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Chair

Mr. David Tilson

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• (0845)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): Good morning, everyone. This is meeting number 81 of the Standing Committee on Citizenship and Immigration. It's June 6, 2013. We are studying temporary resident visas for visitors.

We have two witnesses before us today. First is the Metro Toronto Chinese and Southeast Asian Legal Clinic. The director, who is appearing before us this morning, is Avvy Go. The second witness is the Chinese Canadian National Council. There are two representatives. One is the executive director, Mr. Victor Wong. Good morning to you, sir. The other is the national director, Alice Choy. Good morning to you.

You each will have up to 10 minutes to make a presentation to the committee. Then members of the committee, I expect, will have questions for you.

Ms. Go, you may proceed first. Thank you, and welcome to the committee.

Ms. Avvy Yao-Yao Go (Clinic Director, Metro Toronto Chinese and Southeast Asian Legal Clinic): Thank you, and good morning.

My name is Avvy Go, and I am the clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic.

We are a community-based organization, non-profit, that provides free legal services to low-income families in the Toronto area, particularly those from the Chinese and Southeast Asian communities.

Last October we celebrated our 25th anniversary. Over that period we have served tens of thousands of clients, many of whom came to us for immigration issues. About one-third of our caseload is in the immigration area.

I would very much like to thank the committee for giving me and the organization the opportunity to talk about the temporary resident permits for visitors—or visitor visas for short—in my presentation.

In my submission, I'll try to address the three questions that were posed by the committee, namely: the integrity of the system; the costs and practical implications of introducing an appeal mechanism; and finally, comparing Canada's visitor visa program with programs in certain peer countries.

I'll start with the integrity of the system. According to Citizenship and Immigration Canada, each year roughly 35 million people visit

Canada. While the Canadian government currently does not have a system to keep track of visitors' exits, common sense would suggest that the vast majority of the 35 million visitors leave Canada at the end of their visit. Allowing visitors to come to Canada is absolutely essential to Canada's economic interest. This is made evident, for instance, by the efforts of our Prime Minister to lobby China to grant Canada approved destination status—a destination that makes it easier for Chinese nationals to visit Canada.

The visitor visa program is also crucial to the social and cultural development of our country, yet despite the government's effort to promote tourism and trade, many of our clients are unable to obtain visitor visas for their family members from overseas, even though for many the granting of a visitor visa is the only mechanism whereby they are able to see their family members. This is because many of our clients are either unable to return to their country of origin because of their refugee status or they are ineligible to sponsor family members to Canada as they do not meet the stringent sponsorship requirements.

Indeed, as more and more restrictions are being placed on family class sponsorship, fewer and fewer Canadians can bring their families to Canada. The LICO requirement, for instance, bars many low-income immigrants and refugees from sponsoring their families. The recently proposed regulatory amendments to the family class sponsorship, if passed, will make it even more difficult, if not impossible, for Canadians to be reunited with their families in Canada.

Under these circumstances, the visitor visa program may represent the only hope for some Canadians to see their families. Already people from the global south, including those from China, face greater hurdles in visiting Canada because of the visa requirement. If the door is closed even further, some Canadians may become permanently separated from their loved ones.

While we acknowledge that it is important to protect the integrity of the visitor visa program, the committee should also be cognizant of other objectives that are also being served and not let the interests of security overshadow other equally legitimate interests.

At the same time, I would respectfully submit that a system that is truly built on integrity must be one that promotes consistency and transparency in decision-making. A system has no integrity if the decision-makers involved are allowed to make subjective and arbitrary decisions in the absence of any accountability and oversight.

As it now stands, visa officers have wide discretion to decide whether to grant someone a visitor visa. Based on our experiences, visa officers often do not exercise their discretion in any consistent manner, and at times their decisions may be reflective of the officer's personal bias and prejudice.

For instance, despite legislative provisions and jurisprudence from the Federal Court stating otherwise, many visa officers still refuse to grant visitor visas on the basis of dual intention. This is so particularly if the applicant has a family member in Canada. So indeed, from what we can see, applicants who have family in Canada are less likely to get a visitor visa for their family members than those who don't.

● (0850)

The committee is rightly concerned about visitors who overstay their visa or use some other irregular means to come to Canada. In our respectful submission, however, tightening up the rules for visitor visas and for family class sponsorship will not necessarily add to the integrity of the system, and may in fact create the opposite effect.

If the government continues to put up roadblocks and hurdles to bar families from being united, people will still try to find some other ways of getting their families here. If, on the other hand, Canadians can be assured that they have a fair and reasonable chance to apply under the family sponsorship clause, they will then be less likely to use the visitor visa process as a back door to facilitate family reunification.

In short, the integrity of the visitor visa system must be balanced with the other core objectives of Canada's immigration policy, including the objective of family unification. Integrity can be best achieved if we have a system that is open and fair and that at the same time fosters objective and consistent decision-making.

I shall turn now to the second question, and that is the introduction of an appeal mechanism. Let me begin by asking each and every member of this committee to think how many times, as members of Parliament, you have received requests from your constituents asking for help to bring their family members to Canada as visitors to attend such events as funerals and weddings. How often do you wonder why the visa officer has refused a visa application in the first place?

The Chair: It's zillions of times.

Ms. Avvy Yao-Yao Go: Exactly.

When a visitor visa is refused, those applicants who have the wherewithal can hire lawyers and seek judicial review of the negative decision by the Federal Court. For the vast majority of the applicants, however, the court process is simply too costly and too complicated, and it takes too much time to complete.

That's why we would very much welcome an appeal process for a visitor visa that is easy to access and does not carry a high processing fee. While it may be cost-prohibitive to grant the right to appeal to all applicants, it would not be unreasonable, in my view, to grant the right to appeal to those applicants who are coming here to visit family members. To be meaningful, however, the appeal must be determined by an independent body, such as the Immigration and

Refugee board or something like it, and it must be heard in a timely fashion.

Finally, on the last question, as I'm not an expert on the systems in other countries, I did a search recently on the U.K., U.S.A., Australian, and New Zealand systems. They are all over the place, although some countries have a review system for refused visitor visa applications. In any event, I would submit that we should only borrow from these other countries if their policies are consistent with Canadian principles and values concerning immigration policy, including the principle of family reunification.

In conclusion, I would respectfully submit that if Canada wants to continue to project an image as an open and welcoming country, then our visitor visa policy should also be open and fair to all people, so that regardless of their background, country of origin, or income level they will have an equal chance of coming to visit Canada.

Thank you.

● (0855)

The Chair: Thank you, Ms. Go.

Again, let me offer you congratulations on 25 years of giving legal advice to your community.

Mr. Wong, I assume you're the spokesperson. You have up to ten minutes, sir.

Mr. Victor Wong (Executive Director, Chinese Canadian National Council): Thank you, Mr. Chairman. I'll be sharing my time with my colleague, Ms. Alice Choy, who is our national director.

Good morning, everyone, honourable members. I'm Victor Wong. I'm the executive director of the Chinese Canadian National Council. With me is Ms. Alice Choy, our national director. She is also the president of the Association for Business and Community Development, based in Montreal. She was a member of the Canadian delegation that visited China with the Prime Minister on his first bilateral visit in 2009. That's where the ADS agreement was signed.

Founded in 1980, CCNC is a national non-profit organization with 27 chapters across Canada, and we are a community leader for Chinese Canadians in promoting a more just, respectful, and inclusive society. The Chinese Canadian community has a unique immigration history. It's one of restriction, exclusion, and quotas, and from this experience we can offer the following observations with regard to the visitor visas study that you're conducting.

Canada offers visa-free travel for visitors from certain countries already. Taiwan passport holders and Hong Kong residents are examples, but visitors from China are required to apply for a temporary resident visa, and vice versa. The fact is that emerging countries tend to be on Canada's visa list, which tends to racialize some of the public discourse around this issue.

We don't hear about visitor overstays from Americans, or the British, for example, but if there is some controversial story about visitor visas, it's about someone who has overstayed their visa. The visa requirement allows Canada to manage the flow of visitors, but it also comes at a cost to Canadian families and Canadian businesses.

I'll just touch briefly on a few things that we've come across. With regard to tourist visas, according to the UN World Tourism Organization, 83 million Chinese tourists spent a record \$102 billion in international tourism in 2012. Their preferred countries included places in their region—Hong Kong and Macau, Singapore, Thailand, Japan, and Australia—but about 7 million Chinese tourists travelled longer destinations, mainly to the U.S., France, the U.K., and other European countries.

Canada has worked hard to attract more of these tourists. As I mentioned earlier, we signed the ADS, and about 300,000 Chinese tourists visited Canada in 2012, but I think we're falling behind. We will have to be much more competitive, in my view, and the visa process is one important piece.

As for visas for family and friends, China remains a top source country for immigration to Canada. About 300,000 Chinese have arrived in the last decade. Like the previous generations of naturalized Canadians, these newcomers will want to have their friends and relatives living overseas to visit for their shared holidays, for weddings, births, or sometimes there's an illness in the family, or perhaps a funeral. Too often, as mentioned by my colleague, Ms. Go, visa applications are rejected and visitors need to make a new application, or they require intervention from honourable members, or even from the minister's office.

I just want to touch briefly on the super visa for parents and grandparents. When it was introduced, CCNC supported it as a stopgap measure in response to the backlog of applications. The rejection rate, though, is high, and the program should have, but doesn't, a proper mechanism to land those who wish to stay here on a permanent basis.

What you're going to see in about ten years is perhaps hundreds of non-status grannies seeking status. What are you going to do at that time?

As for business visitors, individuals are visiting for various business and investment reasons. They want to do their research. Some of them also want to research choices for immigration and for international education opportunities for their family members.

● (0900)

Chinese tend to form delegations for study and travel, but it's a very cumbersome process when it comes to the visa, because they have to prepare the visas in batches and they have to put together invitation letters. Some honourable members here may have been approached to offer invitation letters to some of these delegations. The rejection rate is high. And as for an appeal mechanism, a speedy appeal mechanism might work, but it's better to just get the decision right in the first place. We recognize that there are trafficking issues, but it appears also to be much easier to secure visas to visit other developed countries, like Singapore or Australia, Japan, the U.S.A. If there is an issue with trafficking, perhaps we could look at conducting in-person interviews, where warranted. That might be one way to discourage trafficking.

The bottom line is, we're not competitive; we're losing opportunities for Canadian families and businesses. We would like to see a holistic approach here.

I want to end my comments now—I'm going to turn it over to Ms. Choy—by posing a question to MPs in this review. My question is, do Canadians want to see more Chinese visitors? From my vantage point, I'm just seeing mixed signals with regard to that question.

I'm going to turn it over to Ms. Choy, who has some information from her interviews with some of the folks in Hong Kong, China, and Canada.

The Chair: Thank you, Mr. Wong.

Ms. Choy, you have three minutes.

Ms. Alice Choy (National Director, Chinese Canadian National Council): Thank you, everyone. Good morning.

My name is Alice Choy. I'm also the president of the Association for Business and Community Development in Montreal. We have never gotten funding from the government, even though we work very hard on the different issues, especially helping new immigrants. I've been serving the community for 20 years.

I heard from many people. I just came back from Hong Kong and China last month. I talked to different travel agents when I was in Hong Kong and China, and also when I came back to Canada. We found out there is a problem; Canada's tourism business is not that attractive to the mainland China tourist, and it is highly competitive with the U.S. This is very important to bring revenue to Canada. The reason is a high rejection rate of the visa. Of course, there are many different individual cases for rejection. The main reason is that they find they have an intention to stay in Canada. Those are very big voices, those people who talked to me and made the complaint.

These are very individual cases, and they complain, "How can you judge me and say I have an intention to come to Canada and not leave?" They say they make good money, they have properties, they are professional. Canada, after the eight years, is just one stop, one country they want to visit.

Actually, the Canadian tourist board works very hard and invests lots of money to provide tourism in Canada. While I'm always travelling between Hong Kong and China, most of the time I talk to people and I'm promoting Canada's business in different fields, such as education, tourism, and business. The people I talk to want to come to Canada to take a look, and they form delegations, but unfortunately many of them are rejected.

Recently I talked to some travel agents in Canada, and they said there is also a high rejection rate. Let's say last month they had a delegation for 30 people, but only five got the visa.

● (0905)

The Chair: Perhaps you could wind up, Ms. Choy, if you could, please.

Ms. Alice Choy: To be fair to our country, our policy gives us prestige. Some people also reflected to me that they don't want to be too open. So we need to find a solution and a balance for how to increase the visas but not be too open or too easy. Some local people were also concerned.

The Chair: Thank you.

Mr. Leung.

Mr. Chungsen Leung (Willowdale, CPC): Thank you, Mr. Chair, and my thanks to the witnesses for appearing today.

I wish to address the issue of program integrity. We heard from our own officials that Canada has one of the highest acceptance rates. For example, in the super visa area we have almost 80% acceptance. Also, based on my own business experience of about 25 years between businesses here and in China, I generally have not had a problem with people I need to bring into Canada. So I differ with you on your assessment of Canada being a hard place to get into, because there are equal difficulties going into other countries—the United States, Australia, and European countries.

Given that we are discussing program integrity, I wish to hear from you on what other methods you suggest to safeguard our Canadian visitor immigration system—other than the standard application, the invitation letter, documentation of the ability or intent to do business here, and property ownership. When you think about 35 million visitors coming into Canada, that is doubling our population in a year. Even if less than 1% of those chose not to leave the country, it would be a tremendous problem for us. So I would like to hear from you on what other measures you suggest to maintain and protect our borders and the integrity of the program system.

Ms. Go?

Ms. Avvy Yao-Yao Go: To address your question about the super visa, in my experience many of the people simply do not apply because they don't think they're going to be eligible. Apart from needing to meet the income requirement, you also need to have a lot of cash in order to apply. I think a lot of people simply cannot be bothered. You have a very self-selective process, whereby you tend to get a higher acceptance rate.

On the integrity issue, apart from having to assess the integrity, it is one of the many objectives in promoting visitors, promoting trade, promoting business, and allowing families to visit each other, so let's keep those in mind. But even just focused on the integrity issue...I talked about the consistency in decision-making, which is an important aspect. Victor suggested an interview process, which is also a good mechanism. But how do you change the mindset of some of the visa officers? That is an ongoing challenge, and it's not just about visitor visas in general. Some visa officers have this view that people from certain countries would come and not leave. I'm sure many of you have the experience of dealing with families—I have a number of those cases myself. Someone is ill or has passed away and a relative needs to bring a family member here to attend a funeral or whatnot. The family member has their own family overseas, has a job overseas, has a house overseas, and is still being seen as someone who's not going to leave. I'm not sure what other documents you can require from that person to change the officer's mind. So I think it's really about changing the mindset of the officer, and if we can't change the mindset, then we'd better have a different system in place.

• (0910)

Mr. Chungsen Leung: Victor?

Mr. Victor Wong: I agree with my colleague. You mentioned 35 million tourists, but many of them do not require a visa. Of the 35

million, perhaps 11 million are Americans, and I don't know how many really require a visa.

With regard to the super visa, there is 80% acceptance, but that means 20% rejection, which seems very high to me for families trying to get their parents and grandparents here on a temporary basis. It seems like a high figure. Perhaps I could suggest to your department to look at the numbers of reapplication when people are rejected. If they reapply, what is the acceptance rate there? Perhaps that could inform the department of where some improvements could be made to make the system more efficient.

I suggested an interview process, and that's what they do in the States. They do a lot of in-person interviews. It's costly, but perhaps you could pilot it just for those cases where you are rejecting applicants. Before you reject them you would have an in-person interview, and perhaps that might help to get some approvals for people right off the bat whom you would otherwise be inclined to reject.

I want to re-emphasize that if you're going to do an appeal, it has to be speedy. If somebody's applying to come over for a wedding, or because some family member is ill, they need the approval right away. We can't have a long process for appeals.

Mr. Chungsen Leung: There really isn't an additional tool we can have, but there is perhaps one that has been discussed, which I've experienced in some countries. What do you think of requesting some sort of bond, a financial bond, if you want to get away from the appeal system and the longer processing time? What do you think?

Mr. Victor Wong: On asking for bonds, some travel on the ADS, and they do require some deposit to maintain—

Mr. Chungsen Leung: Is that in place right now? I don't think so.

Mr. Victor Wong: In China, yes. It's on the Chinese side.

Ms. Alice Choy: It's on the Chinese side—

Mr. Chungsen Leung: But it has nothing to do with us.

Ms. Avvy Yao-Yao Go: May I answer? I think if you ask for bonds it means that only people who have the cash up front will be able to come and visit again.

Of course, you can do a number of things to make the system harder for people to get in, but my question is, at what cost, and who are you excluding? I would certainly hope that we don't end up with a system that makes it so hard that only the super-rich and the super-connected people and those who have all the connections with MPs and high-paid lawyers will be able to come here.

• (0915)

The Chair: Thank you.

Ms. Sims.

Ms. Jinny Jogindera Sims (Newton—North Delta, NDP): Thank you very much.

I want to thank our witnesses for taking the time to come and talk to us about this important subject. I don't think there is an MP who hasn't heard those heart-rending stories in their offices. I haven't met one yet. For me, I usually say that in my riding my MP's office often feels like the local hospital's emergency room, where we're doing triage most of the time. Really, that's the image.

I come from the riding of Newton—North Delta, which has the largest Sikh population. You might also know that Chandigarh, the outpost in the Punjab, also has an almost 50% rejection rate, so you can imagine the kind of traffic we see.

In hearing your stories around family reunification and families just wanting to see each other for short periods of time, it always hits me as bizarre that my family members who live in England can just get on a plane and be here, while people who have family members who are living in India, China, or the Philippines have to go through such major hurdles.

Right now, people are looking for a way to address this. You've mentioned one of those ways, and that's the appeal service, but I think you've also mentioned the devastation that occurs in families. We're getting rejections for funerals, for visiting dying parents, or siblings, or even friends in some cases, and for weddings, births... you name it. As you know, in our extended families, this is so very important for emotional health, and for physical health as well. I think we're all attuned to that.

There's a question I'm often asked by the intended sponsors, because of course we get the sob stories from all the people who get rejected. There's a continuous line. What they often ask about is what they can do to get their sister, their brother, or whoever over here. It always breaks your heart, because they then make comments like "This doesn't feel like my home." They say, "When I can't invite my sister to an important event that's happening in my life, Canada, where I've lived for 25 years, no longer feels like my home." It sometimes actually brings me close to tears when I hear these stories.

This brings me to my very first question. Do you think there is value in having the visa officer look not only at the application of the person who is coming? I'm specifically talking about those with families.

Alice, I was really, really struck.... I think it was you, Victor, who said that sometimes having family here is a detriment or a barrier to getting a visa. You see, I've read those reasons—"too much family"—and I think that is such a bizarre thing to write.

So when we're looking at this, if the visa officer also looks at the sponsor's profile, their financial status, their encounters with the legal system, and their employment history, to establish that person's credibility, the credibility of the person who is sponsoring them, what are your thoughts on that idea? Also, how could we ensure that a person leaves?

I'll leave it to you, Avvy, and then I'll go over to Alice.

Ms. Avvy Yao-Yao Go: I was the one who made that comment about the family being a detriment.

Ms. Jinny Jogindera Sims: Sorry.

Ms. Avvy Yao-Yao Go: Sometimes an even sadder situation is when the family is trying to come here to see the family member for the last time, and after they get the visa they end up going to the funeral.

I guess to answer the first question first—what we can do—I think as you mentioned, rather than looking at the individual applicant, at the sponsor, maybe look at all of those things in the context of the principles we're talking about. One of the core

principles under section 3 is family reunification. I think that principle should apply to the application of visitor visas as well.

I would still go back to how you change the mindset of visa officers. How do you train them better to acknowledge that you can have a dual intention, because that is allowed? You can have the intention of wanting to come to Canada permanently and still want to come and visit in the meantime.

I think in terms of how to make sure people leave...I'm not sure I have a response, but I know a committee is looking at studying a way of tracking exit. Maybe we should start tracking that first before we decide whether there's a need for that, because this is all a cost. Having an appeal is a cost. Having an MP dealing with these visa requests is a cost too.

• (0920)

Ms. Jinny Jogindera Sims: It's very costly.

Ms. Avvy Yao-Yao Go: Instead of setting up an appeal system or spending more money examining visas, we are asking MPs to do the job of visa officers. I'm sure MPs are still better paid than visa officers right now. It is a cost to the system.

I think maybe tracking the exits to determine whether there is a need, whether there's a huge issue, before we jump into anything....

Ms. Jinny Jogindera Sims: Thank you.

Alice, do you have a comment on this?

Ms. Alice Choy: Yes. First of all, I don't blame the visa officers. But something that I have observed is the understanding. Chinese and Canadians think differently, and some cultures are different.

Ms. Jinny Jogindera Sims: What I'm hearing you saying is that maybe some of the visa officers need some cultural sensitivity training.

Ms. Alice Choy: I have this experience when people come to me and ask for help. I say, okay, just go to the MP in your riding, because our association can do nothing. For example, last year, one family said they wanted to invite their brother and sister from China to witness their daughter's wedding. They were rejected. There's a limit on time. They were very anxious, very nervous. Another reason is to take care of sick parents because the children have to work; they wanted the other children from China to come and take care of them, but they were also rejected. It's all these cases.

Ms. Jinny Jogindera Sims: Thanks, Alice.

The Chair: Your time has expired.

Mr. Lamoureux.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Thank you, Mr. Chair.

Ms. Go, you were expressing yourself and giving a sense of the frustration, where you recognize the deficiencies there. We really try to push the envelope as to what we can do as advocates, whether as members of Parliament or as community leaders, to try to assist someone to come to Canada for a darned good reason. You get frustrated, and it seems as if there's nothing that can be done, that family is not going to be united. My gut feeling is that all members of Parliament want to see some answers to the problem.

One of the things that I see is a problem is that we don't track. Mr. Wong, I think you said it was 300,000 people from China. We have no idea whether it is one hundred or one who stay behind.

There is an issue that I would ask the three of you to provide very brief comment on.

We're just talking about the Chinese community for now, even though the same principle applies for all communities. When you think in terms of the community and the individuals who are arriving in Canada, to what degree do you think there are people who are here without legitimate status, who are actually going to be receiving any form of government assistance? That seems to me to be... Why don't we open the door? Why don't we just issue more visas, especially if it's a family member and so forth? The argument against it is that of fear. I think if we try to attempt to deal with the fear factor, in other words, that fear is greatly exaggerated, I think then we can start to see more visas being issued.

Can you just provide comment on that issue?

Ms. Avvy Yao-Yao Go: Of course, this is all anecdotal evidence based on my own experience, because we do not know exactly how many people live in Canada without status to begin with. About ten years ago, I heard the estimate of 200,000 in Toronto and one million across Canada, but I have no idea whether that's legitimate or not. If there are 200,000 in Toronto, then one million in Canada sounds high. I think the majority will live in cities like Toronto, Vancouver, and Montreal.

We do assist people without status living in Toronto. Some of them come to us because they want to get status. In general, if you do not have status it is harder for you to get government assistance to begin with, because of all the different rules. For sure, most of them will not have any health care from the government whatsoever, unless they have a refugee claim. Even that door has now been closed, as you know.

Many would not be seeking government assistance because they fear being found out by the government that they have no status. I would venture to guess that a very small percentage of this number of non-status people are here and seeking government assistance. Still, it's important. If that is the issue, why we are making it so hard for people to come, then maybe having a way to study that issue is important.

That figure can be obtained. If you want to find out if they're on assistance, then seeking cooperation from social assistance administrators will help, because they will have information about the status of their clients. There may be other ways of getting the information as well.

● (0925)

Mr. Victor Wong: I have a couple of comments.

Most people who come to visit do leave. It seems to me that the problems we're identifying are with the visa holders. There are people who visit who don't require a visa. What about them? Are we concerned about Americans or Britons who overstay?

I have a much smaller estimate than one million on status in Canada. I worked on the boat migrant issue back in 1999, and at that

time I estimated non-status to be around 50,000 across Canada. That's probably at the low end of the estimate.

The Chair: Could you wind up, Mr. Wong, please?

Mr. Victor Wong: Okay.

In my view, you should look at a program to land the people who are without status in Canada, especially those who have been in Canada for a long period of time. It would balance off the deportations that are taking place right now.

The Chair: Thank you.

Mr. Opitz.

Mr. Ted Opitz (Etobicoke Centre, CPC): Thank you, Mr. Chair.

Through you, to our witnesses, I'll give you a few stats, first of all, before I start asking questions.

Between 2000 and 2013, the overall temporary resident visa approval rate across the board was about 83% or thereabouts—it's pretty high. In 2012, Canada issued a record 235,000 visitor visas in China, a 158,000 increase over 2004. In 2012, 25,245 study permits were issued, an increase of 235% since 2004. Of course, China was the number one source for immigration in 2012, with 32,990 permanent residents admitted.

We have other methods to get into Canada, especially for Chinese students when they graduate here, through Canadian experience class. You all acknowledge that, right? We also have a very robust parents and grandparents program, which is at about an 86% approval rate around the world right now, correct?

Ms. Go, I am having a little bit of difficulty. In your early comments, you suggested that visa officers abroad show a personal bias or prejudice. These stats don't support that.

Mr. Wong, you had mused that perhaps Canadians don't want to see any more Chinese in this country, or more Chinese—words to that effect, correct?

Right now in Canada, there are over 1.5 million people of Chinese heritage. That's one of the biggest communities in this country, so I would say that doesn't support your claims.

I wanted to address that. I worked for a long time in the Canadian Forces. While in that job, I did a lot of multi-ethnic outreach as part of the Canadian Armed Forces, and of course I worked for Jason Kenney for two years, doing a lot of multi-ethnic outreach in the GTA. As you know, Minister Kenney reaches out quite broadly and does tremendous work with all communities across Canada.

Let's just get down to some questions.

Ms. Go, I'll start with you. The other day, CIC officials informed our committee that a number of years ago, far more interviews were conducted. However, they didn't find them to be an overly useful process in the vast majority of cases. I'd like to know from you, first, do you think there should be more face-to-face interviews conducted? And second, in your opinion, how does this affect efficiency and the integrity of the immigration system?

Mr. Wong, I'll ask you to answer the same questions.

● (0930)

Ms. Avvy Yao-Yao Go: Thank you.

I appreciate the stats. I have read those stats myself.

I am talking about the experiences that we have seen at the clinic. I venture to guess that many MPs have seen similar situations.

I still believe that having a family here.... I mean, I have no idea how many of the 83% are here for the business tour or are here to visit Canada without any family members. My view is that having a family member is a disadvantage to someone who wants to apply for a visitor visa. I'm not talking about visitor visas in general, but for people who want to come visit family members.

Mr. Ted Opitz: Could you answer the question? I only have a few minutes.

Ms. Avvy Yao-Yao Go: I think that interviews by the same officer who has the intention to reject someone might not be that useful. The interview will not change someone's mind if they believe that.... If they're still stuck with that dual intention issue, which is not valid under the law, or if someone still thinks that this person, despite all the proof they have provided—and even if you produce a house deed, your pension plan, you have kids in China—they still believe someone is going to stay here, then yes, of course an interview is not going to change anything.

Maybe an interview by a different officer or by a different system, by a separate office, might be different.

Mr. Ted Opitz: Mr. Wong, go ahead.

Mr. Victor Wong: Yes. As I mentioned earlier, with regard to face-to-face interviews, perhaps one pilot you could consider is face-to-face interviews for people you're about to reject.

For me, the issue is a speedy appeal. A lot of people are applying on a very time-sensitive basis. For example, there's a wedding here. Somebody's given birth here. Somebody's ill here. They can't wait for a more formal appeal mechanism, so perhaps a face-to-face interview, if you're about to reject them, gets referred to another officer for that. Then you could determine where there could be some efficiencies in the approach on a go-forward basis.

With regard to the stats, I really appreciate those. I would ask, what are the stats for approvals of people who were rejected the first time and who applied a second time? When you look at that, then perhaps you could see where there could be some efficiencies in the approach.

Let's say it's 50% approval on your second time around, when you apply. Well, then it seems very wasteful to have rejected them in the first place.

Mr. Ted Opitz: You mentioned an MP's job in doing this. As an MP, I do this a lot. All of my colleagues do. Oftentimes I have found that people have incorrectly applied the first time, and that has been the problem. And when they did correct it....

I'll get you the stats, because I don't have them handy right now. But it's a good question—

Mr. Rick Dykstra (St. Catharines, CPC): It's 48%.

Mr. Ted Opitz: Oh, 48%: there we go.

Oftentimes it's been because somebody has made the error in the first place, on their own. So you can't blame the visa officer for not being able to not process an incomplete application. You can't put that at their feet. That's not fair.

In terms of just addressing my colleague, this country doesn't do anything out of fear. It does things out of security, and out of concern for Canadians who live in this country, and making sure that the wrong people don't get into this country. We've had lots of examples of foreign criminals coming in here and creating havoc with crimes, murders, and worse. In fact, we just got rid of a guy, after 25 years of appeals, who was a terrorist.

That's one of the reasons why Canadian visa officers abroad are well trained and highly culturally sensitive to where they are. These guys have been all around the world.

Am I out of time?

● (0935)

The Chair: You are, sir. Thank you.

Madame Groguhé, you have five minutes.

[*Translation*]

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

I would like to thank our witnesses for joining us this morning.

First of all, I would like to point out that our officers are certainly not to blame. Let me just remind you that they are simply applying a policy. This must be said, because they cannot be the only ones to come in for criticism.

Officials from Citizenship and Immigration Canada appeared before this committee to talk about temporary resident visa applications and told us that 18% of applications are rejected by Canadian authorities. They also said that, if the claim is rejected, the person has to fill out a new application, which involves additional procedures.

In your view, are there any possible solutions to limit those additional procedures in the processing of applications?

[*English*]

Ms. Avvy Yao-Yao Go: Assuming that across the board 50% of people are refused the first time due to administrative error on their own part, then maybe one way is to make the visa application process more easy to understand. Perhaps some kind of information could be more available to people who are applying, which hopefully would reduce the error rate.

But still, even if 50% is the figure, we need to look at the other 50%. Having some kind of a review mechanism I think is key. Even if you want to do it as a pilot, as Victor has suggested, we have to look at why these visas are being refused. As you said, if it's a policy issue, then why is it we have a policy that allows dual intention and we still see some of the applications being refused based on that?

Maybe a review system, not by the actual visa officer who made the decision but by another officer or department, or another mechanism, could look at the decisions and the reasons for refusal as well so that we know that the policies are being consistently applied.

[Translation]

Mrs. Sadia Groguhé: Mr. Wong, earlier, you talked about the possibility of taking a holistic approach in processing these applications. What do you mean by a “holistic approach”? Could you be more specific, please?

[English]

Mr. Victor Wong: I appreciate the comments of Mr. Opitz with regard to security. We have already mentioned that there are issues with regard to trafficking.

Let's look at it from a business case perspective. If you're rejecting around 20% of your applicants, and if we use this 300,000 figure—just a rough back-of-the-envelope case—it would be around 60,000 rejections. Let's say they don't come here. Based on Canadian tourism, each Chinese tourist spends around \$2,000, so we're leaving about \$100 million on the table. That's what I'm getting at from a business perspective. That is the opportunity cost for the security we want to have or the status quo.

I think we need to look at a more holistic approach in terms of what exactly we want here. I want to be very clear, the Prime Minister appears to want more Chinese visitors. He has gone to China a couple of times. I think all MPs support this, but do Canadians support this?

We have to be out there a little bit more with regard to this issue. There are too many stories around. There is, in my view, an anti-Chinese sentiment that has entered some of the public discourse on a whole range of other issues with regard to Chinese investment, etc. It spills over to issues like visitors. Do you want to see more Chinese visitors here?

What we have to do is influence—the administration has to catch up with what MPs and the Prime Minister are saying, that you want to see more visitors here.

• (0940)

The Chair: Thank you, Mr. Wong.

Mr. Weston, I want to finish at 9:40. You have up until then.

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): [*Member speaks in Mandarin*]

Having spent half of my professional life in greater China, I always felt very welcomed by the people whom I worked with in Taiwan, Hong Kong, and China.

It's great to come from a country that is as welcoming as Canada, I'm sure you would agree.

I have a couple of questions. Firstly, do you think the applicants should pay the full cost of an appeal? Clearly, when we start talking about other mechanisms like this, who should pay, the Canadian taxpayer or the applicant?

Mr. Victor Wong: I think it would be part of the process. I'm just throwing this option open to the committee and the immigration department to consider.

In my view, you're rejecting too many people. If there are trafficking issues, if there are security issues, then perhaps an in-person interview would be able to pick up some of this stuff. If you

made that part of your application protocol.... So you're going to approve 80%, 83%. Okay. That's done. For 17%...perhaps you pilot a segment of it.

Mr. John Weston: The question is, should the taxpayers pay? That's what I'm getting at.

Ms. Go, fairly quick.

Ms. Avvy Yao-Yao Go: I don't think the visitors should bear the cost, or at least not the full cost.

No, there's no appeal system in Canada anywhere where the appellants have to pay the full costs of the system.

Also, I think if you ask visitors for payment, there's no incentive for the system to change.

Mr. John Weston: Right.

Ms. Avvy Yao-Yao Go: Unless you say that if they win, they get the money back. Then yes, maybe.

Otherwise the visa will continue to be rejected. Then you pass on the visa to appeal.

Mr. John Weston: Thank you.

You can see there's always balance between cost and benefit—the taxpayers' cost and what we're trying to do here—as well as balancing between tourism and security.

I'm a champion of tourism, of opening doors, of bringing people from Asia to West Vancouver—the Sunshine Coast and the whole country for sure. But what about balancing the security versus those interests?

Alice.

Ms. Alice Choy: Yes. I have some opinions. Actually, as I said, I don't blame the visa officer. There is one thing as to why there is a high rejection rate. Maybe the agent who does the...what do you call the letter?

Mr. Victor Wong: It's the invitation letter.

Ms. Alice Choy: Yes, I mean the invitation letter.

Usually they go through some travel agents. They have to pay a few hundred dollars for this letter. They let them handle it. Sometimes I think that maybe.... I had one case last year in which they got a fake letter. That was from Niagara Falls.

The Chair: Thank you.

Mr. John Weston: I'm just going to say one thing, Mr. Chair. The super visa is just out; it hasn't been out for long. I think it's going to be great for your clients, and it may need just a little more promotion from you.

Thank you.

The Chair: Mr. Wong, Ms. Choy, Ms. Go, all three of you have given excellent presentations. Thank you very much for coming and sharing your views on this topic with us. Thank you on behalf of the committee.

We will suspend for a few moments.

I might add, just to remind you, that the meeting will end at 10:40.

• (0940) _____ (Pause) _____

• (0945)

The Chair: We will reconvene for the second portion of our meeting this morning.

We have three members of the bar representing here this morning: Elizabeth Long—good morning to you—Peter Re kai, and Ms. Taub, who has been here before several times, I seem to recall.

You each have up to eight minutes to make a presentation, and then members of the committee will have questions for you.

Ms. Long, we will start with you. Thank you for coming.

Ms. Elizabeth Long (Barrister and Solicitor, Long Mangalji LLP, As an Individual): Thank you very much for having me.

Just as an introduction, my name is Elizabeth Long. I'm an immigration lawyer and am in my ninth year of practice, exclusively in immigration law and mostly with regard to paper applications, such as temporary resident visas. Over my years of practice I have processed hundreds of temporary resident visas for visitors, students, and workers from around the world.

One of the main issues I want to talk about today is the criteria used by visa officers. It is extremely unclear, first of all, in the criteria what exactly they should be looking at. As a result, the way they apply the criteria and what they use to determine whether or not a person should be issued a temporary resident visa is often wrong.

For example, officers often look at whether or not someone has strong ties in Canada as a reason for rejection. There are people who have family members in Canada: for example, a widow who has a child in Canada and who will often not be able to get a visa because she has family in Canada whom she wants to visit; or people who are being sponsored but who can't come to Canada because their husbands or wives are in Canada.

You also have “temporary intent” being applied instead of dual intent, which is what the act actually states. Temporary intent occurs when an officer asks: are you going to want to stay in Canada permanently, or temporarily?

That is the wrong criterion. Subsection 22(2) of the act—and I apologize for reading it, but I feel this is important—reads:

An intention by a foreign national to become a permanent resident does not preclude them from becoming a temporary resident if the officer is satisfied that they will leave Canada by the end of the period authorized for their stay.

What that means is that the officer is not supposed to look at whether or not a person has temporary or permanent resident intent, but at whether or not they are likely to follow the laws of Canada and leave when they're supposed to. If the officers apply temporary intent, that often leads to a very wrong decision.

For example, students are encouraged to come to Canada and to settle. That's why we have the CEC program and that's why we have the post-grad work permit program: to encourage them to stay. But officers at the visa post, for example, look at whether the students have temporary or permanent intent.

Oftentimes, for example, students' families are not allowed to come to Canada to join them while they are studying because the

officers want to leave some ties to the home country. I have seen examples of students having to leave their studies and go back home because their families can't join them and they can't leave their husbands and their children back home.

Oftentimes, there are couples who sometimes even have Canadian children who can't join their fathers, because their mothers can't join their husbands while they're waiting for the sponsorships to be issued and can't get the temporary resident visas to come to Canada.

Oftentimes there are workers who are coming to Canada to earn a better living, but they are rejected because they don't have enough assets back home.

What this results in is a system in disrepute. When people feel they are being unfairly judged and given unfair decisions, they come to your office and ask you to do something. Oftentimes your hands are tied and the court's hands are tied because the level of discretion that is given to officers is so high. How do you argue with officers that they are wrong, if they have so much power to determine what they want to do?

The consequences of this situation are severe. Families are unduly separated; there is economic harm when businesses aren't able to hire workers they need; universities are losing valuable students who are bright and will provide a contribution to Canada; and, as we heard from our previous speakers, tourism is also being affected.

• (0950)

The solution, I would suggest to you, is first that we need to have much clearer criteria for officers to follow. There should be a way, as Member Sims previously stated, for us to look at our Canadian citizens. If we want family members to join us, we might not know what the people are like overseas, but we know who the Canadians are. If we can see who your constituents are and judge by their integrity, then perhaps that's a way to determine whether or not this person is likely to obey the laws when they come to Canada.

I truly believe in an appeal system, because what you see in systems where there are abilities to appeal is that there is guidance afterwards to the officers of what is reasonable and what is unreasonable, and right now there is no such guidance.

In conclusion, this is a system that is just crying out for guidance, and I truly hope that today, when we're studying this, you will be able to provide us with some guidance.

Thank you.

The Chair: Thank you, Ms. Long.

Mr. Re kai, please. You have up to eight minutes, sir.

Mr. Peter Re kai (Partner, REKAI LLP, As an Individual): Thank you very much, Mr. Chair and honourable members. It's a great honour and a pleasure to be here.

I am a lawyer in Toronto. I am certified by the Law Society of Upper Canada as a specialist in the practice of immigration law. I have practised it exclusively for the past 27 years. I'm a partner in a firm that practises exclusively in the area and deals with a great number of temporary entrants, many of whom are workers and some of whom are visitors for other reasons, including permanent residents.

There are three practical aspects about the TRV visitor visa process that I want to talk to you about. I want to pick up, to some extent, where Elizabeth left off on the quality and transparency of initial TRV decisions; I want to talk briefly about the merits of an appeal process; and finally, I want to talk about the need to provide a reliable vehicle for emergency visitor visa processing, or triage, as I call it.

I know this committee has heard about the subjective grounds that are applied to visitor visa applications, and it is understandably subjective. There are many components that go into that process. It is a form of profiling. It is a form of country profiling and of individual profiling. I don't think we can get away from that.

What we do have to get away from is an officer's belief that he or she must take the form that refuses an application and arbitrarily X a number of the boxes that indicate specific reasons for the refusal, reasons that may not—and likely are not—the actual reasons for the refusal. Worst of all—and this happens all the time—officers feel compelled to check the box saying that neither the applicant nor the host has shown sufficient financial means. Typically, a 50-year-old, well-established Canadian client will come to me and say, “My nephew was refused. We've provided all kinds of financial information, but I'm going to go to my accountant and my financial adviser and we're going to present all this information back to the visa office.” I say, “No, that's not the reason he was refused. Your nephew is 22 years old, he is unemployed, he is single, and he is from Iran. Nineteen out of 20 of those applications are going to be refused. Save yourself the trouble, save your MP the trouble, and save the visa office the trouble of the second application where you pursue an avenue that has nothing to do with it.” These types of arbitrary check-offs—and they're done all the time—lead to an enormous amount of work and are basically a waste of resources. Typically, the second application comes back with different boxes checked for the refusal.

Should there be an appeal process for TRV refusals? Yes, in my view there should be, but they should be in-house departmental administrative reviews, and they should be only for those TRV applications that are sponsored, or hosted, if you like, by relatives in Canada. When you reject a Canadian's relative, the Canadian often takes it incredibly personally. The person takes it as a rejection of his or her own status in Canada and assumes that it reflects a lack of trust or respect for his own standing in the country, or worse, it communicates that to the relative abroad.

I do not recommend an external quasi-judicial body for this purpose. I understand the Australians have taken that route. We have struggled for some years with IRB, IAD backlogs, which deal with important issues, and we've been trying to get that system to move with the responsibility it currently has. We can't burden that tribunal or a similar tribunal with these kinds of new responsibilities. What we can do is have an in-house review of family supported applications, accepting the usual profiles and accepting personal circumstances and reviewing them. It could be done within the visa office that refused the applicant, but frankly, in my experience, visa officers are never comfortable reviewing a decision made by an office mate or office colleague. It just doesn't work very well. Thus an inland unit—it could be based anywhere in Canada—would be preferable. The knowledge that a decision is reviewable, and I think

Elizabeth pointed this out, will itself make for better and more transparent initial decisions.

● (0955)

Of course, there is already a level of appeal—so don't kid yourselves—and it is in this room. MPs are the de facto level of appeal, so it's not as though it's not happening.

The Chair: We haven't found that.

Voices: Oh, oh!

Mr. Peter Reka: One hopes this could take some of the burden of the backlog off your offices.

Today, processing times for TRVs have ballooned in a number of our offices around the world. A couple are actually getting better. India is pretty good. Others are not so good, and our visa offices in the U.S. are currently in a very bad way. They've been reduced to two from previously five or six offices, and they're struggling.

I could talk about that, but that is not my main concern. My main concern is that we have fewer visa offices. We have an online system, which overall makes sense, but what we are doing basically is eliminating almost all opportunities for the public to interact with those visa offices. We see this in the U.S. offices, and we've certainly seen it in the last few months, so beware if you haven't seen this or the results of this in your office yet. It makes things very difficult when it comes to emergency applications to come to Canada. If you look at the websites for the New York office and the Los Angeles office, you'll see they're open only a few hours a week, and they're open only to take in documents. You can't even pick up documents there. You cannot reach a person. Basically you are told to use a phone line, which doesn't get you anywhere. You have to use a call centre, which doesn't get you anywhere. People have family emergencies or athletes have sporting events in Canada that they need to come to the next day. Artists have events they have to perform at and they sometimes don't get more than a few days' notice. Business people have urgent meetings to get to. There are all kinds of reasons typically for these urgent situations, and there is simply no one to talk to. There must be a triage capability in each of these offices.

Let me just give you one example of what happened, what I saw, with respect to this lack of triage capability, and this is typical of what we'll see. A major Canadian bank sponsors a high-profile charity golf tournament in Canada featuring a renowned South African golfer who resides in the United States. A week before the engagement the golfer realizes he has an expired TRV. The golfer's agent can't get through to any live person at the Canadian consulate. A recording says it takes at least 30 days to issue and not to even call until the 30 days are up, because you won't get a reply. No other phone numbers are operative. No e-mails get through.

Within two days the golf club's MP has been called. The immigration minister's office has been called. The provincial trade office is involved. Another two MPs' offices are involved. The sports minister's office is involved. Finally, the ambassador to the U.S. has been alerted. All of these resources are in play because there is no human being in a position of any authority available to answer that first call, a call that would have certainly resulted in urgent processing, because when they are not insulated from the public, our visa offices are reasonable.

• (1000)

The Chair: Thank you, sir.

Ms. Taub.

Mr. Peter Rejai: Thank you.

Ms. Julie Taub (Immigration and Refugee Lawyer, As an Individual): Thank you.

I'm Julie Taub. I'm an immigration and refugee lawyer in Ottawa and a former member of the Immigration and Refugee Board. I've been practising exclusively in the area of immigration since my appointment to the board, which would have been 1996. I'm a sole practitioner.

My presentation is from a very different angle, because I believe that whatever criteria are in place to issue temporary resident visas, be they for students or visitors or foreign workers, they should be exclusively for the best interests of Canada. These are not refugees we're dealing with.

And yes, I do believe that immigration officers, visa officers, should have the discretion, and they should be allowed to exercise discretion. Of course there's profiling. There's no choice but to have country profiling, because we cannot deny that there are dozens of, to give an example, terrorist-producing countries.

And yes, if you have a single male who's not married and who's young, it goes without saying that 19 out of 20 would be denied; I would have thought it would be 20 out of 20. It's based simply on experience.

But enough said about that. Currently, if I counted this right, there are about 154 countries where they require visitor visas. There are reasons for requiring visas for all of these countries. The Americans, for example, have more control on the exits of visitors.

Visitors come into this country, foreign workers come into this country, international students come into this country, and there's absolutely no monitoring. There is no follow-up. Nobody knows what really happens. Does the foreign worker go to the company where he's supposed to work? Does the international student stay in the school? Nobody knows, because there's no monitoring of compliance.

Universities and colleges are not required to report if the student has shown up or if the student has dropped out. Employers have no obligation to report to Immigration on whether the workers have shown up, whether they have quit their job, or whether they have been fired. There is no monitoring.

In the United States, if you get a visitor visa, you also get an I-94, a white paper that you must submit upon exiting the country. The

airline companies are supposed to pick that up. So there is some kind of control when you exit the country.

The visa-waiver countries and visa-exempt countries receive a white paper, which you typically hand in when you exit the United States. It's not a perfect system, because the onus is on the airline companies to request the I-94. If you don't submit it, then the foreign national may have serious consequences with the United States.

However, we're here to discuss our system. An easy solution would be to have a biometric smart card visa: swipe upon entry, swipe upon exit. Then you wouldn't have to worry about where these 41,000 people that the Auditor General mentioned have disappeared to in Canada. It's very easy: you monitor entry, you monitor exit. It could apply across the whole spectrum of temporary residents, from students to workers to visitors.

I mean, the Ottawa Athletic Club and all sports clubs have had smart cards for about four decades. It's not really a high-tech solution.

Frankly, it's easier to get into Canada than it is into the Ottawa Athletic Club. That's no joke. You need a smart card. You have a smart card membership.

As well, they should require that their passports be stamped upon entry into Canada and exit-stamped when they leave Canada. Then you don't have to worry about lack of compliance and violations of overstaying or not complying with immigration regulations. That's why the requirements for issuing visas are so stringent now, because there are so many violations.

• (1005)

I'm quite certain that Immigration has no idea of the statistics, of the number of violations for visitors who have overstayed, students and foreign workers, because they don't know when or if they leave. They know there is a problem.

Everybody who's travelling has to go through security. When you go through security, at the other end there should be a CBSA officer who swipes your visitor, foreign worker, or student visa when you're leaving. When you come back, it's the same thing. It would not be onerous for the temporary resident visa holder because they need a passport to travel, regardless. You cannot travel internationally without a passport. You could have a smart card visa biometric in your passport. You swipe when you leave, swipe when you enter. I am pretty certain that the restrictive criteria for issuing visas would be relaxed somewhat if Immigration had more control over what happens after you enter Canada.

Exit and entry stamps should also apply to permanent residents. We have this very expensive and ineffective Immigration Appeal Division, with an enormous backlog, to deal with cases of lack of compliance with PR obligations. That could be eliminated completely with a smart card permanent resident card—swipe when you leave, swipe when you enter.

• (1010)

The Chair: Are you finished?

Ms. Julie Taub: Yes.

The Chair: Thank you.

I don't know what the rest of the committee thinks, but I think it's a great idea.

Mr. Menegakis.

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

I want to thank all of our witnesses for appearing before us today.

Quite often, perhaps, the easiest thing to say is that visa officers are to blame for a lot of things. The fact of the matter is that they are very highly trained, very qualified people working with significant workloads; they have an experience level that allows them to do their job properly. However, no system is a perfect system.

I want to highlight a couple of statistics for you before I get into my questions. You know that Canada is one of the most welcoming countries in the world. We certainly see that when we compare our system to other peer countries with which we have good working relationships. We welcome a growing number of visitors, foreign workers, international students. In fact, over the last several years, that number seems to be increasing. In 2012, we issued over a million visitor visas—that's a 40% increase over 2004—and a record 100,000 international student visas, which is a 60% increase over 2004. We believe that these individuals play an important role in fostering Canadian economic development through tourism, trade, commerce, educational, and research activities. The approval rate for visa applicants in 2012 was 82%. So far in 2013, it's 83%. That leaves 17% of the people who get rejected.

Looking at the appeal process, about 48% of those who appeal are successful in getting in. My experience in my office, and certainly for a lot of my colleagues who I speak to, is that quite often the applicants themselves have not properly filled in their applications; there is missing information. When they are told what the missing information is, they bring it in. The success rate is considerably higher.

Visa officers are the first line of interaction we have with somebody who wants to come into the country. Some might think they are the first line of defence, because they're really screening who comes into our country, who walks on our streets, who shops in our malls, and who's around our children, our schools, and our families.

This week we heard from CIC officials the numerous ways that people attempt to gain fraudulent entry into Canada. Some of the fraudulent activities officials named were purposely giving incorrect information—fraudulent bank statements, fraudulent educational statements. There are cases where you have someone coming in presenting themselves as someone else. We've seen people try to get in here five and six times under different names. As you are all aware, misinterpretation is a serious offence under the Immigration and Refugee Protection Act, IRPA, as we all call it.

What actions do you suggest can be taken up front to avoid these cumbersome cases from reaching an officer?

To follow up on that and open it up for all three of you to answer, have you seen any cases where individuals have attempted to circumvent the process of getting into Canada by cheating? What types of cases and documents have you seen firsthand? Of course, I

realize you can't name your clients, but we're speaking in general terms.

Perhaps I can start with you, Ms. Taub.

Welcome back, by the way.

Ms. Julie Taub: Thank you.

Just to follow up on what you said before I answer that, you mentioned one million visitors, over 100,000 students, and I believe I have the statistics...you're referring to 250,000 foreign workers.

Just a minute. I have it here somewhere.

There were 213,000 foreign workers who came in, and there's a total of 338,000 now. I'm sure all of you are aware, but I'm sure Canadians are not aware, that there is no compulsory criminal background screening for all these temporary residents. There are no compulsory criminal background checks and no compulsory health checks. We have close to 2 million people coming in annually, and we really don't know who they are.

It may be onerous to impose criminal background checks, but I think it's important. After all, this is our country. We don't know who's walking in our streets. They may comply with most of the criteria to be an international worker, a foreign student, or a visitor, but do we know if they're criminals? Do we know if they have terrorist associations? This is not checked. It should be.

To answer your questions, yes, I've had occasions at the beginning of my practice when different clients would come in and openly admit to me some of the unsavoury practices that they wanted to engage in because they knew there was solicitor-client privilege. When the word got out I would not help these people.... For example, permanent residents who had not complied with their residency obligations would get a friend who owned a Canadian company to write a letter that they had been working abroad for them. They would ask me if I could help with the letter and get the contract correct, even though in fact they had not been working abroad for this Canadian company. This is one of the exemptions. These are some of the practices that commonly go on, and it is not unusual. This is what I have seen.

I have also dealt with cases where people who became Canadian citizens did so under another name. I'm thinking of two cases I had, which I could not continue because of this. The person came under a relative's passport, managed to get refugee status, managed to get permanent resident status, and even became a citizen—and then it was a revocation of citizenship. When I really got involved in the case and saw in fact that this was misrepresentation, I said I was no longer able to proceed to represent this client.

This has happened on two occasions.

• (1015)

The Chair: Thank you, Ms. Taub.

Ms. Sims and Ms. Sitsabaiesan.

Ms. Jinny Jogindera Sims: Thank you very much.

I want to thank our witnesses for coming here today.

Just as a side point, Mr. Chairman, I look forward to speaking on my notice of motion, after the 48-hour notice is duly given. It's the one on granting citizenship to the lost Canadians, the ones who got left out of the previous legislation that the minister said needed to be addressed. We're going to be asking for urgent action on that. Unless I have unanimous consent to address it today, I will wait until the next meeting.

Do I have unanimous consent?

The Chair: You're taking her time. Well, you raised the issue.

Mr. Kevin Lamoureux: Mr. Chair, I think we should be clear. I don't quite follow exactly what's been asked of the committee other than unanimous consent.

The Chair: Ms. Sims has given us a notice of motion, which presumably you have a copy of. There isn't 48 hours' notice, so she has asked for—

Mr. Kevin Lamoureux: No. I didn't have a copy of it, Mr. Chair.

I do now.

The Chair: It requires 48 hours' notice. If she wants it before 48 hours' notice, she needs unanimous consent, and she does not have it.

So we will proceed with your questions.

Ms. Jinny Jogindera Sims: I'm now going to pass my time over to Rathika.

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

Thank you all for being here today.

From your interventions, Ms. Long, you spoke mainly about the criteria that's utilized and how unclear it is with the visa officers.

Ms. Taub, you were very clear—need exit controls; use smart card visas.

Peter, I think you've already answered my first question, so I'm going to direct my first question to Elizabeth, if I may, and Peter, if you have something to add, please do so.

One of the main reasons for the study is because, as MPs, we work every day with Canadians who are trying to reunite with their families on a temporary basis and who have difficulty with TRVs. Members opposite have mentioned that fraud prevention is certainly of concern when TRVs are denied, yet according to CIC officials we heard from at the last meeting, 48% of applicants who reapply after a denial are actually approved. Meanwhile, the persons who are making the applications have gone through emotional and perhaps also financial and other stresses through the process of submitting a second application. This certainly speaks to the discretion you were mentioning, Ms. Long, that is awarded to the officers on the notion of intent with respect to the applicant.

I'm wondering if you can speak to the impact it has on families, on businesses, and if you have any recommendations to actually improve the application criteria.

• (1020)

Ms. Elizabeth Long: I'd like to answer that question, and also the question raised by Member Menegakis.

For example, Member Menegakis, you said we have x number of students who are allowed to come in, which is fantastic, but how many of them are able to stay without their families? For example, I had a student whose husband was a highly successful businessman. They had travelled to the U.S. and had U.S. visas, Schengen visas, and they had travelled throughout the world. She was refused a visa to Canada because they wanted to keep some ties back in the country of origin. What that resulted in is this highly successful student having to return back to her country. The criteria that was applied by the officer was completely wrong, applying temporary intent instead of dual intent, whether or not that person is likely to obey the laws. All of the travel history has shown that they had not overstayed in another country, such as the U.S. or Europe.

You have other criteria where, for example, you're not allowing the families to join families. I had a case, for example, of a child, who is Canadian because his father is Canadian, who has cerebral palsy. The wife was not able to join the families as well, so the criteria results in serious consequences to the families.

Mr. Peter Rekai: I will go back to a couple of the comments, and to Mr. Menegakis's comment—

Ms. Rathika Sitsabaiesan: I'm sorry, I'm going to interrupt because I only have another two minutes left.

Mr. Peter Rekai: Oh, I'm sorry.

Ms. Rathika Sitsabaiesan: I'd like to be able to put my questions on the floor, if I may.

Mr. Peter Rekai: I'm sorry. I thought that was addressing both.

Ms. Rathika Sitsabaiesan: No. I only have two minutes now.

Mr. Peter Rekai: I will defer back to you.

Ms. Rathika Sitsabaiesan: Currently, the option to appeal a negative TRV decision is to reapply or to appeal to the Federal Court. We learned from the officials, once again, that it's approximately 60 files that actually make it to the Federal Court. We don't know...it's 60 out of how many in total? Can you advise us why this form of appeal might be out of reach for some people?

Ms. Elizabeth Long: First of all, judicial review takes over a year to be successful. Second, you have to pay lawyers to be able to do that. Third, most people don't even know what the appeal process is. Fourth, the court's hands are tied because of the high level of discretion given to the officers as well.

Mr. Peter Rekai: To reply to that question, the criterion, of course, for a Federal Court review is that there was an error in law or in the way the decision was approached. Most courts give a fair amount of latitude, as I think they should, to visa offices' expertise in analyzing the facts before them. They are not going to review the facts. People often don't understand that it is a legal issue. It's one of approach that is under review, not a rehash of the facts. That is what narrows the issues and the eligibility to be before the Federal Court.

Ms. Rathika Sitsabaiesan: Thank you.

Ms. Taub, when you were speaking of your need for exit controls, you were speaking of not doing criminal background checks for all of our TRV applicants who come to this country from countries from which we do not require visas.

My question is, for countries where visas are not required—the U.S., the U.K., whatever—we don't do criminal checks. We don't do any kinds of checks on anybody who's coming from—

Mr. Rick Dykstra: That was in the budget.

Ms. Rathika Sitsabaiesan: I'm not sure what Mr. Dykstra is saying.

We don't do any checks on them.

•(1025)

The Chair: We're going to be out of time.

Ms. Rathika Sitsabaiesan: Are we saying that only countries from which visas are required produce criminals, and that countries from which visas are not required do not produce criminals at all? Is that what we're getting at?

The Chair: Thank you.

I'm sorry, Ms. Taub. I have to control the clock and we're out of time.

Ms. James.

Mr. Kevin Lamoureux: No, isn't it...?

The Chair: I'm sorry, Mr. Lamoureux. How could I forget you?

Voices: Oh, oh!

Mr. Kevin Lamoureux: I always have to fight to communicate, Mr. Chairperson.

The Chair: I apologize, Mr. Lamoureux. It's your turn.

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

Ms. Taub, I thought you made reference to the number 41,000, in terms of individuals in Canada without resident status.

Ms. Julie Taub: No, no, that was in the Auditor General's report a few years back. There were removal orders in place against 41,000 people whom they couldn't find. That came out I don't know how many years ago. It was in the former Auditor General's report.

Mr. Kevin Lamoureux: Those were removal orders. Do you have any background...or do any of the witnesses have an estimate of how many individuals are here in Canada today without status?

Ms. Julie Taub: I think Immigration might have an idea, but they probably wouldn't, since there's no monitoring afterwards.

Mr. Kevin Lamoureux: Right, and the three of you would be of the same opinion.

Ms. Elizabeth Long: Yes. It's always an estimate. I agree that there should be some exit controls, but they shouldn't be just for people visiting from countries from which visas are required.

Mr. Kevin Lamoureux: I'm going to get to that point right away.

Ms. Julie Taub: Sorry, I meant to say everybody who leaves.

Mr. Kevin Lamoureux: It's interesting. We're told that 35 million visitors come to Canada annually. Out of that, just over one million, from what I understand, come through visiting visas.

If you take a look at it from a percentage point of view, do any of you have any reason to believe that there's a higher percentage of non-compliance, regarding the rules to be in Canada, by people who come from countries for which visas are issued than by people from countries where they are not? In other words, are there more people here illegally from, let's say, the Philippines than from England? Would any one of you like to provide comment?

Mr. Peter Reikai: I wouldn't perhaps pick the Philippines, but there are certainly countries in the world where there is a push to leave—and we know some of those countries. Yes, there would be a likelihood of more of those visitors not returning on time than there would be in the case of visitors from countries without those issues.

Ms. Elizabeth Long: I actually see the opposite. For example, I see that when people come from countries such as the U.S. or Portugal, and there are no controls on when they leave, a lot of times there's more of a sense that it doesn't really matter since it was so easy for them to come in. People who required visas to come in know it is difficult to come in, and there is a sense that they must maintain their status. Often they're much more concerned about maintaining their status than are people from countries from which visas are not required.

Mr. Kevin Lamoureux: That was my hypothesis, in fact, that there's a larger issue with people from countries from which visas are not required actually overstaying.

You would agree with that, Ms. Long?

Ms. Elizabeth Long: Yes.

Mr. Kevin Lamoureux: Would you agree?

Ms. Julie Taub: I would disagree.

Mr. Peter Reikai: I understand the point. From time to time there is a certain lackadaisicalness among people who don't have visa restrictions. I agree with that, but no, those countries that are economically or politically in difficulty are more likely to produce individuals who don't go back on time.

Mr. Kevin Lamoureux: We know there are percentages, and you yourself really profile, Peter. I'm wondering if one of the ways in which we can start to see more being approved is just to raise the percentage. For example, today it's 83%. Is there anything wrong with saying that as a government goal we should be shooting to approve 90%? Is that something we should be looking at? Then that would guarantee—

Mr. Peter Reikai: I think you're looking at it backwards, with respect. I don't think we can shoot for a percentage necessarily. We should be shooting to accommodate as many applications as we can.

Mr. Kevin Lamoureux: On the ground level, where they're actually reviewing the applications, are any of you of the opinion that an immigration officer has a certain percentage and that's all they can approve? "Here's 100 and I can only approve 85 of that 100." Do you believe that sort of thing takes place in the minds of an immigration processing officer?

Ms. Long, and then Mr. Reikai.

• (1030)

Ms. Elizabeth Long: I don't know that there are such criteria, but I think just the perception of the public when there is unreasonableness brings the system into disrepute in that sense.

Mr. Kevin Lamoureux: For the perception, yes.

Ms. Elizabeth Long: There is a perception in the public that there are such criteria. When there are unfair decisions in that sense there is a perception.

The Chair: Thank you, Mr. Lamoureux and Ms. Long.

Ms. James.

Ms. Roxanne James (Scarborough Centre, CPC): Thank you, Mr. Chair. Welcome to our guests.

In your opening remarks, Ms. Long, you talked about the fact that MPs' hands are tied and our courts' hands are tied. You seem to imply there's a problem with the visa officer having the power to determine the outcome of an application. I'm sitting here thinking, you have to be kidding. Visa officers are highly trained, highly experienced, and many times they are actually submerged in the culture of that particular country. I was sitting here thinking that as a member of Parliament I would actually never want that responsibility, to make a decision or intervene on a decision that could have a negative outcome. Obviously I don't have the experience, and that's why we rely on our visa officers.

Ms. Taub, when you made your opening remarks and I was sitting here listening to you.... You were talking about the criteria that are being used for TRVs, whether they are student TRVs or others, and you indicated that regardless of what anyone thinks, it's exclusively in the best interests of Canada to have those criteria and to make sure that the visa officers, who are highly trained, have their own discretion and that they use it freely based on their experience. I'm hearing two different spectrums here, and I have to say that I agree with Ms. Taub in that case. I think most Canadians who are actually watching this committee would tend to agree. For example, I go to my doctor and he prescribes something to treat an illness. That's like saying he shouldn't be the one who actually does that prescription. I find that very alarming to hear, just as a side point.

There was another question I heard actually from my colleague across the way, Ms. Sitsabaiesan. She said that if a TRV is denied, they have the option to reapply, and in some cases it could be a financial burden. An application is \$75 for a single application and a multi is \$150, and they have 14 days to reapply. I'm just trying to figure out why that would be a financial burden to someone, considering they want to come to Canada. If they can't afford the reapplication fees, then there must certainly be a question about whether they can actually afford to come to Canada in the first place. I want to ask if you think that's a financial burden to actually have to reapply at those particular fee structures.

I'll direct that to Ms. Taub.

Ms. Julie Taub: I don't think it's a financial burden. Again, it is a privilege to come to Canada. It is not a right for anybody to come to Canada to work or to study or to visit. It is a privilege. If they don't meet the criteria.... The criteria have been established to benefit Canada, not to benefit the foreign national who is an applicant, and so be it.

In terms of countries that require visas, as opposed to countries that don't require visas, we are just looking at visitor visas. All citizens from all countries in the world who want to apply to be a foreign worker or a foreign student must have visas, which includes the United States. You need an international study permit.

Ms. Roxanne James: I'm sorry, could I just interrupt? My time is limited. I'm actually concerned about the costs, so....

Ms. Julie Taub: No, I don't think it's a financial burden whatsoever.

Ms. Roxanne James: We talk about the criteria. Ms. Long made a statement that the "criteria results in serious consequences to the families". Obviously there are criteria for a reason. If there were no criteria for a visa officer to follow, then it would just simply be an assumption or a guess. Is that correct? The criteria are important to actually assess the application. So regardless of whether someone thinks it has a serious consequence if someone is denied or accepted, the criteria are an important aspect of that application. Is that correct?

• (1035)

Ms. Julie Taub: That it is.

I understand the point that in family emergencies there should be a bit more latitude; however, in order to deal with the risk of a foreign national not returning to the country, the Canadian family could be requested to post a bond that would be repaid once their visiting family member leaves. Then there would be more certainty of compliance.

Ms. Roxanne James: You just mentioned family emergencies. That is a topic that came up with our CIC officials. They indicated that in some cases, if the visa application is denied, they can apply for a permit instead.

Ms. Julie Taub: That is a resident permit. Yes.

Ms. Roxanne James: That is a possible solution. In this case, in which we're talking about fees, what do you think about charging a higher fee or an additional fee for a quicker response or a quicker application or a quicker...the ability to get here?

I see Mr. Rekai is also shaking his head, so perhaps I could ask that question directly to him.

Mr. Peter Rekai: Absolutely.

For expedited visas, when you need to be here on an urgent basis, almost all people would be willing to pay extra, as they do for passports when they need a passport overnight. We now have a passport service. We don't have to call our MP, as we used to have to 10 years ago, to get a passport in 24 hours. We pay extra for it, and people do it gladly.

I think overwhelmingly people would pay for that expedited service.

Ms. Roxanne James: Thank you very much. I know someone who has just done this to get a very quick passport. It is a service that I think most Canadians appreciate.

Ms. Taub, I wanted to touch very briefly, time permitting—

The Chair: You have one minute.

Ms. Roxanne James: You mentioned swiping the smart card for biometrics and so on. I'm trying to visualize what this means. When I think of a smart card, I suppose the information for the biometrics on that person is already on the card.

How does this work?

Ms. Julie Taub: Even the permanent resident card is not a smart card.

Ms. Roxanne James: No, but I'm saying that you offered this as a suggestion.

Ms. Julie Taub: Yes, a smart card—

Ms. Roxanne James: I'm just wondering how you connect the person who is holding the card to the person who actually belongs with that card.

Ms. Julie Taub: You do it the same way you do with a smart card when you go to the Ottawa Athletic Club: it is swiped, and your picture shows up on the screen, and it had better match you.

Ms. Roxanne James: Thank you. I just wanted to clarify that. It was touched on, and then I think there were some comments that we thought it was possibly a good idea. I wanted to make sure there was still the same connection; that the swipe would bring up the information, so that the person has to be that person.

Ms. Julie Taub: It would bring up the information: the date of birth or whatever information—biometrics, perhaps fingerprints. But the photo has to match the bearer of the passport. It has to be the same photo.

Ms. Roxanne James: Thank you. I just wanted clarification.

Mr. Rekai, do you have anything to add with regard to that suggestion made by Ms. Taub?

Mr. Peter Rekai: I think exit controls are absolutely fundamental. I know that CIC and CBSA have been working on the concept for some time.

The Americans have a system, as Julie pointed out. They are not happy with their own system. There's considerable discussion now about doing better. I think it's in the works. It has been a long time coming, but it's necessary.

The Chair: Thank you. We're out of time; I'm sorry.

Ms. Freeman has five minutes.

Ms. Mylène Freeman (Argenteuil—Papineau—Mirabel, NDP): I have five minutes?

Thank you very much, Chair. I'm very glad to take the time. I thought my time was withering away. I'm actually very glad to be able to speak.

As we've heard before....

My notes are in French, so bear with me on the translation.

[Translation]

As was mentioned on a number of occasions, there is really no appeal mechanism for visitor visa applications, which can create a lot of problems.

My riding receives a lot of tourists. Actually, many people who welcome their families to the Outaouais and Ottawa regions also take

advantage of the opportunity to tour and show rural Canada to those who visit them. That is really important to us. I am not saying that people have a right to visit those regions, but it is in the interest of my constituents that people come to visit Canada's regions and to see what our region has to offer.

I think the lack of an appeal mechanism is a problem. People may not understand why a visa application was rejected. Was it an administrative error or was there a perception of a dual intent?

In my view, that can lead to two possibilities. First, the person may decide to apply again, which would represent additional costs for the applicant and a heavier workload for officials. Second, the person may simply forget about the visa application, which is understandable since we are basically saying that we do not want them here and we don't want them to visit the region.

That means a loss of tourism revenue for Canada. As I mentioned, this is a very important industry, especially for my riding. The municipalities in my riding are close to Montreal and Ottawa and a lot of people who visit those cities also want to discover the countryside. They want to see the forest and see how the leaves turn colour in the fall. That is important, because that is what keeps the economy going in my region.

Do you think an appeal mechanism would help? Do you have a better process in mind so that we don't discourage people? We must not constantly ask people to redo their applications simply because of a few small errors.

Ms. Long, you may go first. We could then give the floor to all the witnesses around the table. That would be great.

Thank you.

● (1040)

[English]

Ms. Elizabeth Long: It's not a matter of whether we respect visa officers or not. I have a lot of respect for visa officers. But people make wrong decisions, and when people make a wrong decision, you need to have a way to address that error fairly and quickly. It is in Canada's interest for tourists to come to Canada; it is in Canada's interest for Canadians to be able to have their families come to Canada; it is in Canada's interest for workers to come and work for businesses and for students to attend universities here and pay very high international student fees.

When we have an appeal system, it is important for the people who are responsible for the appeals to be able to look at this in a fair way and be able to instruct officers as to how they should be determining these applications.

Mr. Peter Rekai: Slow justice is no justice, when it comes to visitor visas. I think we have to keep that in mind. Any appeal process has to move very quickly, and that's why it has to be an administrative process.

We talked about police clearances. You get police clearances for permanent residents. They take months to accumulate. You will destroy your tourism industry if you ask every tourist to obtain police clearances from everywhere they have lived. There is always a balance.

If you can't get your passport back for 60 days from the consulate in New York and you live as a legal resident in the U.S., even though you're not a U.S. citizen.... You're in a pretty low-risk area; why is it taking so long? You're not going to get to Quebec on time for your visit.

Speed, and not just the right decision but quick decisions, are very important to make this process work.

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

Ms. Mylène Freeman: Thank you, Chair.

The Chair: Thank you, the three of you, for coming and giving your views.

Ms. Taub, as I said, I think the smart card is a great idea. I hope the department considers it. Maybe they'll call it the Taub card. I'm sure it's an issue the committee will debate.

Voices: Oh, oh!

The Chair: Thank you for all of your ideas.

The committee has some brief business to discuss. If all those who are not members of the committee, except the staff, would vacate, we would appreciate it.

We will suspend.

[Proceedings continue in camera]

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