected to enact and preserve laws, we have to have some commitment to those things. To me, the most humanitarian and considerate thing we can do as lawmakers is to ensure that we continue a generous open door to refugees. We have people who have been admissible on the most serious grounds, war criminals, human rights violators, people whose examples we heard cited earlier before you started your testimony today. Some of them are organized criminals and they've been able to delay their deportation for years and years. We've heard it costs millions of dollars. My concern is that we'll lose the popular support of the whole refugee program if we allow such people. Furthermore, people who are parents, like me, average Canadians, want to know that serious criminals are being deported, especially if they're not Canadians.

I would have thought you would be coming here complimenting the government on Bill C-43, saying this is what we need to make sure that 10 years, 20 years, or 50 years hence, the people who follow in our footsteps are similarly defending a generous refugee system.

• (1655)

Mr. Andrew Brouwer: I'm surprised you thought I would be coming here to congratulate you on the bill. I will note that I don't disagree. Any human rights activist who takes himself seriously is against impunity. I don't believe in impunity. I believe that people should be held responsible for their crimes. Absolutely. That's not the issue. That's not the concern we're raising. We're not saying there should be no inadmissibility provisions. All we're saying is that there

should be an opportunity, in exceptional circumstances, for an impartial, independent decision-maker to give one last shot to a permanent resident who, for example, in the case that I gave you, has been in Canada for the vast majority of their life prior to deportation.

There are a couple of issues in what you say. One thing I'd like to make clear is that I completely agree that it's necessary for the Canadian public to support the immigration and refugee program. That's crucial. Of course, the government, the executive, has a great deal of power in how the system is presented to have an impact on how the public actually views the system.

When the Conservative government...and I'm sorry, but it happens a lot. There's a great deal of talk of abusers, queue jumpers, and people who are not bona fide refugees. That kind of language, when it's coming from our political leaders, has a really negative impact on the system. It's far better, in my submission, to ensure that we have a system where those who are actually a danger to Canada are deported—no question. Well, one question: not if it's deportation to torture. Failing that, deportation to torture or deportation to death, absolutely, serious criminals who present a danger to the public should be deported. We can already do that. We already do that under the existing provisions of IRPA—

Mr. John Weston: Mr. Brouwer, sorry to interrupt, but—

The Chair: You have less than a minute, Mr. Weston.

Mr. John Weston: Thank you, Mr. Chair.

Having visited Rwanda in recent years and witnessed the anxiety that still prevails there, I was astonished to hear the story of a Rwandan war criminal who still resides in Canada after being found a war criminal decades ago. He's able to avail himself of humanitarian and compassionate grounds that make no sense. It must leave the Rwandan Canadians in some sense of anguish here knowing that individual walks among them.

Mr. Andrew Brouwer: Of course. I find it—

The Chair: Thank you, Mr. Weston. We'll have to move on.

Ms. Sitsabaiesan.

Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP): Thank you, Mr. Chair.

Thank you to our witness for being here.

I'd like to start off by saying that safety and security of residents in Canada is certainly a priority for the NDP. However, we believe that rather than portraying newcomers negatively, the majority of whom are law-abiding members of our society, we should be treating newcomers fairly.

Based on what I'm hearing from my constituents in Scarborough—Rouge River, this means shortening wait times for family reunification, making the visitor visa system more fair, and fixing the many flaws with our temporary foreign worker program. Instead, we see in this bill, which targets a small minority of people, that it can actually have negative consequences for law-abiding newcomers. As you mentioned briefly, it can catch and punish people who present no security threat to our community.

Can you please elaborate on how this may arise?

Mr. Andrew Brouwer: One of the problems with IRPA and its relationship to Bill C-43 is that IRPA right now, particularly in paragraph 34(1)(f), allows for a decision-maker to find a person inadmissible on security grounds on very vague and broad criteria.

I have many clients who've been found inadmissible because of membership in a terrorist group. For example, I refer to this report from the CCR on Eritreans. There was a brutal 30-year civil war for independence in Eritrea. Many members of various organizations fighting for independence for Eritrea from the bloody Ethiopian regime were members, supporters in one form or another, of the Eritrean Liberation Front or one of the other organizations engaged in that fight.

When they come to Canada, those individuals now make refugee claims. If they were indeed involved in some way in the liberation struggle, they are frequently recognized as convention refugees, in part because of the sad history of what happened in Eritrea after liberation in 1991, when one of the two liberation movements took power. Those who were part of the other liberation fighters, the ELF, were refugees. Those individuals come to Canada. They have given their entire lives to working for justice and independence and human rights. Under paragraph 34(1)(f), even if the extent of their involvement was teaching in a school, handing out pamphlets, or organizing meetings to provide updates on what was happening in the field, those individuals are inadmissible.

Under section 25 and subsection 34(2) of the current act, there was at least the possibility for relief from that very broad inadmissibility. There was a possibility that a decision-maker could say that, formerly, maybe some members of the Eritrean Liberation Front engaged in terrorism, and because you were somehow involved in supporting that organization, fine, it's broad enough that you are described. At least we have a relief valve that permitted the presence of those individuals who actually didn't support terrorism, who didn't hold the gun and didn't engage in violence, to be found not to be detrimental to the national interest.

Bill C-43 takes that away. It denies any access to humanitarian and compassionate consideration, and it appears to dramatically limit the scope of the meaning of "not detrimental to the national interest". By doing that, we expect to see many long-term members of the Canadian community who have been determined to be inadmissible on these very broad grounds facing removal.

That, from our perspective, is fundamentally unjust. These people, like Nelson Mandela, like my Dad, who was engaged in the resistance in Holland under the Nazis, are heroes, not terrorists.

• (1700)

Ms. Rathika Sitsabaiesan: I understand and agree with you.

I want to touch on a couple of examples on top of the ones you gave us in your brief that you sent us. Mrs. Joseph Pararajasingham is a 74-year-old widow of a former member of Parliament in Sri Lanka who fought for negotiations to happen between the Sri Lankan government and the LTTE during the time of the conflict there. She is a widow because the member of Parliament was assassinated. She is here in Canada now. She came here to flee a situation where she too would have been killed had she stayed in the country. I have met her many times in the community, and she is a sweet, elderly woman who is there to give lots of love, who supports a lot of the community activities, and who contributes very positively to the Canadian community.

From your briefing, I'm learning that she also would be considered inadmissible in this country. She has actually been deemed inadmissible.

A 14-year-old Iranian girl who gave out fliers to fight for her rights, and who eventually was put in Evin Prison, is now in Canada. She is considered inadmissible—

Mr. Andrew Brouwer: That's correct.

Ms. Rathika Sitsabaiesan: Some of those examples you gave us, on top of the Eritrean cases, are very good to hear about—some of the good people in Canada who are now going to be wrongly accused of being terrorists or...I don't know exactly the wording.

Mr. Andrew Brouwer: Typically, members of a terrorist group. Thank you for that.

The young Iranian woman is a client of mine. She has been for years, and has become a dear friend over the years. She's one of many of these individuals.

Of course, there are terrorists out there. There are people who have engaged in violence and who should not be allowed to stay in Canada. But there are too many people—

Mr. Rick Dykstra: A point of order.

The Chair: Stop the clock.

A point of order, Mr. Dykstra.

Mr. Rick Dykstra: I'm sorry, I don't mean to interrupt here, but there has been a reference a couple of times now to a briefing that was submitted.

Through you, Chair, Rathika seems to be referring to a briefing note that she received or that we received from Mr. Brouwer. Are you referring to this?

• (1705)

Ms. Rathika Sitsabaiesan: No. I'm referring to the submission that was made to the committee by the Canadian Council for Refugees. I'm not sure, but I think Mr. Brouwer mentioned it in his opening.

I don't want to put words in your mouth, but I think you mentioned that you had submitted it in English and it's with the clerk of the committee.

Mr. Andrew Brouwer: That's my understanding of what happened, yes, on such short notice.

The Chair: Simply for the record, Ms. Sitsabaiesan, no one else has that. The clerk has it, but it's not translated. I don't know how you got it, but I don't have it.

Mr. Rick Dykstra: I would simply like to know how she got a copy of it.

Ms. Rathika Sitsabaiesan: I don't know about it.

The Chair: I'm simply commenting that you're referring to something that no one else has—

Ms. Rathika Sitsabaiesan: I did not know that.

The Chair: However you got it is your business, but the clerk has it. I haven't read it, and it's going to be—

Mr. Rick Dykstra: Well, it's kind of the—

The Chair: Mr. Dykstra, it's going to be translated and given to the members of the committee, but just so you know, no one else has what you have.

Mr. Rick Dykstra: I want to follow up on that, because we're now getting testimony—and I understand Mr. Brouwer can certainly do that, because he's responding to questions—and referencing a briefing that only one person on this committee received. I don't know how they got it. I kind of think I know how, but that's neither here nor there. The fact is that I don't think you can refer to a briefing note that no one else has as proof for what we should be doing or not doing with respect to this bill.

I'd ask you to make a judgment on that.

The Chair: A judgment for what, that she can't...?

Mr. Rick Dykstra: How can you use a briefing note that no one has, to produce evidence?

The Chair: Mr. Regan has said he doesn't know of any rule, and I don't either.

However, Ms. Sitsabaiesan, we'll proceed. But remember that what you're saying is unfair to the other committee members. You have something the other members don't have. It is unfair for you to refer to evidence and put it on the record when no other member has it.

Ms. Roxanne James: A point of order.

The Chair: Is it on the same point?

Ms. Roxanne James: I believe so.

You've indicated that it's unfair. A briefing has been sent to the clerk to be translated and to be distributed amongst all members. Then we find out that one particular member on this committee has this secret document. It must be secret because I have no idea what she's referring to.

My concern is that you've just ruled or stated that it's unfair that one member has read it, has been briefed on it, is referring questions to it, and no one on this side has any idea what that briefing is. So I would ask that that testimony be removed from the record and that any future questions exclude that briefing, in all fairness, Mr. Chair.

The Chair: We can't remove things from the record. Many of us would like to have it that way, but it can't be done.

I've made my comment. I have a list here, so you'll have to wait your turn.

Ms. Rathika Sitsabaiesan: Sure.

The Chair: I've made my comment that it's unfair that you say that.

Are we going to continue on with that? Hopefully, she'll take that into consideration as she's proceeding.

Mr. Menegakis, do you have a point?

Mr. Costas Menegakis: Yes, Mr. Chair, I do have a point.

Because we don't know how Ms. Sitsabaiesan got a copy of this briefing, it lends one to believe that there's been some communication between the witness and Ms. Sitsabaiesan. I believe there's bias in that.

An hon. member: Oh, oh!

Mr. Costas Menegakis: If people want to laugh about it, they can—

The Chair: I don't—

Mr. Costas Menegakis: No, I want to finish my point, please.

If people think it's funny, it's not funny.

The Chair: No, I—

Mr. Costas Menegakis: There are 11 members here on the committee, the chair plus 10, and we should have the same information when we have an opportunity to question a witness who has taken the time to appear before us. I believe that raises serious credibility about the entire testimony of the witness, not having an answer as to how Ms. Sitsabaiesan got a copy of this briefing—

Ms. Rathika Sitsabaiesan: Mr. Chair—

Mr. Costas Menegakis: —that only the clerk had.

That's my point. Thank you.

• (1710)

The Chair: Mr. Regan.

Hon. Geoff Regan: I didn't really want to get into this, Mr. Chairman. I just want to say that I've seen lots of cases in the past when members of committees have spoken with witnesses before a meeting. It's not uncommon for that to happen, or to have interactions between—I've seen that from all sides of the House.

I think your suggestion was a wise one, sir. I think we should move on.

The Chair: I do too. I speak to witnesses before. I say hello to them.

Ms. Sims.

Ms. Jinny Jogindera Sims: Thank you very much, Chair.

Part of coming to this committee is doing your homework. This document is on the website and this witness is here. I'm not going to apologize for team members or NDP members having done their homework and gone on the website to see what is there. All kinds of conversations happen, more than saying hello, and I've overheard them.

This document is in the public domain. It's not a secret document. Nobody got it here underground, and what I really find distasteful is that the credibility of the witness's testimony, as to whether it should be heard or whether it should be paid attention to and what should be struck, is being brought up.

Chair, I would like you to make a ruling on how we're going to proceed.

The Chair: Thank you.

Ms. Bateman.

Ms. Joyce Bateman (Winnipeg South Centre, CPC): Mr. Chair, I have two points to add to this interesting discussion.

One is that by using this document, the opposition members have put a member of the public service in a difficult position, because only the clerk of this committee has had this document.

Mr. Rick Dykstra: How do you know that? How do you know what was submitted to the clerk is on the website?

Some hon. members: Oh, oh!

The Chair: Excuse me, everyone. Ms. Bateman is speaking.

Ms. Joyce Bateman: Number one, the member of the public service has been put in a very awkward position, which she shouldn't have to defend.

Number two, Ms. Sitsabaiesan, on the record, in the testimony—it will be in the blues—said for all of us to hear that she did not know how she got this information, which further places our poor public servant at risk.

I rest my case, sir.

The Chair: Ms. Freeman is next.

Ms. Mylène Freeman: Thanks, Chair.

It took me about two seconds to find it on the website. There is a list of recent reports, releases, and documents, and the second most recent one—there are a couple in there—is on Bill C-43. I'm just realizing there are a few of them, and they were submitted to this committee today, this morning. It is absolutely possible that Ms. Sitsabaiesan's office did their research, that therefore she is doing nothing but being an excellent member of Parliament, and that she is not involved in any kind of conspiracy, as the opposite side seems to be alleging.

Thank you, Chair.

The Chair: Ms. James.

Ms. Roxanne James: Thank you, Mr. Chair.

I just want to say that no one is accusing the opposition of doing something behind the scenes. I was listening to the questions; I've listened very intently to this testimony, and I heard her twice mention a briefing that she had received. When I hear that, I raise the question as to where that briefing came from, and then I find out it was sent to the clerk and hasn't been translated.

I understand that the opposition is saying that briefing is on the website, but until I see the briefing that's been handed to the clerk, how would I know it's the same briefing, sir?

I just want to state that, again, no one is accusing the opposition of pulling any funny games.

The Chair: I have a list, but I've heard lots, and I think....

Try to be a good girl and proceed.

Ms. Jinny Jogindera Sims: I do my homework always.

The Chair: I'm not accusing you of anything either, but obviously it's caused a bit of an issue here. I don't know who is right, but you may proceed.

• (1715)

Ms. Rathika Sitsabaiesan: I have fantastic staff who do a lot of good research and help to prepare me well for my committee. Thank you, Mr. Chair, for that.

The Chair: I shouldn't have said “be a good girl”; I apologize for that.

Ms. Rathika Sitsabaiesan: Thank you for that as well, Mr. Chair, because I don't appreciate being called a “good girl”. I haven't been a girl for a very long time.

Maybe if we can start my time, I will continue with my questioning of the witness. Thank you, Mr. Chair.

Mr. Brouwer—

Mr. Rick Dykstra: I have my name on the list here to speak. I would like that opportunity.

Ms. Rathika Sitsabaiesan: Sorry, are we on a point now, Mr. Chair?

The Chair: We're not going to go—

Mr. Rick Dykstra: I have a point of order.

The Chair: We're not going to go for the rest of this time talking about a document that may or may not have been made public or may or may not have been on a website.

I've asked Ms. Sitsabaiesan to proceed and to try not to antagonize the committee. She's undertaken to do that.

You may proceed, Ms. Sitsabaiesan.

Ms. Rathika Sitsabaiesan: Thank you, Mr. Chair.

Mr. Brouwer, I would ask you to maybe elaborate on issues that have come up again and again in my office about unfair visa denials. Residents who invite their family member for a reunion, a wedding, a funeral even, have been denied based on arbitrary criteria and are not given a clear explanation for the rejection.

Rather than fixing these flaws and making our visa system more fair for my constituents or our constituents across the country, what I'm seeing in this bill, and what I'm learning from reading the bill more and more, is that this bill actually furthers the discretionary powers of the minister to deny temporary residency based on vague and arbitrary “public policy considerations”.

The Chair: Thank you. Your time has expired.

Mr. Regan.

Hon. Geoff Regan: Thank you, Mr. Chairman.

Mr. Brouwer, I appreciate your presence here today and I hope to have an opportunity to ask you questions.

Earlier today I moved a motion about having the sections of Bill C-45, the second budget bill, that deal with matters that come under the mandate of the committee studied by the committee, and I'm going to ask that we now deal with that motion, Mr. Chairman. I hope we can deal with it quickly.

The Chair: Yes, sir, that is in order.

Hon. Geoff Regan: Then I don't need to speak any further. I think it speaks for itself.

The Chair: Is there further debate?

I'm going to have a vote here and I'm not going to stall any longer.

You can read the motion. Does everyone understand the motion?

Hon. Geoff Regan: Would you like me to read it out loud?

The Chair: Sure. Perhaps you'd better.

Hon. Geoff Regan: I'll read it again, Mr. Chairman.

I move that the committee undertake a study on the subject matter of the sections of Bill C-45 that fall within the mandate of this committee, namely, part 4, division 16, and report its findings to the House no later than Monday, November 5, 2012.

The Chair: Thank you.

Debate?

Ms. Sims.

Ms. Jinny Jogindera Sims: I'm going to speak in support of this motion. We have seen too much change in the area of immigration, and to have this buried in a budget bill just doesn't seem right.

We have a standing committee. The job of the standing committee is to examine, to provide due diligence, and then to make brilliant amendments to make the legislation serve Canadians in a better way. I think this proposal being put forward reflects the proposal I made in the House today when I tried to seek unanimous consent...and I was so surprised when my colleagues across the aisle didn't see in their magnanimous hearts to give me that unanimous consent so that it could come to this committee and be debated.

Mr. Chair, one of the things I'm finding is that when we're looking at changes to legislation, when we're looking at making changes to one of our key pillars, our immigration policy, which is our nation-building policy of the past, when we contemplate any changes, it behooves us to take the time to very deliberately examine this, and it also provides us, the legislators, with an opportunity to examine and make amendments.

I'm very conscious of the time and that we have our guest, who we all want to hear more from. I'm not going to say more, though I could speak for 10 hours on this and the need for us to provide time.

• (1720)

The Chair: Thank you.

Mr. Leung.

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

First of all, let me preface this by saying that I have been a practising public accountant for just shy of a decade, as has Ms. Bateman. When you come to debate something that is budget oriented, you need to look at it in its totality. You can't separate out the departments; it's built up into a total budget. That's how budgets are formulated. That's how budgets are debated: in a specific budget committee. Generally, that is the finance committee, whether you're in a corporation or a non-profit organization, because you're dealing purely with monetary issues. It is at the committee levels, such as these standing committees, that we debate policies and so on.

I don't see how breaking this up makes any sense, really, and besides, we're debating Bill C-43 here, not Bill C-45. Therefore, I will speak against this motion.

The Chair: Is there further debate?

Mr. Dykstra, and then we have Mr. Menegakis.

Mr. Rick Dykstra: Thanks, Chair.

I know that Mr. Lamoureux put this motion forward and had hoped to deal with it at his first opportunity, so I appreciate that he's kept his word on that, and Mr. Regan is following right up.

There are a couple of things here. First, this isn't the budget bill; this is a budget implementation act. As most of us know, that usually, almost always... There have been some circumstances under a previous government where it wasn't always the case that we got a fall update and the budget implementation act, in terms of the implementation of the budget, which passed in the spring and which we all spent a long time in the House of Commons voting on, debating, and discussing. The finance committee spent over 50 hours dealing with it. Witness after witness after witness came forward to discuss what was in the original budget.

We're now dealing with the budget implementation act; it is actually not an issue for us to determine or decide here at this committee. We focus on citizenship, immigration, and multiculturalism. The times when we respond to issues of budget, generally speaking, are when we are working towards implementation. To that end, the finance minister said early last week that there would be the potential for nine committees to study pieces of the budget implementation act, but that is currently something the finance committee is going to be dealing with. They are the ones who are going to receive the budget. They are the ones who are going to make the determination for where the pieces of the budget will go, in terms of review, in terms of study.

I would argue that this is a very premature motion in regard to the fact that we haven't even actually had the second vote. We haven't had second reading and the vote on the budget at second reading, so I do think this is premature. I think we've made it clear as a government that we're going to send it to the finance committee. The finance committee is going to have the opportunity to review. They're going to have the opportunity to vote. They are going to put a motion forward.

I'm sure that if both Ms. Sims and Mr. Regan want to, they can advise their counterparts who sit on the finance committee that that is the place, and obviously the chance and the opportunity, for them to vote on this, and to do what I think is not dissimilar to what is suggested here. We would then get the opportunity as a committee to study portions of the budget implementation act that actually have something to do with the work we are doing, both as a government and as a committee, in terms of legislation that has been moved forward.

But until such time as the finance committee has had that opportunity, I don't think the finance committee—or any other committee, for that matter—would appreciate it if we were to indulge in their work and have instructions sent to them as to what they should do with respect to their committee work.

I think we are a pretty good committee. I know that occasionally we have a bit of a tiff, but it happens. Overall, I think we're a pretty good committee.

I do think that we wouldn't subject ourselves to this kind of discussion at other committees; in fact, what we would do is stick to the agenda at hand. Mr. Brouwer was here today for his presentation. The motion has been moved during his time, during his hour of presentation on a bill we're dealing with here. Based on this being brought up, we're losing that opportunity for him to respond to the questions that have been brought forward.

Chair, I do believe that, number one, the motion is indeed premature. Indeed, if the mover would like to withdraw the motion, that would be great. If not, on this side of the committee table, we'll be voting against it.

• (1725)

The Chair: The motion is in order, but Mr. Menegakis has further debate.

Mr. Costas Menegakis: Yes, Mr. Chair.

In most parts, I think Mr. Dykstra articulated quite eloquently and much better than I would what I wanted to say.

As we all know, the budget was introduced on March 29, Mr. Chair. I don't know of another budget in the history of Canada that has had this much debate—as much as the first budget implementation act had, and the amount of debate we are getting now. In fact, Mr. Chair, I might add that the member from Burnaby—New Westminster, a member of the opposition, spoke for 13 straight hours on the budget, and the leader of the opposition just last week spoke for 45 minutes.

I might add that during debate in the House on this second phase of the budget implementation, the “BIA 2”, there wasn't any question on the immigration section that pertains to the electronic travel authorization. This is clearly an issue to be dealt with by the finance committee.

I totally concur with that approach. It's premature to come here at this time, and it certainly does not pay any respect to the witness who is here before us, nor is it relevant to the discussion on Bill C-43 that we're having. These are two different bills, Bills C-43 and C-45.

So I cannot in good conscience support the honourable member's motion. I will conclude with that.

The Chair: I see no further requests for debate, so we will have a vote on the motion.

(Motion negated)

The Chair: To return to Bill C-43, Mr. Leung, you have about three and a half minutes.

Mr. Chungsen Leung: Thank you, Chair, and thanks to our witness, Andrew.

Thank you for your tenacity in appearing here for the third time.

Many of us who were not born here came to Canada for a number of reasons, either to seek a new land or to seek the new type of freedom that is available to us. At the time we come here, we appreciate what this country has to offer to us. I would say that part of it is certainly peace, order, and good governance. These are the broad, general principles of those of us who live in this country.

In this particular case, you have identified some specific cases of fairly extreme violent acts. Yes, we certainly remove these people who are not Canadian citizens—I'd say regardless of the time they have lived here—if they haven't committed themselves to being Canadian citizens; basically, this is what this act addresses.

But I assume that in general you agree with the broader provisions of Bill C-43. Let's set all those extreme cases aside. Would you not agree with the broad principle of what Bill C-43 is trying to achieve?

Mr. Andrew Brouwer: I'm not sure what you would describe the broad principles as being. From my perspective—

Mr. Chungsen Leung: Well, the broad principle that we—

Mr. Andrew Brouwer: Can I answer?

Mr. Chungsen Leung: I'm just asking a question.

Mr. Andrew Brouwer: Yes, you've asked me whether or not I agree with the broad principles of Bill C-43.

When I read Bill C-43, the broad principles that I see being articulated there are quick deportation, denial of access to consideration of circumstances of cases, no humanitarian consideration, no ministerial relief—quick removal with no consideration of context.

If you're asking me whether I agree with those broad principles, I absolutely do not. I believe in fairness and justice, and I believe that most members of this committee do, too.

Unfortunately, this bill isn't about those. This bill is about stripping away access to at least a chance to appeal to humanitarian and compassionate motives; to at least raise the considerations and get a decision. For those individuals who are currently eligible, if they refuse, that's the end of the day.

A question was raised, I think by Mr. Weston, about the cost and the endless delays, which is something we hear about frequently. I'd like to point out that even under the current system, if those people who are found inadmissible on criminal grounds and who get to the IAD and are lucky enough to get a stay of their deportation commit even one more offence during that five-year stay, they're out; that's the end.

So all we're talking about here is one chance for an independent, impartial person to take a look at all the circumstances prior to the deportation. If a person shows that they can't actually abide by those conditions, and they commit another crime, that's it. That's harsh for

those individuals, and there are cases in which I would say even that is too much, but let's understand what we're dealing with now: this act would take even that away.

From my perspective, no, that's wrong.

• (1730)

The Chair: I'm afraid the time has expired.

Mr. Brouwer, I thank you for taking the time to visit with us this afternoon. Thank you for your comments.

The meeting is adjourned.

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