



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Citizenship and Immigration

CIMM • NUMBER 075 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Tuesday, April 16, 2013

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Chair

Mr. David Tilson

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•(0845)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): I call the meeting to order. This is the Standing Committee on Citizenship and Immigration, meeting 75, Tuesday, April 16, 2013. We're studying Mr. Shory's private member's bill, Bill C-425, which is an act to amend the Citizenship Act.

We have three witnesses before us for the first hour. We have Professor Catherine Dauvergne from the University of British Columbia. We have Mr. Bal Gupta who is chair of the Air India 182 Victims Families Association. We have from Toronto, on video conference, Mr. Lorne Waldman, who is with the Canadian Association of Refugee Lawyers.

Professor Dauvergne and Mr. Waldman have appeared before us before. Welcome to all of you.

We will start with Professor Dauvergne, you have up to eight minutes.

Dr. Catherine Dauvergne (Professor, University of British Columbia, Faculty of Law, As an Individual): Thank you and good morning.

[Translation]

Thank you for giving me the opportunity this morning to speak to you about Bill C-425. It seems destined to become a major attack on the principle of citizenship in Canada.

Let me start with two comments that supersede all others on this matter.

First, citizenship implies a fundamental relationship between an individual and the state.

[English]

Destroying this relationship as a form of punishment hearkens back to the ancient punishments of banishment and exile. It has no place in contemporary Canada.

[Translation]

Second, such a profound change to our Citizenship Act such as the one the minister is proposing must not be done by a process like this, by a private member's bill. That process reduces the time allowed for debate and for this committee to do its work and it protects the changes that the minister is proposing. This is controlling democracy.

[English]

For this reason, this morning, I'm directing my remarks to what I anticipate the bill may look like at the time it returns to the House. I will make four points.

First, stripping dual citizens of Canadian citizenship would constitute arbitrary punishment. Second, denationalizing potential terrorists will provide an avenue to escape the full force of the law. Third, such denationalizations will foster global and Canadian insecurity. Fourth, there's no good or principled reason to follow the path of the United Kingdom.

I thank you, Mr. Chairman, for letting me know when my time will elapse as I don't have a clock in front of me.

The Chair: I will give you a notice.

Dr. Catherine Dauvergne: Turning to my first point, arbitrary punishment, it's a fundamental principle of our criminal law that punishment be proportional and that it be deserved. Depriving dual citizens of Canadian citizenship because of suspected terrorist activities or even because of proven conviction for terrorist actions cannot meet this standard.

Such punishment will necessarily be arbitrary because, first of all, many individuals do not make an informed or independent choice about whether to become dual nationals. These choices are determined by their parents, by their states of nationality, by accidents of their birth, or by all three of these factors acting in concert. It's often very difficult to renounce citizenship. Some individuals who make good-faith efforts to be solely citizens of Canada may not have these efforts recognized.

Many dual Canadian and American citizens are currently discovering just how difficult it can be to renounce American citizenship. For example, as the United States moves to extend the extraterritorial reach of its tax laws, we've heard quite a lot about this. Finally, whether an individual will or will not be a dual citizen will principally be determined by the laws of another state. We ought not to let an unpredictable variety of other nations determine how Canadians are to be punished.

My second point is that denationalizing terrorists will allow some to escape the full force of the law. Terrorism is a global phenomenon. In the global fight against terrorism Canada has one of the strongest and best-resourced justice systems. We have strongly committed ourselves to the difficult and intricate work of prosecuting those who threaten our security in this way. Citizenship provides one potential basis for criminal prosecution. In some cases, severing the links of citizenship will limit Canada's capacity to prosecute individuals.

One of Canada's concerns in the global fight against terrorism is that some countries are not as vigorous in condemning terrorism as we are. Some places are seen as potential places of refuge for those who would perpetrate such acts against us. We must not act in a way that reduces our capacity to act against potential terrorists. Maintaining the bond of citizenship helps Canada maintain its legal jurisdiction over all individuals.

My third point is closely related to this one. It is that denationalizing terrorists will increase global and Canadian insecurity. I imagine that the point of stripping a terrorist of citizenship is to ensure that he or she can be deported, or if they are outside the country, to ensure that they can not return. There is of course a certain intuitive appeal to this, but it does not withstand scrutiny.

Global terrorism today does not respect international borders. We need no reminders of this. Banishing those we suspect of terrorism does not make us safer. It merely removes them from our surveillance, from our monitoring, and from our control. It will not, alas, ensure that we are safe from them. Indeed, it may make us less safe if they are sent away to quiet, dark corners of the world where it is easier to plot against us unnoticed. Our commitment to the international community must mean that we cannot simply deport the people we fear. This is an invidious form of global Nimbyism. There is no advantage to us as Canadians in pooling dangerous people in unruly places.

Finally, I wish to briefly address the route that the United Kingdom has taken in stripping terrorists of British citizenship. Britain amended its nationality law in 2002 and then again in 2006. It's now possible in Britain to withdraw citizenship from individuals on the basis that it's not conducive to the public good for their citizenship to continue. Under this new provision, between mid-2006, when it came into force, and mid-2011—which is the time when I have the most recent statistics I could find—the U.K. has initiated denationalization provisions against 13 people, primarily because of suspected links to terrorist activities. One woman is not in that category; she was found to be a Russian spy.

A number of these cases have not been successful denationalizations and they are still working their way through the courts in various appeal processes. The primary reason the appeals are so protracted is that the British courts are having enormous difficulties with the intricacies of the citizenship laws of other countries.

● (0850)

None of these individuals has faced a judicial process in relation to their alleged terrorism activities, although this may end because one individual, Abu Hamza, has now been extradited to the United States. It's notable that the U.K. was unable to strip Hamza of his citizenship because it was found that his Egyptian citizenship was no longer valid, since he had taken out U.K. citizenship. He has recently been extradited to the U.S. completely apart from citizenship and having solely to do with a will to prosecute terrorists.

The United Kingdom is an outlier in this case. Few countries have taken these kinds of actions. The 20th century history of denationalization, if we look at it by the numbers, is dominated by the National Socialists, the Nazi regime, in Germany and by the U.S. S.R.

I thank you for your attention this morning, and I welcome your questions.

● (0855)

The Chair: Thank you for your concise notes. I like concise professors. It makes things very clear. Thank you for your presentation.

Dr. Catherine Dauvergne: Thank you very much.

The Chair: Mr. Gupta, you have up to eight minutes, sir.

Dr. Bal Gupta (Chair, Air India 182 Victims Families Association): Good morning. I thank the committee for giving us an opportunity to testify from the perspective of victims impacted directly by the most heinous violent crime in Canadian history, namely, the terrorist bombing of Air India Flight 182 on June 23, 1985.

The Air India 182 Victims Families Association strongly supports Bill C-425, an act to amend the Citizenship Act. The bill proposes to reduce the residence requirement for Canadian citizenship by one year for permanent residents who serve in the Canadian Forces and to trigger the renunciation of Canadian citizenship for those who engage in acts of war against the Canadian Forces.

These provisions, if enacted into law, will on the one hand encourage, acknowledge, and support those who put themselves on the front lines for Canada to protect our freedom and democracy, and on the other hand, act as a deterrent against those Canadians who violently demonstrate their opposition to our freedom and democracy by engaging in acts of war against the Canadian Forces.

I speak to you not as an expert in legal or constitutional matters but as a victim of the worst violent terrorist crime in Canada. In the Air India 182 tragedy, I lost my wife, Ramwati Gupta, to whom I was married for over 20 years. In a tragic moment, I was left as a single parent with two young sons who were 12 and 18 years of age at the time.

This tragedy was the result of a terrorist conspiracy conceived and executed on Canadian soil by criminals who brought their problems from India into Canada. The terrorist bombing killed 329 innocent persons. Most victims were from Canada, starting in Newfoundland and going to British Columbia. Only P.E.I. was not touched by this tragedy.

They came from almost all religious faiths and included atheists, Buddhists, Christians, Hindus, Jains, Muslims, Sikhs, and Zoroastrians. Eighty-six victims were children. Twenty-nine families were completely wiped out, including the husband, the wife, and all their children. Thirty-two persons were left alone; the spouse and children were gone. Seven parents in their fifties or late forties lost all their children. Two children lost both parents. The terrorist criminals took away our Canadian democratic rights to life and liberty, and peace and prosperity. Sadly, the real culprits are still roaming free in Canada and elsewhere.

As families of the victims of the bombing of Air India 182, we have suffered and continue to suffer incalculable grief and pain, which we do not wish to befall any other Canadian in any future terrorist activities. Part of our mission is to speak out on crime, violence, and terrorism to ensure that Canada is safer and more secure for its citizens.

Bill C-425 has two provisions. The first provision in the bill proposes to reduce the residence requirement for Canadian citizenship by one year for permanent residents who serve in the Canadian Forces.

Currently, the Canadian Forces are reportedly on duty in Afghanistan, Jerusalem, Egypt, and Mali, and in the Indian Ocean off the Somali coast. Canadian Forces are not an occupying force. They are either working as peacekeepers or fighting on the front lines against terrorism and other violent crimes, such as piracy on the seas, which fuel terrorism and lawlessness. These overseas criminals and terrorists have no hesitation in exporting terrorism into Canada or luring and embracing misguided Canadians in their causes.

Thus, our soldiers on the front lines are defending our freedom, our democracy, and our democratic values and rights. This first provision in Bill C-425 acknowledges, encourages, and supports the loyalty of permanent citizens who have joined the Canadian Armed Forces and have put themselves on the front lines for Canada.

● (0900)

The second provision in the bill strips Canadian citizenship from those Canadians with dual citizenship who engage in acts of war against the Canadian Forces. By waging war against the Canadian Forces, such persons clearly demonstrate that they have no loyalty whatsoever to Canada and attach no value to the Canadian democratic system. Thus, they do not deserve Canadian citizenship, which they are using as a matter of convenience to further their criminal and terrorist activities.

A Canadian engaging in acts of war against the Canadian Forces is not a far-fetched scenario. Today, terrorism is an international phenomenon and terrorists, in most cases, may have worldwide connections. Prosecuted and proven cases, such as Khawaja in Canada and the Millennium Bomber in the U.S.A., are well-known examples of Canadians connected to terrorist activities outside Canada. Also, in the last few years there have been many reports of highly indoctrinated persons from different parts of Canada leaving our soil—sometimes disappearing without trace—to join terrorist training camps or terrorist activities in other countries. Some of these individuals have reportedly disappeared and are presumed killed abroad, leaving their Canadian families to grieve in silence.

During the last four weeks I have seen several news reports, and I'll enumerate them. There were two Canadians involved in a terrorist attack on a gas plant in Algeria, and they were alleged to be the ringleaders in some reports. There was a Canadian sentenced to two years in prison for terrorist conspiracy in Mauritania, as well as a Canadian with dual citizenship involved in a deadly bus bombing in Bulgaria last summer. CSIS is aware of dozens of Canadians, many in their early twenties, who have traveled or attempted to travel overseas to engage in terrorism-related activities in recent years. A Canadian—these are the news items—lost a bid to lead Syria's rebels. One of Syria's rebel groups, namely al-Nusra Front, formally pledged allegiance to al-Qaeda leader al-Zawahiri. There were two, actually, last week; one I saw only last night.

Most probably there are many more unreported cases of Canadians involved in terrorist activities around the world. Given appropriate right—or wrong—circumstances, such individuals may engage in acts of war against Canadian Armed Forces on duty abroad and may pose a potentially mortal threat and danger to our soldiers.

The second provision of Bill C-425 provides a deterrent against such a possibility. Also, note this, such Canadians will have no hesitation in importing their terrorist activities into Canada to further their perceived just cause, similar to what led to the terrorist bombing of Air India 182. It is also worth noting that some other countries, such as Australia and the United States, and I heard the U. K., already have similar policies in place. This bill will bring us in line with them.

In summary, we, with the first-hand experience of the aftermath of the most heinous act of terrorism in Canadian history, the terrorist bombing of Air India 182, ask all members of Parliament to support Bill C-425. We sincerely believe that Bill C-425 will be a step, however small, in keeping Canada free from terrorism, so that no Canadian will suffer what we have suffered, and it deserves support from all members of Parliament.

Thank you.

● (0905)

The Chair: Thank you, Mr. Gupta. You say you're not an expert, but unfortunately, you are. On behalf of the committee I thank you for your presentation.

Our final speaker for the first hour is Mr. Lorne Waldman, who is the president of the Canadian Association of Refugee Lawyers. Welcome again to the committee, Mr. Waldman.

Mr. Lorne Waldman (President, Canadian Association of Refugee Lawyers): Thank you very much.

Mr. Gupta, before I start, I want to say that I've certainly met with some of the members of your organization and I've heard their pain and I certainly share it. It was a terrible tragedy and I'm sending my sympathy. I know that nothing can bring back your family. I deal in my office every day with people who are victims of torture and terrorism. I understand what you're going through.

Having said that, it's my respectful view that good public policy has to consider other factors beyond victims' rights, and when we look at this bill, I just don't think it's good public policy. Perhaps I can explain to you with all respect why I differ with your viewpoint.

First, as my previous colleague noted, it's difficult to comment about the bill without the specifics, but I'll do my best based upon the legislation and also based upon Minister Kenney's comments. I was able to read his public comments on the planned amendments with respect to the legislation. Based upon those comments, I'll express my concern.

The bill would deprive Canadian citizenship of persons who had a second nationality. The first problem, and I think it was alluded to by the first speaker, is that it's extremely difficult to determine when people have a second nationality. It's a task that we as refugee lawyers are confronted with all the time. People claim refugee status. They may be a citizen of some country, but they may possibly have a claim to a second country and if they do, they're not entitled to refugee status in Canada. They must seek the protection of their second country of nationality.

Anyone who deals with refugee law knows that it is often an extremely difficult task to determine, in any set circumstances, whether or not a person has dual nationality. You have to interpret foreign law and interpret how that law will be applied without having the benefit of approaching the foreign government, especially because some of these governments are hostile. So the first difficulty that this bill presents is that it is directed against people who have dual nationality and it will very often be extremely difficult to determine that.

The second related problem is that there are a lot of Canadians who may be dual nationals without even knowing it. They become victims of this legislation without even having the knowledge. The law in India recently changed. I'm not sure if there's a possibility of dual nationality anymore. It used to be that there was not, but I believe it's possible. In some countries, for example, if I'm not mistaken, Iran, if one of your parents is Iranian, you are Iranian and you have no option of renouncing your citizenship.

There are people who may be born in Canada who will have no idea that they're dual nationals and who could be subject to this legislation based upon interpretations of a citizenship act by foreign citizenship law in Canada by Canadian officials. It puts Canadians in a difficult position of not knowing whether they will or will not be subject to a piece of legislation because it will depend on the interpretation of the citizenship laws.

The other thing that happens is that obviously the law will be applied at the specific time when the person allegedly commits an offence. The person may now not be a citizen, but the citizenship law

of the country can change. There's talk now about changing Canadian citizenship laws. So the laws may change so that persons who do not have a claim may have a claim. We create a situation where there's this huge uncertainty as to who will be affected by the law, first because we're applying foreign law to determine dual nationality, and second because the foreign law can change and we have no control over that. That's the first problem.

The second, even more serious problem is the question of how the law will be applied. If my understanding of the minister's comments is correct, it would apply to Canadian citizens who are convicted outside of Canada of certain offences that are equivalent to offences in Canada. I can just give you three examples of why this issue is problematic, because we're relying on foreign justice systems to determine whether or not Canadians should have their citizenship rescinded.

Take the case that I'm personally involved in, the case of Bashir Makhtal. He's a Canadian citizen. He fled Ethiopia at a very young age and wanted to give up his Ethiopian citizenship. He wanted nothing to do with it. He was accepted as a refugee. He came to Canada.

● (0910)

He was back in Kenya and was kidnapped by the Ethiopians and put in a show trial. Minister Baird has been advocating for his release with the Ethiopian authorities for three years. He was convicted of treason, which presumably would be one of the offences. Based upon the proposed law, Bashir Makhtal, whose release John Baird has actively tried to secure, would face deemed renunciation of his citizenship, because he was convicted of treason in a false show trial in Ethiopia. So relying on foreign governments to determine whether or not people will lose their citizenship is usually problematic.

I could cite other cases. There's the case of Saeed Malekpour, a Canadian citizen who was convicted in Iran of defaming Islam, which could conceivably be considered treason. Of course we know that Prime Minister Harper raised the case of Huseyinca Celil in China. He was convicted of the equivalent of treason and would have his Canadian citizenship deemed to be renounced based upon this legislation, based upon a trial that all international observers said was unfair.

So how are we going to apply this legislation if we rely on foreign jurisdictions to hold fair trials with regard to the types of convictions that often come from show trials inflicted on people in countries that don't have a rule of law?

The final concern with respect to this is about the process. I was recently consulted by someone who was interested in seeing what the process was for renouncing citizenship, so I've had the opportunity to look at the legislation. The long and the short of it is that there's no due process at all. A person makes an application for renunciation. It's sent to the citizenship office. It's reviewed by an official and then put to a judge who reviews it, and if there are no concerns, approves it.

In the case of a person who would have his citizenship deemed to be renounced, based upon what the process is now, that person would not be entitled to any due process. In other words, he or she would be deemed to have applied for renunciation once he or she was convicted of the offence. That decision would go to a Citizenship official, who would review it to determine whether the requirements had been met, and then to a judge who would not be required to conduct a hearing.

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

Mr. Lorne Waldman: I'm just tying up.

The Chair: Thank you, sir.

Mr. Lorne Waldman: There are huge problems with due process in this legislation as it's currently envisioned. You cannot deprive someone of citizenship without giving them a right to be heard and a right to make submissions, especially given the other concerns I've expressed.

Thank you for your time and consideration.

The Chair: Thank you, sir, for your usual good presentation.

We now have questions from the committee.

Mr. Menegakis.

Mr. Costas Menegakis (Richmond Hill, CPC): Thank you, Mr. Chair. I want to thank our witnesses for being here today.

Dr. Dauvergne and Mr. Waldman, welcome back.

Mr. Gupta, thank you so much for sharing your very personal story with us. I was very interested in hearing the comments and views of someone who's been deeply affected by a very heinous act of terror.

We know that Canadian citizens can have their citizenship taken away if they have obtained it fraudulently. Almost all of our peer countries have the ability to strip someone of citizenship for reasons of treason, terrorism, and other things. Yet critics of this bill claim that Canadian citizenship is an inalienable right. How do you respond to that? More specifically, do you believe that citizenship should never be taken away regardless of how violent and disloyal one's actions are?

Perhaps I can start with you, Mr. Gupta.

Dr. Bal Gupta: Maybe I'm too opinionated. I think Canadian citizenship is being used as a matter of convenience by many people, and we have to be careful. Of course it should not be stripped unless it is really necessary. At the same time, you don't want to make Canada a penal colony. By that I mean the easiest way to get into Canada is to commit a heinous crime somewhere else and to come in as a refugee. You are sure to never be removed because there will be danger of torture where you committed the crime.

In my view, anybody who commits a crime, particularly against the Canadian Forces, has no loyalty to Canada. As I said in my presentation, he does not value Canadian freedoms and rights, and he or she—pardon me for using the word “he”—doesn't deserve Canadian citizenship. It's not an inalienable right.

●(0915)

Mr. Costas Menegakis: Dr. Dauvergne, would you care to comment?

Dr. Catherine Dauvergne: Absolutely. There's an enormous difference between the provisions that a country puts in place in terms of granting individual citizenship in the first place and the provisions that a country puts in place about stripping citizenship rights. It is perfectly within the purview of the government to make it more difficult to naturalize, and it's something that may be behind this bill that people may be interested in considering.

It's not accurate that most comparator nations have similar provisions. The United States doesn't have a provision that allows for stripping citizenship under a broad terrorism provision. Really, the country that is most closely paralleled is the United Kingdom, which is why I brought some facts about the United Kingdom to the table. They've had enormous difficulty with this, and they simply haven't been able to strip citizenship from the people they most wanted to because of the way the citizenship laws of other countries operate. None of those individuals have actually faced a trial. I think it's enormously important that Canada persist in trying to use all measures that it can to bring people to justice who are involved in heinous and violent activities, and maintaining a link of citizenship may prove one measure of doing that.

Thank you.

Mr. Costas Menegakis: Thank you.

Mr. Waldman, I was somewhat struck by a couple of your comments. In one of them you said that many Canadians may have dual nationality without even knowing they'll become victims of this legislation. You are aware, sir, that we are talking about people who perpetrate crimes and crimes of terror against Canada here. Certainly you're not suggesting that terrorists are victims.

Would you agree that when an individual chooses to commit an act of terrorism or treason, they have effectively rejected the Canadian values that are part and parcel of Canadian citizenship that they swore to uphold? In other words, they have renounced their citizenship.

Mr. Lorne Waldman: With respect, obviously, I don't know what the legislation says but my understanding is that it will apply to foreign convictions. If it does, the determination of whether or not a person has committed a crime is left to foreign governments. With some foreign governments, we trust their legal systems, but as I pointed out to you, Mr. Celil was convicted of treason in China. If the legislation strips people of citizenship based upon their convictions for certain types of offences committed abroad, and the minister mentioned treason as being one, then people will be deprived of citizenship and will be victims, because they were victims when they were convicted. As well, they're going to be victims again because they're then going to have their citizenship stripped based upon a fraudulent conviction abroad.

That's the concern that I'm expressing, sir.

Mr. Costas Menegakis: Mr. Waldman, you also mentioned Mr. Saeed Malekpour. I'm keenly aware of the Malekpour case. Mr. Malekpour did not perpetrate any crimes anywhere, plus, I might add, he's not a Canadian citizen. He is a permanent resident in my riding of Richmond Hill, and I'm not sure how bringing him up as an example is pertinent to the discussion here today.

We have heard from witnesses that "act of war" is not clearly defined in domestic or international law. When immigration minister Jason Kenney appeared before our committee, he recommended that the committee amend the bill to include acts that are more commonly defined in law. He suggested terrorism, high treason, and those who serve as members of the country's armed forces who are engaged in armed conflict with Canada, be added as grounds of deemed renunciation of one's citizenship.

Dr. Dauvergne, would you agree with that? Why, or why not?

Dr. Catherine Dauvergne: I certainly agree that "act of war" is not well defined in international or domestic law. I think it's inappropriate to deal with any of these matters as a question of deemed renunciation. The notion of a deemed application for renunciation is the thinnest of legal fictions, which is designed to narrow, to the greatest possible extent, the amount of due process that is involved. This is a much more streamlined process in our current Citizenship Act than even revocation proceedings. Revocation proceedings take place when there is a suspicion that an individual has obtained citizenship fraudulently, and there is more process related to that. So the notion of adding any number of potential crimes vaguely, moderately, or well defined to a deemed application for a renunciation process seems highly problematic.

● (0920)

The Chair: Thank you, Professor Dauvergne.

Ms. Sims.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Thank you very much, and I want to thank all three presenters.

Mr. Gupta, the tragedy of Air India haunts Canadians today because it is one of the greatest acts of terrorism to be committed against Canadians. I have many constituents in my riding whom I'm in close contact with on a regular basis. I know that the pain you feel today has not been mitigated with time. I appreciate your perspective.

I have a number of questions. My first question is for Mr. Waldman. In your opinion, Mr. Waldman, would this legislation ensure due process under the law? Let me ask a series of questions and then you can answer them together, because we have such a short time that we like to make maximum use of it.

The Chair: Don't count on getting them all answered.

I'd do it one at a time if I were you, but it's up to you.

Ms. Jinny Jogindera Sims: Okay.

Second, which court would hear the case, and does the legislation make clear the evidentiary burden to establish that a person has engaged in an act of war against the Canadian Armed Forces?

Mr. Lorne Waldman: As I said in my opening comments, there's a huge problem with the whole procedural aspect of this bill. There's

no provision for any procedure, so you have to go back to the Citizenship Act, which describes renunciation. The Citizenship Act doesn't really give you an indication. You make an application for renunciation and then it's presented to a citizenship judge. First, an officer reviews it and determines whether the person qualifies for renunciation. It then is passed over to a citizenship judge. There's no requirement for a hearing and the citizenship judge makes a final determination with respect to renunciation.

This bill provides for no due process and would have huge charter problems if it were implemented in this form. If you're trying to rescind someone's citizenship, section 6 and section 7 would certainly be engaged. Without making clear what the process is in the legislation, there would be serious suspicions.

The legislation doesn't provide for a court hearing at all. It provides for a review by a citizenship judge. The judge has the right to hold the hearing, but one would wonder, depending on where the person is, whether a hearing would be practical. It doesn't provide any indication of what the evidentiary burden would be.

As I said, there are huge evidentiary problems here. Number one, how do you determine whether a person has a second citizenship? Number two, how do you decide whether the conviction, especially if it's a foreign conviction, is valid and should be respected by Canadian law? These are very complex factual or legal issues and this bill provides for no due process with respect to any of these concerns.

Ms. Jinny Jogindera Sims: My next question is for Professor Dauvergne. Is it your understanding that the bill in its current form would require a person to be convicted in a civil or military court prior to the renunciation of his or her citizenship? Is there a danger in using the term "engaged in" and, if so, what is the danger? Finally, what would you suggest might be a more suitable term?

Dr. Catherine Dauvergne: It's very difficult to answer your question because we don't have a text of the proposed bill that would allow us to understand what the specifics will be. These are questions of enormous importance that need to find a place to be debated and democratically aired. There is a potential that you will slip to a standard of reasonable grounds for suspicion such as we find in our immigration legislation, or a standard of considering reasonable grounds such as we find in the exclusions from the refugee process. The currently worded bill doesn't give us much indication of the types of amendments that the minister has come forward to ask. The current bill would also risk stripping people who have only one citizenship of that citizenship, and that is a blatant breach of a number of provisions of international law. I urge the committee to look at those changes. As I'm opposed to stripping dual nationals of citizenship on any of these bases, I'm reluctant to suggest better options to assist in doing that.

● (0925)

Ms. Jinny Jogindera Sims: Okay, thank you very much.

As you said, a lot of it goes back to the minister to consider these things. Even there, what do you know about appeal and due process issues once the minister makes his decision? Do you believe there could be such a provision or is there such a provision currently?

Dr. Catherine Dauvergne: The protections that exist in the current Citizenship Act with respect to renunciation proceedings are very slim. The protections with regard to revocation proceedings are somewhat more robust.

I think the experience of the United Kingdom is instructive in that there has been almost no or the thinnest of due process protections under the 2006 revision to the legislation, and the courts have held... and this is in a jurisdiction that is quite similar to Canada's.

There have been enormous problems for the U.K. government in trying to effect these citizenship stripping proceedings, for lack of a better word, because it's not really renunciation or revocation. A recent estimate is that it has cost about \$3.5 million for each level of appeal. So in making those attempts to remove a number of people from the processes of justice of a western country, the U.K. has spent in excess of \$40 million, and the costs continue to rise.

Ms. Jinny Jogindera Sims: Thank you very much.

The Chair: Thank you.

Mr. Pacetti, welcome, and you have up to five minutes, sir.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): Thank you, Mr. Chair. I'm not sure if I'll be able to use all that time, but I'll try.

I want to thank the committee for allowing me to be on this committee. I used to be on this committee a long time ago. I want to thank the witnesses for coming forward.

I get the feeling that everybody's saying the same thing, but we can't seem to... I might need help on this. The witnesses have already established their positions and are not likely to change them. One of the things that struck me was, I think, Ms. Dauvergne, you said that no citizen has ever been stripped of this in other countries, specifically the U.K.

Dr. Gupta, you brought the example of the Air India tragedy, and how nobody's been prosecuted. So we have people who have never been criminally charged or proven to be criminally attached to the tragedy, yet we're going to be able to strip these people of their citizenship?

Dr. Bal Gupta: I don't think those guys come under this category. This is for acts of war against the Canadian Forces, but personally I wouldn't mind if they were stripped of Canadian citizenship, if they are proven guilty.

Mr. Massimo Pacetti: But they haven't been.

Dr. Bal Gupta: That's what I'm saying, if they are proven guilty. Again, here we are talking... This is the typical argument I'm hearing. We are not hearing about the life lost by a soldier at the front. We are trying to protect the individual who caused it.

• (0930)

Mr. Massimo Pacetti: In what sense? How are we not protecting

Dr. Bal Gupta: He is fighting against the Canadian Forces. He has no value to Canadian democracy. Does he deserve Canadian citizenship if he's proven to have been fighting... I'm not talking about Celil in China. That is treason against China, not treason against Canada.

Mr. Massimo Pacetti: Do you have any examples of—

Dr. Bal Gupta: No, I don't. As I said, I'm not a legal—

Mr. Massimo Pacetti: Because I don't think anybody in this room would be for somebody like that, somebody who would be against a Canadian soldier—

Dr. Bal Gupta: No, I'm not saying they are, but most of the time we hear about protecting the individuals who may be fighting against the Canadian Forces.

Mr. Massimo Pacetti: I think we're all on the same side here. I think everybody is in agreement with what you're saying. I think if somebody were to do something against a Canadian soldier, I don't see how he would have too many people on his side and the first thing we would challenge would be his or her citizenship.

Dr. Bal Gupta: Because he does not believe in Canadian values.

Mr. Massimo Pacetti: No, I'm simply saying I don't think that would be his first problem. I think he or she would have other problems.

Dr. Bal Gupta: Don't count on that. I'm sorry to say that. We have seen a particular case. We have spent more money in defending that particular individual, Mr. Khadr. If the process is faulty, then make the process better. I have no problem with that; have due process. But these arguments of torture, somebody should look at the... I hear it. Somebody cannot be deported. That's related to it, because he will be tortured. But somebody should look at it. People have claimed it and they have been deported. Have they really been tortured in their country to which they were deported?

We are spending more time protecting those who do not value the Canadian system, but they use the Canadian system to perpetrate their values against democracy, freely in Canada.

Mr. Massimo Pacetti: How many cases like this do we have where we're talking about Canadian citizens? You are exactly right. How much money do we have to spend to go after these people?

The example, as Madam Dauvergne has said.... How much money did the U.K. just spend? Was it \$40 million?

Dr. Catherine Dauvergne: That is a very rough estimate, aggregating from newspaper reports, but it's going to be something in that order of magnitude.

Mr. Massimo Pacetti: That's only in the last four or five years, I think you said.

Dr. Catherine Dauvergne: It is since 2006. To clarify, the U.K. has succeeded in revoking citizenship, but in all of those cases the end result of that process is to keep people out of the U.K. or to deport them, not to bring them to justice.

Again, to come back to your first point, I think a concern that's shared by everybody in this room is that people who perpetrate heinous acts should be brought to justice and prosecuted to the full extent of the law, not sent away to some quiet corner of the world where they can plot against you.

Mr. Massimo Pacetti: But my feeling would be that—

The Chair: Mr. Pacetti, I'm sorry, we are over time.

Ms. James.

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

I'm going to direct a couple questions first to Mr. Gupta, then to the other witnesses as well.

First I would like to make a small point for clarification. Mr. Pacetti said Professor Dauvergne had indicated there had been no one stripped of their citizenship, but actually you said a number have not been successful. I wanted to clarify that for the record.

First of all, thank you for being here, Mr. Gupta. We really appreciate your testimony today.

You talked a little bit about Canadian citizens with dual citizenship who have been involved in bombings in Bulgaria, and of course, Algeria. Your situation goes back to the Air India bombing, but only this past weekend it has come to light there may be a fourth Canadian involved in the acts that happened over in Algeria. I think back a number of years, and I don't recall radicalization in Canada being a problem. Now, in the last 10 years with training camps that were discovered in Ontario, we have had previous witnesses saying there are a number of investigations going on right across this country into various cells. I want to get your opinion on whether you think radicalization of Canadian citizens is a growing problem here in Canada.

• (0935)

Dr. Bal Gupta: It is. It is not a new phenomena. Even the Air India tragedy was a result of radicals who brought their problems from somewhere outside Canada into Canada.

Let me put it this way, if Mr. Talwinder Singh Parmar had been extradited from Germany into India way back when, probably the Air India tragedy would not have happened.

Ms. Roxanne James: Do you think any of this ties into the economic or social issues of those being radicalized here in Canada?

Dr. Bal Gupta: There may be some. I think probably the sociologists would tell you that. I'm not saying there are no issues; there definitely are issues.

Ms. Roxanne James: Thank you.

In your testimony you talked about things that are Canadian values, what we as Canadians hold dear, what we treasure in our hearts. You mentioned life, liberty, peace, and prosperity. I can add freedom and democracy to that long list as well.

Do you think anyone who sets out to commit an act of terrorism against Canadians, on Canadian soil or abroad, against the interests of Canada as a whole, values those things the rest of us do here in Canada?

Dr. Bal Gupta: No, not at all. Not only that, they think this is their birthright by being in Canada and the charter of rights protects them to do these things against the charter of rights.

Ms. Roxanne James: Thank you.

I'm going to direct a couple of questions to Mr. Waldman as well.

Thank you for being here through the video conference. I'm going back to something you said that my colleague Mr. Menegakis spoke to you about. I'm going to quote you, as I wrote it down. You actually said that lots of Canadians who are dual nationals will fall "victims of this legislation". Are you saying that we have a lot of Canadians here who are going to be would-be terrorists? Is that what you're saying by making that statement? You said a lot of Canadians who are dual nationals will fall victim to this legislation. I mean we're talking about radicalization. I think we have a much bigger problem if that's the statement and you stand behind it.

Mr. Lorne Waldman: If you want to talk about radicalization, I think it is a big problem and it's one that we'd be far better spending the money that we spent on this process—

Ms. Roxanne James: Mr. Waldman, I'm sorry. I guess the question is whether you believe there are lots of Canadians who will fall victim to this legislation. By falling victim to this legislation they'd have to be involved in an act of terrorism, convicted by a court of law after due process with endless appeals. Do you actually believe there are lots of Canadians who will fall victim to this legislation?

Mr. Lorne Waldman: I believe that there are Canadians who will fall victim who are completely innocent, absolutely. I give you the example of Bashir Makhtal and Mr. Celil. They're both people who were convicted, and based upon my understanding of the minister's intention of this legislation to allow foreign convictions to apply, we'll be beholden to foreign governments that don't provide due process to determine whether or not Canadians lose their citizenship. Canadians—

Ms. Roxanne James: Mr. Waldman, obviously we're at different ends of the spectrum. When I think of victims of crime and victims of terrorism, I actually look to the witness who is here, Mr. Gupta, and the people of the Air India bombing. Yet you consistently talk about convicted terrorists as being the victims, or that people will fall victim to this legislation.

I was listening to the testimony and some of your answers and your questions. You seem to imply that you think that people who do not know that they are dual citizens would actually not commit an act of terrorism if they knew that they had dual citizenship and could be stripped of their Canadian status. I'm going to say that if that's what you really think, then obviously this legislation is going to work. If you don't know that you are a dual citizen and you're going to commit an act of terrorism, knowing that you're going to be able to stay in Canada and reap the benefits of everything we offer, but if you think you could be stripped of that citizenship, you may not do the same act. Is that what you actually said?

Mr. Lorne Waldman: No, ma'am. What I was trying to point out to you in my comments was the difficulty of applying legislation that talks about dual nationality. As anyone who understands the law and applies this law all the time knows, determining whether or not a person is a citizen of another country is extremely complicated. It implies interpreting foreign law because—

Ms. Roxanne James: That's right, it can be—

Mr. Lorne Waldman: —many people—

Ms. Roxanne James: It can be difficult. I do it all the time.

The Chair: Ms. James.

Order, Mr. Waldman.

You have to let him finish. If you ask a question, you have to let him finish. You may not like the answer, but you have to let him finish.

• (0940)

Ms. Roxanne James: Thank you.

The Chair: Go ahead, Mr. Waldman.

Mr. Lorne Waldman: The issue with respect to the dual nationality is simply twofold. One is that it's extremely difficult to determine whether or not a person has dual nationality. Many people in Canada may have dual nationality without even knowing it, and I can cite numerous examples based upon foreign laws. When you couple that concern with the complete lack of any due process contemplated by this legislation, you create huge problems in terms of due process and fairness for people who might be stripped of this. When you add—

Ms. Roxanne James: Thank you.

Mr. Lorne Waldman: —to that the third concern.... I'm just finishing my comment, ma'am

Ms. Roxanne James: I understand your comment. Thank you, Mr. Waldman.

The Chair: The time has expired.

Madame Groguhé.

[Translation]

Mrs. Sadia Groguhé (Saint-Lambert, NDP): Thank you, Mr. Chair.

[English]

The Chair: Just for the future, this has happened before. People may not like the answers that people give, but you asked the question and you have to let him finish. I'm directing that to you, Ms. James, but quite frankly, you're not the only one who does it.

Yes?

Ms. Roxanne James: I did ask a question. I heard the answer and he was providing more to the answer than was necessary for me to get my answer to my question. Although I do—

The Chair: I've made my point and I'm going to stick to it, okay?

Ms. Roxanne James: Thank you. I do respect you as the chair, but I would like to just stress that as a member of Parliament, I can ask a question and get that specific answer. I don't need to hear everything else around it. Thank you.

The Chair: You also have an obligation to be courteous to witnesses.

Madame Groguhé.

[Translation]

Mrs. Sadia Groguhé: Thank you, Mr. Chair.

My thanks to our witnesses for joining us this morning.

My question goes to Ms. Dauvergne.

In your remarks, you pointed out the limited scope of this bill in terms of pursuing criminals and the ability to fight effectively against terrorism. In fact, there is an impression that it creates a legal void in terms of pursuing those criminals effectively. You also mentioned the arbitrary nature of this bill. I would like to go back to that as well.

Do you feel that this measure is discriminatory in that it will apply to people with dual nationality?

I would also like Mr. Waldman to answer that question, please.

[English]

Dr. Catherine Dauvergne: The issue of arbitrariness is very important to our criminal law. The way in which stripping people of their citizenship is arbitrary is that it is not tied to the severity of the crime. It is not tied to the degree of condemnation. It is not tied to anything about the crime.

It is tied to the accident of whether or not an individual has dual citizenship, and that will mean, for example, that it will be a type of punishment that can apply to people who share citizenship with Iran, but it will never apply to people who share citizenship with Egypt. It will mean that it is a punishment that, in advance, we would not know in many cases whether or not somebody would share a citizenship with Syria or possibly the United States. It is discriminatory in that sense, yes.

[Translation]

Mrs. Sadia Groguhé: Okay.

Mr. Waldman, could you give a quick answer, please?

[English]

Mr. Lorne Waldman: I don't think I have anything to add to what my friend said. In my view, the arbitrariness is based upon the facts that were pointed out. It will be difficult for people in advance to anticipate whether they fall within it or not. It will be difficult for the courts to determine actually whether they fall into it or not. The process is also arbitrary.

Someone asked about the right of appeal. The difficulty we have is that there is no set right of appeal, so presumably the only right would be a right of judicial review at the end of the determination by the citizenship judge, without any right to a hearing. A process that has such serious consequences, which doesn't provide for due process and doesn't provide adequate review mechanisms, is hugely problematic and could be considered arbitrary on those points as well.

[Translation]

Mrs. Sadia Groguhé: Very good.

I would like to hear your comments about statelessness. Under this bill, an affected individual would see his second nationality taken away.

In your opinion, are we not running the risk of creating cases of statelessness and thereby contravening the 1951 Convention relating to the status of refugees as well as the 1961 Convention on the reduction of statelessness?

• (0945)

[English]

Dr. Catherine Dauvergne: As the legislation is currently drafted, it does not attend to the question of dual nationality. I believe that both Mr. Waldman and I have been proceeding on the basis that an amendment will be made because that amendment was requested by the minister to apply this only to dual citizens. It would be very difficult in international law.... It would be a direct contravention of international law to increase the amount of statelessness in the world, absolutely.

The Chair: Our time has expired.

I want to thank the three witnesses for appearing. You all gave outstanding presentations and have been very helpful to the committee, and on behalf of the committee, I thank you.

We will suspend.

• (0945)

(Pause)

• (0950)

The Chair: Okay. Yes, Mr. Dykstra.

Mr. Rick Dykstra (St. Catharines, CPC): I'm not going to take up too much time, but I do feel it's important to point out a couple of things. One is that the government did submit last night to all members of the committee three specific amendments. While they weren't brought up in the previous panel and I understand why—the panellists didn't have a copy of the amendments—they do indeed address the issues that have been raised by the committee. They are not necessarily being agreed to by the opposition, but they do address the specific issues related to statelessness. All three of them were also given to Ms. Dauvergne just so that she had them. I think her comments were specific to this issue and she commented a number of times about the minister's commitment to amendments. Those have been submitted ahead of time and I know the clerk has indicated they're not official until the close of time, in terms of when they are to be submitted prior to clause-by-clause consideration, but they are here at the request of the opposition and also obviously to alleviate some of the concerns that have been raised.

The second point, and I'll be very quick, Mr. Chair, is that we have this ongoing issue with witnesses who do tend to go on a little bit longer than needed in terms of responding to a question. We as individuals, as members of Parliament, only have five or seven minutes to be able to ask questions. It would be helpful from time to time if you could remind the witnesses that we only have a very short period of time. It does cause us to interrupt the witness when they tend to go on a little bit because we want to get our questions on the table.

I would seek your indulgence to remind folks of the need to be short and to the point, because we do not have a lot of time to ask questions.

Ms. Jinny Jogindera Sims: I have a point of order, Mr. Chair. It's very brief.

I know we got the amendments last night and we've treated them as confidential and embargoed. Am I to presume now that we can...? Okay. Thank you.

The Chair: We will proceed. We have three witnesses before us. Two have been here before. We have Professor Audrey Macklin, who is with the faculty of law at the University of Toronto. We have Martin Collacott, who is with the Centre for Immigration Policy Reform.

Both of you have been here before, as I have said. I'm wondering whether I have been here too long. I'm starting to wonder whether I should be calling people by their first names.

We also have the representatives from the Canadian Coalition Against Terror: Sheryl Saperia, who is the adviser and the director of policy for Canada, Foundation for Defense of Democracies, and Maureen Basnicki.

Welcome to the four of you.

We will start with Professor Macklin. Each group has up to eight minutes.

Prof. Audrey Macklin (Professor and Chair in Human Rights, Faculty of Law, University of Toronto, As an Individual): Merci. Thank you for the opportunity to address the committee.

I thought I'd begin with a reminder about Canadian history. Although it is the case that in the 20th century stripping of citizenship and deportation or exile of citizens is uniquely associated with the Nazis and the Soviet Union, Canada has its own experience doing that. In 1946, after the Second World War, the Canadian government stripped the citizenship of 10,000 Canadian citizens and "repatriated" them to Japan, a country that many of them had never been to. At that time, John Diefenbaker, who was in opposition, referred to this initiative as the very antithesis of the principles of democracy.

The proposal to strip citizenship of Canadian citizens is presented through the language of deemed renunciation. But, of course, as predecessors have pointed out, that is a legal fiction. In effect what is being done is removing or denying people certain rights guaranteed under the Canadian Charter of Rights and Freedoms. Those include the right to life, liberty, and security of the person, under section 7; the right to be free of cruel and inhuman treatment or punishment; and section 15 equality rights.

To use the language of deemed renunciation, then, is to create the illusion that people have somehow voluntarily, through their own actions, waived their constitutional rights. In fact, the Supreme Court of Canada has enunciated a fairly strict test for proving that somebody has waived their constitutional rights. It must be voluntary, and it must be done with full knowledge of the consequences of that waiver. I think it is very unlikely that one could look at the provisions of this bill and construe deemed renunciation as a voluntary waiver of constitutional rights.

Reference has been made as well to the practices of the United States. I'm not sure why the view has been expressed that the United States actually strips people of citizenship for so-called unpatriotic acts. That's simply incorrect. In a series of Supreme Court of the United States judgments in the 1950s and 1960s, the Supreme Court of the United States effectively found unconstitutional the U.S. equivalent of this deemed renunciation. It's called in the United States "expatriation". In a famous case called *Trop v. Dulles*, involving someone who was stripped of citizenship for desertion under one of the so-called expatriating acts, the Supreme Court of the United States Chief Justice Warren said:...

...the deprivation of citizenship is not a weapon that the Government may use to express its displeasure at a citizen's conduct, however reprehensible that conduct may be.

In other words, he was saying—

● (0955)

The Chair: Professor Macklin, we all have your slides.

Prof. Audrey Macklin: Great.

Citizenship revocation is a form of punishment, and in the U.S. Supreme Court's view, cannot be used in this weapon-like fashion. It goes on to say, "It is a form of punishment more primitive than torture". Why? Because "the expatriate has lost the right to have rights".

If it's clear then to us that citizen revocation is a form of punishment—that's what it is, you can dress it up as deemed renunciation, but in effect it's punishment—then the question becomes what policy problem is this additional form of punishment solving? When you enact a new law, then presumably there's a problem that you want to solve with it.

Let me take you back for a moment to think about the world many centuries ago, when exile and banishment were routinely used. They were routinely used in situations where the modern state, as we understand it, didn't yet exist, meaning that systems of penal justice had not yet developed. We didn't have systems for putting people on trial, judging them, and most importantly, incarcerating them as a form of punishment. So exile and banishment, at that time in history, were used to get rid of dangerous people who were considered criminals, and who the state couldn't otherwise deal with.

But of course now we have a criminal justice system. We put people on trial, they are judged, and they are sentenced. We have a variety of forms of punishment, but those punishments do not include banishment or exile. Why? Because within our state we can punish people.

So the question then becomes, in what sense is our existing criminal law, and its system of adjudication and punishment, inadequate to the task when talking about the acts that are prohibited under this citizenship revocation law? Why are they inadequate for these crimes and not for other crimes? Why are they inadequate if the person happens to be a dual national, but obviously adequate if the person is not a dual national?

If the person is only a citizen of Canada, or if the person commits heinous acts that don't happen to fall within the purview of this citizenship bill, then we presume our criminal justice system is perfectly able to manage it. So the question becomes why wouldn't it be able to manage it in these circumstances? I submit to you that there's no good answer to that, and that's part of the reason that accounts for the arbitrariness of this law.

What is, then, the goal that is sought to be achieved here? I suggest to you that it is primarily symbolic, to express our outrage and our view of the despicable nature of the acts that some people commit, and the idea that those acts are inconsistent with holding certain values of Canadian citizenship. I suggest to you that the Supreme Court of Canada has found that symbolic benefits of rights violations, simply put, don't cut it. If Parliament can infringe a crucial right simply by offering symbolic and abstract reasons, then judicial review reduces to a contest of "our symbols are better than your symbols". These outcomes aren't compatible with the charter. There is nothing that this law seeks to achieve, in terms of the protection of Canada or the expression of our abhorrence of violent and despicable acts, that is not currently achieved by our criminal justice system.

If it is correct, and I think it's indisputable, that citizenship stripping is a form of punishment for bad acts—the kinds of acts including criminal offences listed in the citizenship bill—then we must also ask the question, who in our system of government is responsible for judging and meting out punishment to people?

When somebody commits a crime—let's say a sexual assault or a murder—do we send it to the Minister of Justice to determine the guilt or innocence of that person, and then, upon the determination of that Minister of Justice, put them in jail? No, we don't do that. We understand that it would be a gross breach of our separation of powers. It's not the job of elected officials to make those judgments of people; it's the job of judges.

What this law does is take a form of criminal punishment and give it to elected politicians to mete out to individuals. That, in turn, is inconsistent with our system of government, the separation of powers, and basic notions of justice.

Thank you.

● (1000)

The Chair: Thank you.

Mr. Collacott.

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

May I begin by congratulating Mr. Devinder Shory for his thoughtful and indeed inspiring bill honouring the Canadian Armed Forces.

I'd like to comment on both aspects of the bill—shortening the wait time for citizenship and also revoking citizenship. I'll begin with the second.

The government, I gather, is considering recommending that the provisions of the bill be extended to include engaging in acts of terrorism and treason. I strongly support such a broadening of the provisions. In fact I recommended something along these lines in a paper published in 2006, when I proposed that applicants for citizenship be required to take an oath swearing that not only were they fully committed to Canadian values and would give their complete allegiance and loyalty to Canada, but their actions in the future would reflect these commitments. I went on to say that anyone who subsequently acts in a manner that is in serious conflict with these commitments, such as involvement in terrorist activities, should have their citizenship revoked.

My particular proposal wasn't acted upon but it caused lots of discussion, and I was happy with that.

As I think the minister pointed out, most democratic countries are much tougher on revocation of citizenship than we are. It doesn't always work. As some of our legal experts have pointed out, in Britain this has been challenged. I think this is still under discussion. I think they have good reason for being tougher.

As well, there is strong public support for revocation of citizenship under certain circumstances. Mr. Shory mentioned to the committee a survey he commissioned last year where he found that eight out of ten people agreed that Canadians found guilty of treason or terrorism should lose their citizenship. A poll taken some years earlier by Ipsos Reid found that three out of four Canadians supported revocation of citizenship of people who obtained it and then went on to commit serious crimes, and that 35% of respondents even supported measures for revoking it in the case of people born in Canada.

I won't comment on the dual citizenship issue right now, but I would like to mention one other possibility that the committee might want to consider, that the government might want to consider, and that I don't believe has been raised so far—the question of revoking the citizenship of Canadians convicted of terrorist offences in other democratic countries. Those are countries that have a good human rights record and a judicial system based on the rule of law.

As Mr. Waldman pointed out in the last session, are we going to revoke citizenship on the basis of what China has done, or some other non-democratic country? I think it's important that we don't use convictions in countries like China to revoke citizenship. I think we do have to make that distinction.

A proposal along these lines was in fact floated several years ago by Peter MacKay when he was leader of the Conservative Party in opposition. He recommended Ottawa revoke the citizenship of Fateh Kamel when the latter returned to resume residence in Canada, after spending several years in a French prison following his conviction on terrorist charges in France. In my view, the terrorist act, if it's a serious act, doesn't have to have been committed against Canada. It could have been committed against another democratic country.

I do agree that there has to be more elaboration of what due process is. This issue has been raised. I think we do have to have a fairly clear-cut due process. I would hope that this is elaborated on, if the bill is going to be agreed upon.

I'd like to comment on the other element of Mr. Shory's bill, that permanent residents who have served at least three years in the Canadian Armed Forces become eligible to apply for citizenship one year earlier than the usual three years of residence. As I think has already been pointed out, this would in fact apply to a fairly small number of people. I think someone from our military said there are only about 60 people in the military who don't have Canadian citizenship. I think it's a good symbolic gesture, but it's a fairly minor one.

I do have some problems I'd like to raise with the current rules for gaining citizenship. In 1977 we had the current Citizenship Act passed, which reduced the waiting period from five to three years. I think that was a mistake. We have one of the shortest wait periods in the world. I think only New Zealand, among western countries, has such a short wait period.

● (1005)

I think the reasons for that.... While it was put in terms of making new Canadians feel part of the social fabric earlier, in fact there's fairly good evidence that it was for political purposes, that the party in office when someone gets citizenship expects the new Canadians to vote for them. There was a similar case in the United States in 1996, in which the Democratic administration rushed through the citizenship of tens of thousands of people prematurely, on the assumption that they would vote for the Democrats. So I think we have to revisit our Citizenship Act in general, particularly concerning the length of time required to get citizenship. There are a number of good reasons for this, unrelated to this particular bill.

One is that many people acquire citizenship and then move abroad again. We experienced this in the case of the Lebanon evacuation in 2005, during the Israeli-Lebanon conflict. Tens of thousands came back to Canada, and I think it cost us about \$70 million. It would have been better if people had to wait a full five years, which is much closer to the international norm. Some countries, such as Germany, Norway, and Switzerland, require eight years, and the U.S. and Britain, I think, five years. I'm not sure why we shortened it to three.

There are also security reasons. CSIS has pointed out that hard-core terrorist groups sometimes try to get one of their members to acquire Canadian citizenship because it's much easier to travel if you have a Canadian passport than if you have a Yemeni passport, for example. We have increasing evidence of Canadians who use their citizenship to travel abroad and become involved in terrorist activities. I think there are security reasons as well for revisiting the Citizenship Act.

Those, Mr. Chairman, are my major comments.

I believe questions have been raised about the arbitrariness of some of the proposals, in that they would apply only to people with dual nationality. I'm like Mr. Kenney. I would prefer to be able to withdraw citizenship from anyone who has committed a serious act of terrorism, particularly against Canada. But I recognize that we have ascribed to the international Convention on the Reduction of Statelessness, and so we have an issue that we have to deal with.

Thank you very much, Mr. Chairman.

The Chair: Thank you, sir.

The final speakers are Ms. Saperia and Ms. Basnicki.

The two of you have up to eight minutes. Thank you for coming.

Ms. Sheryl Saperia (Advisor, Canadian Coalition Against Terror and Director of Policy for Canada, Foundation for Defense of Democracies): Thank you for inviting us here today. I am pleased to testify on this important bill in my capacity as director of policy for Canada with the Foundation for Defense of Democracies and adviser to the Canadian Coalition Against Terror.

Like other democracies, Canadian society has been built on the concept of the social contract. In broad terms, this means that individuals have consented, either explicitly or implicitly, to relinquish some of their freedoms and submit to the authority of the state in exchange for other compelling benefits. A social contract involves expectations and understandings with regard to the relationship between governments and citizens, and to my mind, Bill C-425 is about establishing a 21st century baseline for this relationship.

The bill, and what I understand to be Minister Kenney's amendments, rightly propose a two-sided proposition that the citizenship process ought to be accelerated for individuals who contribute to the safety of Canada by joining the Canadian Armed Forces, while the concept of deemed renunciation of citizenship is introduced for individuals engaged in armed conflict against the Canadian Forces or who commit acts of treason or terrorism.

In principle I'm in favour of this legislation. Nevertheless, I would like to propose several modifications, focused primarily on the issue of terrorism, that I believe will help the bill achieve its intended results and avoid certain political and legal complications.

Engaging in armed conflict against Canadian soldiers and committing treason are appropriately identified as fundamental violations of the social contract. In both these cases, the individual has essentially declared his or her allegiance to forces acting to damage or destroy Canada. Such an individual has disavowed the most basic tenets of the social contract and has done so in a manner so egregious that it cannot be framed as mere dissent. The loss of Canadian citizenship seems a fitting consequence for the crime, provided, of course, as we discussed earlier, that the offender is a citizen of at least one other country.

Committing terrorism in Canada or against a Canadian target can similarly be perceived as a fundamental severance of the ties between the individual and Canadian society, so the offender's subsequent exclusion from that community seems fitting. But what about a terrorist attack that is committed neither in nor against Canada? Why should this offence be treated differently from another violent criminal offence committed abroad? What is the connection between committing this crime and losing Canadian citizenship? I believe that the answer lies in the unique threat that terrorism poses to Canada and the democratic world in our time.

Terrorists pledge their allegiance not to the country issuing the passport but to ideologies and will not hesitate to use terrible violence to pursue their goals. In demonstrating such allegiance, which goes to the very heart of the social contract, they should not be provided with the privileges of Canadian citizenship that could be used to cause death and destruction in Canada or any other country.

This argument is particularly strengthened when Canadians have committed terrorist offences on behalf of, for the benefit of, or in association with any listed entities that have been publicly identified as enemies of, and threats to, Canada.

My next point pertains to terrorist convictions by a foreign court. Minister Kenney has indicated he would put forward an amendment requiring the terrorist act to be an equivalent crime under Canadian law. This is an important safeguard as non-democratic countries in particular have been known to label their domestic political opponents as terrorists. Thus, something like participating in a political protest, while referred to as terrorism by the foreign state, would not be considered terrorism in Canada and would not constitute deemed renunciation.

So let's suppose that a foreign state finds a Canadian citizen guilty of an act of terrorism that would be viewed as an equivalent crime in Canada. What if, though, this foreign state did not possess a legal system that we trusted to ensure due process and a fair trial? It is not clear to me that something as severe as loss of citizenship should be prompted by a criminal conviction from a court whose standards do not meet our own.

Let me suggest a possible solution. Perhaps we should consider only accepting foreign convictions from countries with which we have extradition relationships, because this signifies a certain trust in those states' legal systems. The recently compiled list of designated countries of origin might be another instrument to discern which foreign convictions to recognize for the purpose of deemed renunciation.

On the other hand, being restricted only to these lists might handcuff Canada from acting against terrorists who pose a serious threat to Canada and its allies. Perhaps in the case of countries that do not appear on either of the above-mentioned lists, the government should be required to make its case before a Canadian judge, outlining why the government feels that in a particular instance the foreign court's determination should be accepted as reliable.

Whether the terrorist conviction is foreign or domestic, it is important that the legislation allow for ministerial and/or judicial discretion and that deemed renunciation of citizenship not be automatic.

● (1010)

We want to make sure the loss of citizenship is appropriate in each case and that every relevant factor is taken into account when making such a decision. In that respect, perhaps a finding of civil liability for a terrorist offence under the Justice for Victims of Terrorism Act could be used as one factor in the minister's discretionary decision-making. A successful civil suit against a terrorist offender under the JVTA would provide greater evidence of, and insight into, his or her terrorist involvement and would help the minister ascertain the level of threat the person poses to Canada.

The specific offences for which a person is held civilly liable under the JVTA could be the same ones used to determine whether a person is deemed to have renounced his citizenship under Bill C-425, and I can go through the sections in the Criminal Code with you right now.

Ultimately, I believe the proposed deemed renunciation mechanism with proper protections has value. From a national security perspective, it can offer a new layer of deterrence for people who would otherwise consider engaging in the proscribed behaviour. It can facilitate the removal of people who are dangerous, not only to Canada as a whole, but who pose a particular danger to the vulnerable individuals in our society who are susceptible to radicalization. The coveted Canadian passport would be taken away from those who would use it to facilitate terrorist movement and activity.

I would be happy to discuss my remaining thoughts with you in the Q and A, including those on the issue of involuntary dual citizenship, which were raised earlier.

Thank you.

• (1015)

The Chair: Thank you.

Yes, you have a few seconds left.

Ms. Maureen Basnicki (Co-founder, Canadian Coalition Against Terror): My name is Maureen Basnicki, and my family is one of 24 Canadian families who lost a loved one on 9/11. As co-founder of the Canadian Coalition Against Terror, I would like to express my support for the broad principles of Bill C-425. Some of Canada's closest allies have enacted similar legislation to protect the integrity of their citizenship, and Canada is rightly taking a moderate step to do the same.

In particular, I am pleased this bill explicitly references terrorist offences in its provision. We need to look no further than a daily newspaper to be reminded of the ability of terrorists to destabilize cities, countries, or regions, and to inflict violence on a level once reserved only for sovereign entities. Most chilling, for terrorists there is no weapon or tactic, including weapons of mass destruction, that is inherently beyond contemplation. This bill adds one more piece of legislative armour against this particularly brutal foe, and I look forward to its passage into law. Thank you.

The Chair: Thank you, Ms. Basnicki.

Mr. Opitz.

Mr. Ted Opitz (Etobicoke Centre, CPC): Thank you, Mr. Chair. I'll be sharing some of my time with Ms. James.

Thank you to all the witnesses for being here today, in particular Ms. Basnicki. Thank you for your courage in appearing today. We truly appreciate it.

I know something of history and I know something of victims. My father was in a gulag and my mother was forced labour in Nazi Germany, so when we talk about World War II, we do understand, certainly on this side, the impacts of victimization on a grand scale like that. In Canada some of those things that happened over 70 years ago were acknowledged, apologized for, and we've moved on. The point of a lot of this is about terrorism and the intention of those who would do harm to this country to inflict cruel and inhuman acts against Canadian citizens, which is not part of the charter.

This is something we have to work hard to prevent. In this country we do have a right to make laws that suit ourselves. We look at other

countries in parallel, but we have a right to go our own way as well. As a former Canadian soldier, I feel we can talk about law in terms of an act of war or a definition of an act of violence.

I'm pretty qualified to know a friendly or an unfriendly act against me. If somebody's shooting at me, or some of my buddies are running over IEDs—and I did lose many friends in Afghanistan. I think we don't ask a lot of people in this country when they come here. We just ask them not to break our laws and commit acts of terror against our citizens, then everybody can live in peace and harmony and enjoy the fruits this country has to offer everyone.

I'm going to start with Mr. Collacott. Sir, I think a lot of the critics of this bill ignore the very real victims of the violent and disloyal crimes that are committed. It not only harms Canada's reputation, but devalues our citizenship. As a former soldier I take offence at somebody holding the same citizenship I've fought so hard to defend. It results in the deaths of innocent mothers, fathers, daughters, sons, brothers, sisters, friends, and loved ones, as Mr. Gupta so eloquently pointed out earlier.

Sir, what message do you think it sends to the victims of these criminals that their actions are not taken for what they are, and that they continue to have the same rights and access of the vast majority of Canadian citizens who proudly uphold our Canadian values, our rights, and our responsibilities, which are inherent in citizenship?

Finally, do you think the ability to strip dual nationals of their Canadian citizenship, if convicted of terrorism or high treason, will have any sort of deterrent effect. Why, or why not?

• (1020)

Mr. Martin Collacott: I certainly would agree with everyone here that the rule of law is very important in Canada. It's one of our most important principles.

On the other hand, we've had a pretty weak record sometimes, in terms of convicting people who have committed acts of terrorism and removing them. I think we have to swing the balance the other way. I think the public strongly supports this kind of legislation. It may not be perfect, but I think it will send a message, as a number of people have pointed out already. That's why I strongly support it.

We have been far too weak, I think, in bending over backwards to make sure that every possible benefit is available to people who have committed acts of terrorism. I think we have to redress and get a better balance, but not throwing out the rule of law—that's very important—and due process, which I think probably has to be elaborated further in this particular bill.

Mr. Ted Opitz: Ms. Basnicki, I would like to give you the same opportunity.

Ms. Maureen Basnicki: Mr. Collacott has just said what I would like to reinforce. It has been my experience, certainly, that I can't go after the terrorists. In my case, they committed suicide. But I look at other accused terrorists with Canadian citizenship, and in my lens it has been very painful to see how our country has continued to speak out for the terrorists'—not alleged terrorists', but convicted terrorists'—rights as Canadian citizens. It's certainly not the Canada I know and value that would support a terrorist's rights without bringing balance to victims' rights, and there's a tremendous imbalance right now.

Mr. Ted Opitz: Thank you.

Roxanne.

Ms. Roxanne James: Thank you.

My colleague Mr. Opitz asked whether you believed it was a deterrent. I didn't actually hear the answer come out, so I'm going to ask a straightforward question and I'm more or less looking for a yes or no answer.

I'll start with Mr. Collacott. Do you think that would-be terrorists, if they knew they could potentially lose their Canadian citizenship, would still continue to engage in acts of terrorism?

Mr. Martin Collacott: They might. This is speculation. You asked for a yes or no answer, but I'm not going to provide one. I imagine that many terrorists would go ahead and do what they're going to do anyway, if they're irrational. But I think we should be sending a clear message, which we have failed to do until now, that people who have acquired Canadian citizenship and then use it to attack Canada and attack our values....

I think that message has to go out, regardless of whether we can be specific on whether there would be a deterrent.

Ms. Roxanne James: Mr. Collacott, are you saying that someone would just do it anyway?

Mr. Martin Collacott: Some people might. I mean, it's possible.

Ms. Roxanne James: Do you think that someone who valued Canadian citizenship and the values here in Canada that we hold dear would continue to do this anyway, or do you think someone who valued it might think twice?

Mr. Martin Collacott: They might think twice. I'm not sure how many people who are prepared to commit an act of terrorism do value our citizenship, but they certainly use it. This is part of the problem. They acquire it and they use it ruthlessly.

Ms. Roxanne James: Thank you.

Ms. Macklin, can I ask you the same question? It's really a straightforward answer. As a would-be terrorist, are you going to do it or are you not?

Prof. Audrey Macklin: If you enter into this kind of instrumental thinking, I guess somebody who is committed to committing an act of terrorism, however heinous it may be, and who has dual nationality and realizes that this may jeopardize their Canadian citizenship, would in an instrumental world take steps to renounce their other citizenship.

Ms. Roxanne James: Thank you.

What you're saying is that those people who would do it anyway really don't care about being a Canadian citizen and that those who

Prof. Audrey Macklin: No, you missed my answer.

• (1025)

Ms. Roxanne James: Was it yes or no?

Prof. Audrey Macklin: You missed my answer.

If I were a citizen of Canada and the United States and were bent on committing an act of terrorism and would lose my Canadian citizenship if I were a dual national, I guess I would renounce my

American citizenship so that I wouldn't be a dual national anymore, so that my citizenship in Canada couldn't be renounced.

Ms. Roxanne James: So you would want to be a Canadian citizen for what reason?

Prof. Audrey Macklin: This is the incentive that the law creates. It makes dual nationality a liability so people have a choice. I suppose those who are hell-bent on committing an act of terror would make sure that they were only mononationals of Canada.

Ms. Roxanne James: Can I ask Sheryl or Maureen the same question?

The Chair: Your time has expired. I'm sorry.

Madame Groguhé.

[*Translation*]

Mrs. Sadia Groguhé: Ms. Macklin, the Canadian Bar Association has been concerned about the lack of legal criteria surrounding the revocation of citizenship, as well as a lack of protection in cases of revocation.

Is your position the same?

In your view, what process would be necessary to frame revocation?

[*English*]

Prof. Audrey Macklin: What process would be necessary for framing this lawfully, is that what you're asking? I want to make sure I understand the question correctly.

[*Translation*]

Mrs. Sadia Groguhé: Yes.

[*English*]

Prof. Audrey Macklin: I don't think this can be done in a way that is not arbitrary, so I will state my position clearly. I consider this an arbitrary cruel and inhuman punishment, as I consider, for example, the death penalty cruel and inhuman punishment.

You can name a crime, you can give me a scenario, however heinous and horrible it is, and say, well, wouldn't you want to deprive somebody citizenship in those circumstances? I will say, as with the death penalty, however horrible the crime that somebody has committed, the death penalty is a violation of fundamental rights and you can't do it. It is the same here.

There's no fair process, just as there's no fair process for sentencing somebody to death.

[*Translation*]

Mrs. Sadia Groguhé: You mentioned the arbitrary nature of Bill C-425 and, in terms of its scope, you therefore put it in parallel with its symbolic objective. You are also clearly saying that this has nothing to do with a desire to protect Canada from any terrorist acts.

Can you give us more details about those two points: the arbitrary aspect and the symbolic objective of this bill?

[English]

Prof. Audrey Macklin: There's no evidence that this would have any deterrent effect. This is a rhetorical, symbolic kind of gesture. I suppose it reaches out to a constituency who feels that there isn't enough being done, and here is something that can be done, that's highly symbolic, that satisfies that need.

I know that this government has, for example, great concern over the rights of victims, more generally, victims of crime. One might have thought that people who commit heinous crimes that aren't necessarily terrorist crimes against other Canadian citizens are also devaluing their citizenship, are also showing their rejection of Canadian values. Yet, this government, as I understand it, isn't proposing that those people's citizenships be revoked for conviction of, let's say, murder or rape or hijacking, other serious criminal offences.

Let me give you an example. There was a terrible serial rape-murder commissioned a few years ago by somebody who is a member of the Armed Forces, Colonel Russell Williams. I think it could be fairly said that he brought shame and disgrace to the Canadian Armed Forces, the uniform that he wore, and that his acts were utterly inconsistent with anything one might consider Canadian values. He terrorized and killed several women.

We might all agree on that and yet apparently that is not the subject of this law. So he, for example, is considered worthy of punishment, but not of stripping of citizenship. Does that mean that the government doesn't value the victims of his crimes the same way that it values the victims of the crimes being legislated about in this bill?

Ms. Rathika Sitsabaiesan (Scarborough—Rouge River, NDP): Thank you, Professor Macklin. I'd like to continue also with a question for you.

In the previous hour, one witness expressed concerns that, through this bill, by stripping someone of Canadian citizenship we could actually erode Canada's capacity to prosecute, or that those accused of terrorism could avoid prosecution. Can you speak to this and offer your views on the importance of Canada's maintaining our jurisdictional role and ability to prosecute?

Prof. Audrey Macklin: Sure. Let me add one thing to my previous answer. Colonel Russell Williams is a dual citizen of England and Canada, by the way.

To go back to Canadian prosecution for criminal offences, well, we have an anti-terrorism law. We have used it and we can use it. We have the ability to extradite both to and from Canada. We can use it. We have used it.

The idea that Canada is made safer or that the world is made safer by exporting people to other countries is both parochial and inconsistent with the claim that terrorism is a global problem. In addition to that, of course, there is the odd arbitrariness of the country of destination.

Let's say that I am a Canadian dual citizen of Britain and I commit a terrorist act in, I don't know, name your country, in Iran. I will be stripped of my Canadian citizenship because I have committed an act of terrorism and deported to Britain? In what sense is Britain more properly the home for somebody like me than is Canada? Are we

looking, in a sense, at a race to the bottom because Britain is the other country that has this law?

If we imagine that if we think a law is good for us it must be good for others, what if all countries followed this practice? Then would it just be a race as to who could strip citizenship faster? If that's what the idea is, what is the principle of international cooperation and the global fight against terrorism that is being advanced here?

I suggest that there is no advantage to it.

• (1030)

Ms. Rathika Sitsabaiesan: Thank you.

Residents of Scarborough—I'm a member from Scarborough—are eager to become citizens of our country. Citizenship applicants face longer wait times than ever before. The residency questionnaire takes an additional two years or more for review. Permanent residents in Scarborough are already paying taxes, volunteering in their neighbourhoods, and raising their families.

Bill C-425 that is before us will be accelerating citizenship for about 15 people per year. Those are the statistics that were given to us.

Is this effort enough?

Prof. Audrey Macklin: Again, that seems to be an entirely symbolic gesture. In fact, if you go to the website of the Canadian Armed Forces, the number one requirement for joining the Canadian Armed Forces is that you must be a Canadian citizen.

If you ask where it makes more sense to deploy resources, it seems to make more sense to deploy them in the processing of citizenship applications. What I have heard is happening now is that resources are being deployed to deal with the very lengthy residence questionnaires that are now being administered and no additional resources are being put into actually processing more quickly.

Now I understand that will change if the government increases the cost of citizenship applications to make applicants pay for the extended process, but I don't know much about that.

The Chair: Thank you, Professor.

Ms. James has a point of order

Ms. Roxanne James: I don't know whether it's a point of order or a clarification. I want to remind everyone here, including the witnesses, that this is a private member's bill. It was the decision by that member to put forward this legislation. It's not regarding processing permanent residencies or citizenship applications.

Thank you.

The Chair: That's not a point of order.

Mr. Lamoureux.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): It's interesting, Mr. Chairperson. I'll pick up on the particular point that Ms. James brought to the table. When we look at Mr. Shory's original bill, what we're really talking about, from what I can recollect, is that we want to recognize the importance that the Canadian Forces play here in Canada. It's the idea of reducing from three years to two years for landed immigrants who do serve in the forces. That was really what seemed to be the driving force behind this bill.

Then, it was hijacked by the Minister of Immigration. We understand and believe at the end of the day—

The Chair: Mr. Opitz, has a point of order.

Mr. Ted Opitz: Mr. Chair, you've indulged the honourable member in the past. The characterization that he's throwing at the minister, and using the word "hijacked", I think is totally inappropriate in his statement. I think he should be censured for it.

Some hon. members: Oh, oh!

Mr. Ted Opitz: It's true.

An hon. member: Actually, it's not.

The Chair: Well, he's right, in a way, although Ms. James started this little chat back and forth.

Mr. Lamoureux, it is your five minutes, but I would prefer that you stick to questions or comments on the bill.

Mr. Kevin Lamoureux: Yes. Thank you, Mr. Chair.

At the end of the day, what we're spending most of our time talking about is the possibility of amendments that could potentially be brought forward through a member of the committee on behalf of the Minister of Immigration. It does raise some very serious issues, specifically dealing with a two-tiered citizenship. That's really what we're developing.

You used the example of the colonel. Here's a colonel who could be on next year's wish list, in terms of getting that individual, or individuals like him, or mass murderers and so forth, so that we can take away citizenships. Some would argue it could be a very slippery slope.

How easy should it be to take away one's citizenship? That's one question. The other, of course, is something to which many would take great offence. That is that we are setting up a two-tiered citizenship: those who have dual citizenships and those who do not. The consequence is profoundly different, if in fact you happen to have a dual citizenship. It happens a lot in Canada. The leader of the New Democratic Party is a citizen of France and a citizen of Canada. It applies differently depending in terms of your citizenship.

I'm interested, Ms. Macklin, if you could provide some comment on the dangers of establishing a two-tiered citizenship.

• (1035)

Prof. Audrey Macklin: It is clearly the case that Canada as a country of immigration has long welcomed people, and enabled and encouraged them to maintain their other citizenship should they choose to do so. Canada has self-interested reasons for doing that, in terms of promotion of trade and global relationships.

What this bill does is create a disincentive to dual citizenship, but also it makes dual citizenship a liability and exposes people to a punishment that people who are mononationals, if I can call it that, aren't exposed to. That's arbitrary. Why is it arbitrary? Because there's no evidence, and nor would any be possible, that somebody is by virtue of being a dual national more dangerous, more risky, more likely to commit certain offences, or more worthy of a certain punishment than somebody who is a mononational.

What I have heard from the government is, "We only wish we could do this to mononationals. Too bad we can't." That's actually not an answer in law. An answer in law is that if you're going to violate—

Mr. Rick Dykstra: On a point of order, Mr. Chair—

The Chair: We're going to stop the clock.

Mr. Rick Dykstra: —I don't mind, obviously, witnesses putting their opinions and perspectives forward, but the witness doesn't speak on behalf of the government and if quoting the government is something they want to put forward or something they have said that is actually not the case, then she shouldn't say it.

Prof. Audrey Macklin: Oh, excuse me. I was only referring to Minister Kenny's response, which you referenced, that it's unfortunate that the citizenship of those who are mononationals cannot be revoked owing to the obligation not to create statelessness. It was that. I interpreted this to mean that were it possible to strip mononationals of citizenship, they would have done so, but if I misunderstood that, I retract it and I apologize. That was my inference from that statement.

The Chair: The floor is still yours, Mr. Lamoureux and Professor Macklin.

Prof. Audrey Macklin: When you impose a punishment on one group that you don't impose on another, that's a form of discrimination. It's as simple as that. There is nothing about the group upon whom that special punishment is being imposed that is different in a relevant way. Yes, they're different because they're dual nationals, but that's not relevant to the alleged grounds upon which citizenship is being revoked. In that sense it's arbitrary, it's discriminatory, and it's a violation, in my respectful opinion, of the Canadian Charter of Rights and Freedoms.

Mr. Kevin Lamoureux: The other point I want to get a comment on is that there's this perception that we have individuals abroad who are coming to Canada and acquiring their citizenship and the bill is going to be targeting those individuals who commit terrorist acts. One of the things that I think needs to be said is the fact that, from a terrorist perspective, many of them are homegrown. They are actually born here in Canada.

I'm wondering if you have any comments on that particular issue.

Do any of the other panellists?

Prof. Audrey Macklin: It goes back to my point about the idea that if you strip citizenship from somebody and send them to another country where they hold citizenship, somehow they belong more to that country.

When you're talking about people who are born and raised in Canada, there are many people in Canada who are born and raised here who commit terrible acts for which they have been and deserve to be punished, but they are a product of Canada. Whether somebody acquires what are considered to be disloyal views to Canada, they nevertheless are born and raised in and are a product of Canada. They don't belong to some other country more just because they happen to also hold that citizenship.

Again, it is arbitrary and not logical to assume that, for example, Colonel Williams belongs more to Britain than he does to Canada, or that somebody who is born and raised in Canada and happens to be a dual national and who commits what is considered to be a terrorist act more broadly, not specifically against Canada but generally, somehow belongs more to that other country of which he or she is a citizen.

• (1040)

The Chair: Thank you.

Mr. Weston.

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Thanks, Mr. Chair. I'm just timing myself because seven minutes goes so quickly.

Ms. Basnicki, when I heard you were coming before the panel, I asked how we could deal with you with the sensitivity that we need to. The hurt will always be there, and yet you've transformed that tragedy into something good by campaigning for peace and order and security for all of us who have not suffered the kind of tragedy that you have.

In light of what happened yesterday in Boston, and as a two-time Boston marathon runner, I just thought I would ask our group to do something a little bit extraordinary—to stop for 30 seconds and think about what you suffered, what Mr. Gupta suffered, and what happened yesterday in Boston, for the victims.

So I'm going to use 30 of my seconds for us to think in silence about that, if you don't mind.

[A moment of silence observed]

Mr. John Weston: Thank you.

I'd like to try to condense what we've been hearing as a committee and to focus first on the clearly good things that our colleague Devinder Shory is trying to achieve. He has mentioned public support. The public support is to discourage terrorism in any of its forms. He's trying to increase the value of citizenship.

That's something you have written about extensively, Mr. Collacott, and that our minister has worked really hard on. He is trying to reward those people who are truly serving our country and putting themselves in harm's way. I think everyone in the room would agree with those motives.

We heard from the lawyers this morning. Professor Macklin, you've been very articulate that under section 15 of the charter and other kinds of equality provisions in our laws, there could be a problem in achieving his objectives.

So my first question is to the non-lawyers on the panel. You've made your case, I think, very well, Professor Macklin. What do you think can be done to this bill..., because the basis of the law—I speak as a lawyer—is in common sense and generally from the innate sense of justice that comes from people.

Let me ask you this, Mr. Collacott. You've given this a lot of thought. You're aware of the peril that the bill suffers in terms of its potential impingement upon equality provisions. We've heard this very often. It's not a secret. How would you deal with that and how

do you think this bill can be saved or changed in order to accomplish those noble objectives that MP Shory wants to achieve?

Mr. Martin Collacott: Well, a number of people have raised the issue of arbitrariness and how it applies to people who have dual citizenship but not to those who don't. I think that's an issue we simply have to accept. Frankly, I would like to get rid of other people who commit serious crimes of terrorism against Canada even if they have only single citizenship. We can't do that. Should that prevent us from removing those we can?

We do remove people who have committed major criminal acts and who have failed to become Canadian citizens. We can't remove Canadians who were born here and who have no other citizenship. We're stuck with them, but that doesn't mean we shouldn't act where we can act in serious cases.

I'll just comment on one of the things that Professor Macklin said.

Mr. John Weston: Let me summarize what you've said. You're saying that the legislature is doing the most it can with what it has and therefore it should be safe from the potential attack under equality.

Mr. Martin Collacott: Yes, essentially.

Mr. John Weston: Okay. Please go on, and forgive me for interrupting.

Mr. Martin Collacott: Professor Macklin characterized revocation of citizenship as cruel and either inhuman or unusual punishment. We have been doing that for people, particularly war criminals who have failed to declare their involvement in war crimes before they came here. I haven't heard her comment on that. We've been doing it for a limited number of reasons, a limited number of people.

I wouldn't want to downgrade the war criminal thing, but surely threats of terrorism against Canada are serious. In terms of deterrent, it might deter some young people who happen to have dual citizenship from going and taking training in Somalia or Afghanistan if they knew we were going to get tough on them and they weren't going to come back here and resume their studies, or do whatever they have in mind, when they were through blowing up people in other countries.

• (1045)

Mr. John Weston: Thank you. Can I ask Ms. Saperia or Ms. Basnicki to respond to that same question?

Ms. Sheryl Saperia: With regard to discrimination in the case of people who have dual citizenship versus people who don't, first of all, not all distinctions constitute discrimination. Canada has obligations under the Convention on the Reduction of Statelessness, and we are bound by those rules. I should note that in that convention it says that there is no problem with a country having the right to remove a person's nationality if the person does things that are disloyal to the state and can cause harm to the state. This is fully within the bounds of that convention.

I'll say also that there's a very simple way to prevent your citizenship from getting taken away—don't commit terrorism, don't commit treason, and don't be involved in armed conflict against the Canadian Armed Forces. I don't see this as government arbitrarily seizing citizenship from people. I see this as something else. If you don't want to lose your citizenship, all you have to do is avoid the crimes I just mentioned. There is a very easy solution here.

You could even make a new concept. If you commit these crimes, you will lose your citizenship. You could make it almost a contractual obligation. You could include this in the citizenship

oath, for instance, so that there's an understanding that if you commit these crimes, your citizenship is subject to be removed.

The Chair: I want to thank all four of you for coming and giving your comments to the committee today.

I will tell the committee that yesterday one of our witnesses for Thursday, the Maronite Foundation advised that they wouldn't be available. So we'll only have one witness for one hour, the B'nai Brith. We will therefore start the meeting 30 minutes later. At 9:15 the meeting will start.

This meeting is adjourned.

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