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## **Standing Committee on Canadian Heritage**

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**EVIDENCE**

**Monday, October 2, 2017**



**Chair**

**The Honourable Hedy Fry**



## Standing Committee on Canadian Heritage

Monday, October 2, 2017

• (1530)

[English]

**The Vice-Chair (Hon. Peter Van Loan (York—Simcoe, CPC)):**  
I call the meeting to order.

I'll be sitting in this chair today because our erstwhile chair, Hedy Fry, is travelling, so it falls to me to take on the responsibility for this meeting and, I think, our next meeting. I will have to depart just before we finish off today.

We first have witnesses for 10 minutes each.

We have Murray Sinclair, who is a senator. From the Metro Vancouver Aboriginal Executive Council, we have Kevin Barlow, the chief executive officer.

You will each have 10 minutes to speak. I'll try to give you some kind of heads-up warning and then we'll get into question rounds.

This is a difficult time for us to be meeting, of course, after the attacks in Las Vegas, Edmonton, and Marseilles over the weekend, but we shall continue to plunge forward.

We will start with Mr. Sinclair.

**Hon. Murray Sinclair (Senator, Manitoba, ISG):** Good afternoon, members. I want to thank you for the invitation to appear in front of your committee to talk about the motion you're considering and the study you're undertaking.

I don't intend on speaking for 10 minutes, which doesn't mean I won't.

**Some hon. members:** Oh, oh!

**The Vice-Chair (Hon. Peter Van Loan):** You do not have to use it all. You can cut it short.

**Hon. Murray Sinclair:** I just don't intend to speak for 10 minutes. I didn't come with a prepared set of notes. I came with a few talking points that I want to utilize, particularly in the context of what it is that you're undertaking.

First of all, to introduce myself, you all know me as Honourable Murray Sinclair from Manitoba, a senator from that province along with others, but my real name is Mizana Gheezhik, my traditional name. I am of the fish clan, *namegos*, which is the rainbow trout. We are the water clan people. Water clan people are the ones who are recognized as having the responsibility to be the dispute solvers, the traditional dispute resolution people. As I always remind people within our lodge, we are also the ones who are considered the

philosophers and the dreamers. My name, Mizana Gheezhik, means “the one who speaks of pictures in the sky”, so it's about the responsibility that I've been given as well.

On the face of it, you have a very small-worded motion to consider. There's not a lot of space taken up on the page with the responsibility that you've been given. However, this is a huge undertaking because it affects virtually every person in this country, so I don't want to begin to try to measure that out for you. I'd like to just talk about a few phrases that I was invited to speak about, I think, because of my experience and the work that I've done.

As you know, I was appointed to the Senate in April 2016, and I am the first to acknowledge that I wasn't appointed to the Senate on the basis of my good looks. I am there because I'm an indigenous person. I was a judge for 30 years in the courts of our country, and during the course of my judicial career, I undertook three major studies. One was a study into medical error issues, but two directly impacted the issue of systemic discrimination and racism in our country: the aboriginal justice inquiry of Manitoba, which looked at the impact of the justice system on indigenous people in the province of Manitoba; and the Truth and Reconciliation Commission of Canada, which looked into the history of Indian residential schools, the history of colonization, and the impact of government action on indigenous people in this country and on non-indigenous people, as well. So, I think I have a bit that I can say and perhaps add to the conversation on the issue of systemic racism, but I am not very experienced in terms of dealing with the issue of Islamophobia. In terms of the motion that you have to consider, I'm quite willing to answer any questions about that and any other issue that you wish to talk to me about.

Let me focus my remarks, if I can, on the issue of systemic racism and systemic discrimination, because that's the area in which I have some experience, and I've written about it extensively.

People have a hard time understanding what systemic discrimination is and what systemic racism is. This is because it's not the kind of racism that comes necessarily from the behaviour, words, and actions of individuals, other than the fact that they are guided by the system in which they are functioning. The phrase that I always like to use is that systemic racism is the racism that's left over after you get rid of the racists. Once you get rid of the racists within the justice system, for example, you will still have racism perpetrated by the justice system. This is because the justice system follows certain rules, procedures, guidelines, precedents, and laws that are inherently discriminatory and racist because those laws, policies, procedures, processes, and beliefs—including beliefs that direct individuals on how and when to exercise their discretion—come from a history of the common law, which comes from a different culture, a different way of thinking. That would necessarily have a differential impact upon people who come from a different culture, a culture that is not the culture of the society that created that system to begin with.

● (1535)

For example, the Winnipeg police department used to have a rule that to be a cop in the city of Winnipeg you had to be a minimum of five feet, 10 inches tall. Anybody who was not five feet, 10 inches tall was not allowed to be a cop and they were filtered out right at the beginning. It was not discriminatory because it didn't say that only men could apply. It didn't say that short Filipino men couldn't apply. It didn't say that people who couldn't carry a human body couldn't apply. The intention behind the rule was that they wanted big, tough, scary-looking guys who would be able to handle themselves in the case of confrontation with people on the street. They figured five feet, 10 inches was the starting point. Most police officers in the city of Winnipeg were well over six feet tall.

The utilization of that as a standard for recruitment and acceptance into the police force obviously discriminated against most women. Not all women are under five feet 10 inches, I acknowledge, but most women are. People of different nationalities might not qualify because their nationality might inherently prevent them from reaching that height. I reference Filipino people, for example. They might not be able to qualify just because they come from a background in which the height of their family members and their community is not necessarily that tall.

The utilization of that rule also had no logical connection to the purpose of policing. That's the other reason that having that particular rule made no sense. Eliminating that allowed them to increase the number of women on the force and increase the number of people from different ethnic, cultural, and racial backgrounds. That assisted the police to police better. That's the whole question. If you have a discriminatory rule or if you have a rule that is having a differential impact on certain populations within society, and that impact is a negative impact, you have to question whether you need the rule. It doesn't mean you get rid of it automatically. If the rule is not causally connected to a benefit that you need and can only get in that way, then you need to get rid of the rule. You need to recognize that the negative impact is not benefiting you.

There are many such rules within the justice system. The justice system follows many such practices. Sentencing, for example, and bail reviews take into account certain factors that are negatively

reviewed when it comes to indigenous people. For example, if you're sentencing somebody, the fact that they have consistent employment with the same person over a period of time is a factor you take into account. Do they have a regular residence in the community or do they have a homeless experience? Are they people who have mental health issues? These are all factors you take into account. When those factors are more prominent in a certain community of people, such as indigenous communities, then they will have a differential impact.

As I said, systemic discrimination and systemic racism is that racism left over after you get rid of the racists. That's when you need to look at what you're doing.

Thank you.

● (1540)

**The Vice-Chair (Hon. Peter Van Loan):** Thank you very much.

We'll now hear from Mr. Barlow from the Metro Vancouver Aboriginal Executive Council.

**Mr. Kevin Barlow (Chief Executive Officer, Metro Vancouver Aboriginal Executive Council):** Thank you, Mr. Chair, and honourable members.

My agency represents an urban population in metro Vancouver, which is estimated to be about 70,000 indigenous people. We believe and most people believe that indigenous people have experienced systemic and government-sanctioned racism for hundreds of years. The residential school system wasn't really about educating. It was about Christianity conversion and taking the Indian out of the Indian.

When we're speaking to these historical influences, many people wrongly think we're talking about first contact when, in fact, we're talking about more current realities. I'm coming up to 56 years old in December, and it has been within my lifetime that I've experienced certain things. For example, the right for first nations to vote came in only about two years before I was born. The Davis Inlet Innu, for example, were relocated during my lifetime. These forced relocations are examples of how government-sanctioned racism occurred. So we're not really talking about hundreds and hundreds of years ago. We're talking about now, even though things started back then.

Recently we've been hearing a lot about historical name changes. For example, in Halifax they want to take down the Cornwallis statue, and there has been talk about changing some schools that have Sir John A. Macdonald's name on them. For those who don't know, Cornwallis was not a good person. He issued bounties on the heads of Mi'kmaq people. When we talk about trying to change these names, we need to ask what purpose doing that serves.

In my opinion, two things need to happen when we're looking at that. The first is a locally driven response. An example is that in Vancouver, there's an aboriginal focus school ironically named after Sir John A. Macdonald. The local community wants to change that to an indigenous name, and there's no major opposition to that. If a local community wants to make that change, and there's no major discord, then I think that's one thing we need to look at.

The second, though, I think is an opportunity for us to educate about those impacts. For example, rather than taking down Cornwallis' statue, why don't we have a plaque there that educates about that era and the impacts and the views that were held, and that says we don't agree with those things anymore? I think that would serve a better purpose than just trying to erase history.

I think a lot of Canadians think that we somehow were defeated in war as indigenous people, yet if you know your history, you know that Canada was formed largely because of treaties. You guys wanted to put a railway across the country to stop the Americans from moving up, and so you formed treaties. I think sometimes people think we were beat or defeated in war, and we should just take our lumps of coal, but I don't think that's the answer. We need to teach history in a proper context.

I think there's extreme polarization going on right now, and it's something I haven't seen in a long time. When I grew up in New Brunswick, there were segregated schools. It seemed like the English and the French couldn't get along, so at the school I went to there was an invisible line. French were on one side and the English were on the other. Because my community spoke English, we got lumped in with the English. Honestly, there were days when it seemed as though we were like rabbits being chased around by hound dogs, because people were bullying us. My reserve currently has only about 200 registered band members, but when I was growing up it was quite a bit smaller. Going to school there might have been four or five of us, and so we would be chased around.

I think that kind of polarization, with everybody in their own corners and not really wanting to get along, I'm seeing again today. I don't think it's so much about the Trump effect. I think it's more that there are enough people who think that way to elect someone like that. Those reality shows that have been out there have had that impact of slowly eroding away a certain morale or public standard. Social media, which I like to call anti-social media, also puts people in corners. There's a tendency that if you are friends with certain people who share your values, then you tend to see only those kinds of opinions, and so people are becoming more segregated in that way.

● (1545)

Fake news pops up every now and then, including on social media. One of them is about how new immigrants coming to Canada are paid these Treasury Board rates that are common for public servants or people who are travelling on government business, thinking they're making way more than people who grew up here and are on old age security or disability, that type of thing. When that polarization occurs, then I think those kinds of things have more opportunity to take hold. I think the Canadian government, regardless of who is governing, needs to play that leadership role and really make explicit efforts to educate people and bridge those divides.

An example in the United States is the trans people who were told not to use certain washrooms. Here in Canada I see signs going up saying "All genders welcome". That's the Canadian way, where we are more embracing of differences. Even though racism does exist, we are generally not the same as our neighbours down south. We see these neo-Nazi or fascist rallies going on, and yes, people have a

right to assemble and to voice their opinions. We do have laws that protect people against hatred, and we're seeing the counter. In Vancouver there was a rally, and there were literally thousands of people who spoke up to say they didn't accept this kind of hatred. We had a few hundred people who showed up to express their views, and we had thousands of people who opposed that.

I think Vancouver is a shining example of leadership at the civic level, where they have endorsed the principle and name themselves the city of reconciliation. They have gone out of their way to show that indigenous people within that area have a place. This racism discussion also needs to include a discussion about perceived racism. Indigenous people are overrepresented in almost every negative health and social indicator in this country, whether it's homelessness or substance use or children-in-care rates, incarceration, you name it. What comes with that sometimes is stigma and discrimination, where people think we are the architects of our own problems, that if only we'd get a job and pay taxes, then we'd be okay.

There are two papers in my references that talk about racism within the health care system. One was done by the Wellesley Institute and another by The College of Family Physicians of Canada. Perhaps you don't think racism exists. When those reports came out, if you look at the comments section on those posts, you see the racism was blatant. Sadly, this stuff does exist. We hear stories and stories, whether it's Frank Paul, who died from hypothermia in 1998, in Vancouver; Adam Capay, the young first nations' person who's been in solitary confinement for four years; Curtis Brick, who was taunted by first responders in Vancouver before he died of extreme heat; Barbara Kentner, the young woman in the Thunder Bay area who died after being hit by a trailer hitch.

When Barbara Kentner was hit by a trailer hitch, for us as indigenous people, we see that as racism. Somebody did that because she was an indigenous woman, but we know in law it's harder to prove that, so the man was charged with something else. The woman has since died.

Perceived racism has eroded our confidence in the system over hundreds of years. An example that these things still live with us is that in the Atlantic, people still commonly refer to social assistance cheques as rations, which is what Innu nations used to give out. They talked of it as their ration cheque. These things stay with us as part of our psyche.

In closing, I'd like to say, we believe more needs to be done around reconciliation, about ensuring that cultural competency is delivered in various areas. We also speak against Islamophobia, because if we were to say that one group is okay to discriminate against, then it takes away what we've been standing for so many years. Our teachings talk about the four colours of mankind in the medicine wheel: the red race, yellow race, the white race, the black race. Christians have the Ten Commandments. We operate under one principle, respect, respect for all life.

● (1550)

I think that what the Canadian government needs to do in terms of showing its leadership is to bridge those divides and work with the community to make sure that we welcome people coming in and educate people on the current realities.

Thank you.

**The Vice-Chair (Hon. Peter Van Loan):** Thank you very much.

We're now going into the question rounds. The first are seven minutes long. That seven minutes includes the time for questions as well as for answers. The first round goes to the Liberals and Mr. Vandal will be asking the first question.

**Mr. Dan Vandal (Saint Boniface—Saint Vital, Lib.):** Thank you, Mr. Chairperson.

Senator Sinclair, Mr. Barlow, thank you for being here. I appreciate your comment about this being a wide subject. We only have seven minutes for questions and answers. I probably won't get to ask another one so I'm going to stay very high level. You've identified the difference between racism and systemic racism very well, I believe. As you know better than most, systemic racism can cause somebody not to get a job, not to get the medical service they need, to get arrested, or worse.

Senator Sinclair, over the last 10 years, relative to systemic racism, are we heading in the right direction? Are things getting better?

**Hon. Murray Sinclair:** They are two different issues.

I'll say, yes, we are heading in the right direction and things are getting worse. Things are getting worse mainly because the population of indigenous people and the population of visible minority people in this country is increasing, and therefore, the impact is upon a larger population of people. The negative impact, or the differential impact, is on a larger group of people. So you're beginning to see more awareness of the fact that we're having a negative impact. For example, when we did the AGI report on indigenous people, the incarceration rates were much lower than they are now, even though since then we've had recognition that things need to be done, an effort on the part of courts to do more, amendments to the Criminal Code on sentencing in 1996 that called upon courts to take into account the unique circumstances of indigenous offenders. So efforts are being made, but they're just not keeping pace with the magnitude of the problem.

**Mr. Dan Vandal:** Okay.

As both of us are from Manitoba, we both know that there are too many kids in the child welfare system, indigenous children. I believe there are upwards of 12,000 children in our system. It's never been as high as what it is. Can you comment on that.

• (1555)

**Hon. Murray Sinclair:** A couple of reasons why I think that's happened is that we've had an increase in the number of child welfare agencies in Manitoba in particular and I think across the prairie provinces, which have the largest number of indigenous children population-wise and percentage-wise in the country. Even in those parts of the country where the population percentage-wise speaking is lower, the number of indigenous children has gone up who are in care. The reason is the increase in the number of the child welfare agencies, and that child welfare agencies since the Phoenix Sinclair inquiry and the Hughes report are now more aware of their potential liability for making mistakes, and so they are being less forgiving of families when it comes from deciding to take children into care. The birth rates are increasing because for the population of

indigenous people they are much higher than they are for the rest of the population, and the average age at which children are being born to young indigenous women is lower than it used to be. That's because the population of young indigenous women who are having babies is increasing.

**Mr. Dan Vandal:** Is there any systemic racism involved with the high number of indigenous children currently in the child welfare system?

**Hon. Murray Sinclair:** Yes. Systemic racism occurs at a number of different points. First of all, there's the point at which the decisions are made to apprehend children. The factors that are utilized and followed in order to make a decision as to whether to take a child into care exclude those factors, do not include those factors that are unique to indigenous families. For example, Manitoba, at this point in time, apprehends on average one newborn infant per day out of hospital. A young mother goes to a hospital, gives birth to a child, and the child is apprehended at the rate of about 370 newborn children per year, never mind the other children who are apprehended at later ages.

When you look at the factors that lead to that, it's because most mothers from northern communities have to go to two or three urban centres—Thompson, Brandon, or Winnipeg—in order to have children. They leave their home communities. If they have any kind of social or physical problem, they don't have the support system in place in that community to help them, so they have to involve a child welfare agency, and the first decision a child welfare agency makes is to apprehend the child. They'll take the child into care, and then they will offer support to the mother to get treatment or to get help. In the meantime, the child is in care. By the time the mother goes through treatment or gets the help that she needs, they'll often deny returning the child, or they will refuse to return the child to the mother, because they say that the child has now bonded with the family that they've placed the child with, and therefore, they're not going to interfere with the bond that the child has formed. Or they may say to the mother that she hasn't completed the program well enough, so she has to go to another program.

Systemic discrimination occurs because the factors and the standards to which indigenous people are held are almost impossible for them to meet because they do not have the same social benefits, social privileges, social options, and opportunities that non-indigenous families have. They have more negative factors that weigh upon their being caught up in the system to begin with.

As a result, the rules the system follows work against indigenous mothers.

**Mr. Dan Vandal:** We are working in this committee to develop a whole-of-government approach to reducing or eliminating systemic racism and religious discrimination. In less than a minute, can you give us some advice as to where we should be going?

**Hon. Murray Sinclair:** When it comes to indigenous people—I'll talk about that because I have more experience and awareness there. It really does involve enhancing indigenous communities to do their own activities, to take over control of these systems, because they can do it just as good, and better in fact, than the non-indigenous agencies are doing when it comes to child welfare. It's the same with sentencing indigenous offenders. Involving their communities—particularly at younger ages, with indigenous youth—in the disposition of cases will prevent those children from moving further down the road into a life of crime. Empowering indigenous communities is the key. Self-government is the key.

**The Vice-Chair (Hon. Peter Van Loan):** We'll move now to the Conservative round.

I believe Mr. Reid will be asking the questions.

**Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC):** That is correct. Thank you, Mr. Chair.

Thank you to both our witnesses today. I'm going to direct my questions initially to you, Senator Sinclair, because of the fact that you touched on a very interesting definition of systemic racism.

I have a quote here from Stokely Carmichael and Charles Hamilton from their 1967 book, *Black Power: The Politics of Liberation*, which introduces the concept of institutional racism. I'm wondering whether you think this captures what you're trying to get at. They say:

When white terrorists bomb a black church and kill five black children, that is an act of individual racism, widely deplored by most segments of the society. But when in that same city—Birmingham, Alabama—five hundred black babies die each year because of the lack of proper food, shelter and medical facilities, and thousands more are destroyed and maimed physically, emotionally and intellectually because of conditions of poverty and discrimination in the black community, that is a function of institutional racism.

Does that essentially capture what you're trying to get at?

• (1600)

**Hon. Murray Sinclair:** Those are examples of the issues that I'm talking about. There's no question of that. It's when you have a system, an approach to justice, an approach to the application of law, that treats people of one group differently from people of another group.

You have, for example, the situation of the fellow in Edmonton who has just now been charged with terrorism for running people over with his vehicle and attacking a police officer, and you have that fellow in Charlottesville who ran his car deliberately into a crowd of protesters, who is not charged with an act of terrorism. These two men have done the very same thing in order to intimidate a group of people and prevent them from exercising their rights ostensibly, and yet the white guy—if I can use that expression—in Charlottesville in the United States is not charged with terrorism and the guy in Edmonton is.

That's an example of the utilization of discretion, utilization of the power to make those decisions that stems from one's understanding and perspective of society and the rules of behaviour that are expected of you, as a police officer perhaps.

**Mr. Scott Reid:** One of our witnesses last week was dealing with the issue of the number or the percentage of black Canadians—I think he was referring to males here—versus white Canadians who

are charged with and found guilty of assorted offences. He noted that in the kinds of offences where there is the maximum amount of judicial discretion, that's where we see the greatest disequilibrium. I'm not sure that's the right word—the greatest divergence might be a better way to say it. I want to be careful I'm not putting words in his mouth, but I believe what he was saying was that this indicates an underlying bias of some sort in the minds of judges that carries over into the sentencing.

He was talking about a different group, of course, as were Stokely Carmichael and his co-author, but does that capture some of what is going on vis-à-vis aboriginal Canadians with regard to the justice system?

**Hon. Murray Sinclair:** The way we have been educated in this country—and it's true also in the United States—is to believe that if we are Euro-Canadian people, then people who are not of our background are inferior to us, because that's the belief system that came over with colonialism and those who brought the European systems of believing things. It was behind the use of common law. It was behind the use of various other legal mechanisms to establish and justify crown sovereignty in this jurisdiction. They said they were a superior people entitled to do this.

When we encounter people who are not of that background, we assume they need to be shown, that we need to treat them in a way that will bring them into that mould. When I was a young lawyer practising law, I had many judges who would say to my indigenous client, “You need to learn that this law is meant for you; therefore, I'm going to sentence you to this”, whereas a non-indigenous person who had committed the same offence might not get the same sentence. They would attempt to use the law to teach a lesson.

That kind of belief, that European colonizers who came to this country were superior to the indigenous people who were here, is an inherent part of the colonial experience. It has taught indigenous people that they are inferior; it has taught non-indigenous people that they are superior, and it has contributed mostly to the very negative relationship that exists between indigenous and non-indigenous people.

Judges, who are predominantly of European ancestry, believe that when they exercise discretion, they have to do it in such a way that it will reinforce what the system is all about.

• (1605)

**The Vice-Chair (Hon. Peter Van Loan):** You have about a minute and a half left.

**Mr. Scott Reid:** Thank you.

I used to chair the international human rights subcommittee, and one of the things we looked at from time to time—although this was not about international human rights but Canadian human rights—was the universal periodic review of Canada's performance as a country. One was completed in 2009, a second in 2013, and a third one will be coming out shortly. They happen every four years.

**Hon. Murray Sinclair:** It's out right now. It just came out last week.

**Mr. Scott Reid:** Oh, well, you're ahead of me on this.

I am relying on the 2013 one, but I suspect we might find some overlap here. When I go through the recommendations and issues highlighted by other countries, I see the following, and you'll see the pattern and it won't surprise you.

Finland cited discrimination faced by aboriginal women and girls. Ireland mentioned the problem of human rights issues faced by aboriginal peoples. Japan noted violence against aboriginal women. I have some more but I'll run out of time here. This is a pretty standard pattern. It appears to me that when the international community, including countries with very good human rights records, looks at Canada's performance, they feel the area in which we are suffering from the greatest degree of what could be called systemic racism—built-in, baked-in racism—is in our treatment of aboriginal peoples, as opposed to any of the other possible categories.

Does that sound right to you?

**Hon. Murray Sinclair:** It does. In fact the war that was waged against indigenous people around the world, where indigenous and non-indigenous people came together, was less military than it was legal. It was through a war of law that indigenous people were subjected.

**The Vice-Chair (Hon. Peter Van Loan):** We have to move on to the next round at this point. It will be the NDP.

Ms. Kwan, you have seven minutes.

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

Thank you to our witnesses.

Senator, on the broad issue of systemic racism, when you speak about the residual effects, when the racist is gone and you see in the system that is discriminatory toward a group of people that is systemic racism. The current situation with the indigenous community—the first nations, Inuit, and Métis—where they're living in third world conditions, to which boil water advisories have been issued over and over again and they're still living in those conditions, would you say that's a result of the racism that is now systemic in Canada?

**Hon. Murray Sinclair:** It comes about largely as a result of a number of factors that need to be taken into account. One is their location to begin with, the fact that indigenous people were taken off very thriving parts of the land, particularly in the Prairies, for example, where they were maintaining farming communities and very successful agricultural activities, and moved into barren lands, and as a result couldn't function and maintain their existence. Then there was a practice by the Government of Canada for many generations to not provide any infrastructure to those communities they'd relocated them to. Only recently, in the last two or three generations or so, have they undertaken to provide infrastructure: roads, sewers, water, electricity. This is a relatively recent phenomenon in indigenous communities. It's very much an example of systemic discrimination that's occurred over the years.

**Ms. Jenny Kwan:** In that same vein, we have inequality or inequitable funding, if you will, for indigenous children in the education system. We have a situation with the tribunal coming out with a pending fourth order for aboriginal children to be treated fairly and equitably and still no action has been taken. We have a

situation where our government spent \$110,000 in legal fees fighting against a Cree child who's in pain and needs to get \$6,000 worth of braces. Those are situations where systemic discrimination is playing out before our eyes. Would you agree?

**Hon. Murray Sinclair:** Yes.

**Ms. Jenny Kwan:** Thank you.

Moving on, what do we do about it? This committee is to make recommendations to the government so we can take some concrete action to not only address the obvious racists who are out there, but also the situation that is the hangover from so many years ago, especially in this era of reconciliation. Concrete recommendations on actions need to be taken. For example, my colleague Romeo Saganash has been working on his private member's bill that he's hoping to table in the House, to recognize the UN indigenous rights and turn that into law. Would that assist this process in addressing systemic racism that we're talking about?

● (1610)

**Hon. Murray Sinclair:** The first step in addressing the issue of systemic discrimination and racism in the laws of this country, and in particular the degree to which they comply or do not comply with the United Nations Declaration on the Rights of Indigenous Peoples, is to do an inventory of those laws. An analysis has to be done to determine which of those laws are standing in the way of the exercise of those rights the United Nations has declared indigenous people have and which Canada has accepted. That inventory has not yet been done. It needs to be done. When it is done, then I think those laws that are in conflict with the UN declaration need to be brought in line.

It isn't necessary, in my view, for the UN declaration itself to be declared a law. I think that's a problematic approach because in itself a UN declaration cannot become a law. It directs governments to do certain things to make it comply with the principles in the declaration. What really needs to be done is to look at those laws that Canada has put in place and continue to have an impact, or those laws which on the face of it do not have an intentionally negative impact but have a differential impact by virtue of practice, and change the way those laws are worded or carried out.

**The Vice-Chair (Hon. Peter Van Loan):** You have about two minutes left.

**Ms. Jenny Kwan:** Thank you.

I actually think that my colleague's bill is not intended to turn the UN declaration into law. Pardon me; that's my misspeaking. Rather, the intention is exactly as you stated.

**Hon. Murray Sinclair:** I know. I signed a letter in support of it.

**Ms. Jenny Kwan:** Yes. Thank you for that correction.

I'm going to turn to Kevin.

In the urban aboriginal community we have a significant set of issues as well. I'm going to move right to recommendations. In terms of concrete action, you talk about localizing the issues and then implementing resolutions. Would a national strategy to support local communities in realizing those issues in a real way help? Could you quickly offer thoughts on that subject for us?



**Mr. Kevin Barlow:** I definitely agree that something needs to be done formally with the urban indigenous population. In some regions we're representing 70% or 80% of the overall population within those provinces.

I think the federal government wrongly tends to rely on working with the on-reserve population, because the reserve is an infrastructure that's there, and they think it's the easiest to do. Yet so many people are moving off reserve out of necessity.

One thing I talk about at our agency is the psychology of poverty. It's not so much that our people are poor; there's a psychology that goes with it that comes from multi-generations of poverty. We have to find ways to break that and reverse it.

Often, service delivery works within certain rules and doesn't take into consideration that indigenous persons who present themselves and who come from an impoverished background, just as Senator Sinclair pointed out, often don't have the resources to respond to a certain situation. Therefore, the system kicks in and takes a child or incarcerates somebody, or whatever, just because there's not a support system there. We're working our hardest to try to reverse that psychology of poverty and put in place systems, but we need something formally at an urban level.

The federal government has just instituted the urban programming for indigenous people. I think there are a lot of flaws in that program, quite honestly.

**The Vice-Chair (Hon. Peter Van Loan):** Thank you very much. Your time is up.

**Ms. Jenny Kwan:** I was just going to say that maybe Mr. Barlow could send in recommendations for the committee, because I ran out of time.

**The Vice-Chair (Hon. Peter Van Loan):** Everyone can do that. It's a welcome idea.

We will now move to the next Liberal round, with Ms. Dabrusin for seven minutes.

**Ms. Julie Dabrusin (Toronto—Danforth, Lib.):** Thank you both. I have questions for both of you. In fact, I wouldn't mind, if one person is answering and somebody has another thought, that you jump in. I'd like input from both of you.

My first question is for Mr. Barlow. You spoke in your opening remarks about needing more cultural competency. I was wondering whether, as we approach this study, you have ideas about what that would look like. What should we be doing to develop that cultural competency?

• (1615)

**Mr. Kevin Barlow:** We just developed a beginner-level cultural competency curriculum. The problem is that we don't necessarily have the people within my agency or the funding to provide that education and training to non-indigenous service providers. There are people who are doing it in the private sector, but you can't always guarantee the standard or the quality of the training that's happening. The more we look at commissioning some standardized curriculum and getting the training delivered, the more we will see people coming to a better understanding of the realities that indigenous people live.

As a real example right in Vancouver, a few years back, one of the housing societies' CEOs was flying down to some exotic location. Here they have a housing society that's dealing with homeless people, and the CEO and the board are going down to these exotic locations. Vancouver therefore said no more travelling outside Vancouver.

What that means for indigenous people who are land-based and need healing outside a city, such as going to a sweat lodge and stuff like that, is that we can't use our funds to take somebody outside the city limits. These are examples of how sometimes there are good intentions but they're not well thought out.

**Ms. Julie Dabrusin:** That seems to go to the differential impacts Senator Sinclair was talking about being mindful of.

Do you have—

**Hon. Murray Sinclair:** May I just comment on the issue of cultural competency training?

**Ms. Julie Dabrusin:** Absolutely.

**Hon. Murray Sinclair:** The only thing you can really accomplish with cultural competency training, in my view, is to show people that they don't know everything. It's difficult, if not impossible, to make people culturally competent through a training program. Cultural competence comes through a lived experience for a certain period of time.

People who are serious about it first need to understand how much they don't know and then to be given resources or access to resources or people who will help them to learn more, if they want to. Lawyers, as one example, think that once they've talked to one indigenous client, they know everything for all indigenous clients. That's a big mistake. A little education there can be very damaging.

**Ms. Julie Dabrusin:** If you think from the perspective of what we are trying to do—we are being asked to come up with some recommendations with respect to systemic discrimination—do you have any ideas how we can bring that about? How do we actually get people to see where the need is, and then, how do we fill that need?

**Hon. Murray Sinclair:** I think that we have to begin with three things. One is that we need to look at developing more culturally consistent materials so that we have materials that we can provide to people. People in the various professions that you are identifying as needing this cultural competency training, whether they are social workers, educators, lawyers, or judges, generally come from a background of needing written material in order to be able to refer to it and utilize it in the course of their lives. We also need to give them access to individuals who can help them understand or who can answer the questions they may have. It's about funding the appropriate research and development of appropriate materials. Right now, that's hard to find.

In addition to that, giving them opportunities such as we experience, for example, in French language training.... I've been to many French-language training courses as a judge. We actually immerse ourselves in the language for a period of time. When it comes to cultural competency training, we need to give people an opportunity to immerse themselves in the culture for a while. Cultural immersion programs really need to be part of what we do, not just for professional people, but also for children who are coming from indigenous families that have lost their culture.

**Ms. Julie Dabrusin:** Do you have any ideas about programs that already exist in different places or projects that we could look to as examples of what we might want to implement?

**Hon. Murray Sinclair:** I could send you a list. I know that, for example, the University of Saskatchewan, at Saskatoon, offers a land-based educational experience for students who want to understand the indigenous perspective of medicine gathering, the connection to the land, and cultural teachings about the land. That's one area. My young friend Tasha Spillet is involved in that program. I am sure there are other similar programs to that.

I know that John Borrows, for example, at the institute of indigenous governance at the University of Victoria, takes his law students out into the communities to spend time with indigenous elders and have the elders teach them about what their indigenous laws are. They actually spend time in the communities, on the land, in the lodges with those elders.

That's what I'm talking about when I'm talking about immersing yourself in the culture.

• (1620)

**The Vice-Chair (Hon. Peter Van Loan):** You have about a minute left.

**Ms. Julie Dabrusin:** Thank you.

Mr. Barlow, do you have anything to add to that?

**Mr. Kevin Barlow:** I definitely echo that comment. In the curriculum we developed, one of the key points we make known is that the objective is not to teach somebody everything about indigenous cultures. In Vancouver, there is a mosaic of indigenous people from across the country, and some from New Zealand, the United States, and that type of thing. The idea is to understand what you don't know, and to know how to approach things and where to go for learning. I would certainly echo that.

**Ms. Julie Dabrusin:** Senator Sinclair, you recommended that we take an inventory of our laws to see what laws would need to be addressed and changed. What do you think is the best way we go about that? Who should be part of the inventory gathering? What would you see as the best process to do that?

**Hon. Murray Sinclair:** As a senator, I have tried to find that out. I don't have the answer. I am told that the Library of Parliament won't do that because it's a political question, and the Department of Justice will take steps in that direction if they are directed by politicians to do that.

I think it is a question of putting a proper legal team together, with the awareness of what the UN declaration is all about, to make sure that they do a proper assessment of laws and regulations.

**The Vice-Chair (Hon. Peter Van Loan):** We are now going to move into the next round. We only have time to make it a three-minute round for each team.

We are going to start with Mr. Anderson, for the Conservatives, for three minutes.

**Mr. David Anderson (Cypress Hills—Grasslands, CPC):** Mr. Chair, I wish I had more than three minutes, but we'll do what we can with this.

I am wondering if you can give us some success stories about people who have overcome this racist attitude and restrictions. We are talking about these issues and looking at them from one perspective, but where would we look for leaders who have been very successful and done a great job of leading their people? Whom would we look to?

**Mr. Kevin Barlow:** I think Vancouver is an example. The reconciliation walk a few years back had 70,000 people, who came out on a monsoon rain type of day. Obviously, when leadership shows a certain approach, it has an impact on the local people. Just last week, 100,000 people showed up for the reconciliation walk. When the city made the statement that they were the city of reconciliation, that demonstrated that indigenous people have a place there.

Other cities have those kinds of things. Some of them have indigenous departments, like Toronto. I heard that Toronto is thinking of getting rid of that department. I don't think that's the way to go, to get rid of those mechanisms, but when leadership shows certain approaches, I think it has a ripple effect.

**Mr. David Anderson:** I wish we had more time here.

Senator, I have another question, and this—

**Hon. Murray Sinclair:** I can tell you quickly, if you don't mind, that there are those from the Indigenous Bar Association, indigenous groups of teachers, indigenous groups of scientists, indigenous groups of social workers, and indigenous groups in just about every field, including medicine and engineering, who are success stories, and they can tell you about their experiences.

**Mr. David Anderson:** That fits in to what I want to ask, because both of those are pretty urban perspectives. I come from an area with some rural reserves. I'm just wondering how we support rural reserves when the people want to stay there, and they want to participate and be successful, but their leadership is in the city. Do you have any suggestions for us?

**Hon. Murray Sinclair:** I need to know an example of what you're talking about, I'm afraid.

**Mr. David Anderson:** I won't lay it out specifically, but I did have an opportunity to work with someone who was leading one of their bands, and eventually leadership was taken away from them and focused back to the city hundreds of miles away. The band gets nothing on the reserve area. It's all focused a long way away in somebody else's hands. People want to stay there. They want to participate, be a part of the community, and be successful.

Kevin, do you have anything?

**Mr. Kevin Barlow:** I think that's a very key issue when these accounting firms step into third party management positions, and then they're there forever. I think that requires study in itself. We need to look at how to get reserves out of that mechanism.

I know when the Conservative government at one point came up with the statistical management act, that was an effort in that regard. Some of that stuff is really good, but I think we need to figure out a way of looking at those communities and coming up with strong recommendations on how to reverse that third party and co-management scenario that is on so many reserves, because that scenario is there forever.

• (1625)

**The Vice-Chair (Hon. Peter Van Loan):** We're on to the next round, which belongs to the Liberals.

I believe it's Ms. Dzerowicz. You have three minutes.

**Ms. Julie Dzerowicz:** Thank you so much for your excellent presentations. I've learned so much today.

I have two key questions. I'm hoping I can get to both of them.

As part of the plan that we're trying to put together, there's a whole slew of recommendations we're going to make. One of them is going to be around education and communication. Mr. Barlow, you've already mentioned some of the challenges that we have. It is incredible how difficult it is, with all the tools that we have, to communicate and to educate today. If we were to come up with a series of recommendations around communicating and education, I wonder if you might be able to make a few specific recommendations of your own regarding details that we need to keep in mind as we're doing this.

Maybe, Mr. Barlow, we'll start with you, and then end with you, Senator.

**Mr. Kevin Barlow:** Certainly in the education system there are systemic issues. It's the responsibility of the teacher to control the classroom. We may say that we'd like the teacher to adopt this or teach that, but it's up to the teacher, and the principal can't do anything, and the school board can't do anything, because it's a system and a certain curriculum that's in place. I think we have to look at those challenges.

I think a lot of the problem is that the schools have to do the standard curriculum, but then we want to teach culture and language and all of these other things, and that's an add-on. It's a burden to the children because then you're bombarding them with all kinds of things that are taking up their time, and they don't have the time.

It's not an easy answer, but I think we have to try to identify the systemic issues and remove them one by one.

**Ms. Julie Dzerowicz:** I want to add to that.

In my riding, 52% of the residents were born outside of the country, so even just educating them around systemic discrimination, discrimination that many of them have experienced themselves as well, is a big issue. It's not only an issue for those coming in. It's ongoing.

I don't know, Senator, if you have any recommendations around that as well.

**Hon. Murray Sinclair:** My first recommendation is that I think everybody should read the TRC report, at least a summary. I know it's heavy reading in the sense that you see a volume and you immediately hesitate, but let me assure you that there are pictures in it, and that will help. The calls to action, I think, are designed to educate people. Calls to action make you focus on a particular area, so my first advice always is to read the report.

When it comes to newcomers to the country, we have to recognize that newcomers are not going to be connected to this history, and they don't feel that connection to the history—although they do have their own experience. I always remind those people who are newcomers, and those who are working with them, that they have a responsibility for the future, and that if they want to exercise that responsibility correctly, they have to know this history too.

**The Vice-Chair (Hon. Peter Van Loan):** We will now move to the last three-minute segment, which belongs to Ms. Kwan of the NDP.

**Ms. Jenny Kwan:** Thank you very much, Mr. Chair, and my thanks to the witnesses.

Mr. Barlow, you were going to talk about some concrete examples of what we can do by way of recommendation, and then we lost time. I wonder if you could expand on that for me.

**Mr. Kevin Barlow:** I've spoken about endorsing reconciliation and having practical ways of working with groups to make that happen. Cultural competency, if it's done properly and designed correctly, can have the desired impacts. More and more, we have to work with these systems and look at what the issues are. One of these is the example I gave of poverty and the psychology of poverty behind it.

**Ms. Jenny Kwan:** Part of the challenge with your organization and many others like yours, the grassroots organizations in our community, is that you don't have the resources or the funding or the staff to get the work done. Would it be helpful as a recommendation from the federal government to institute a national strategy to support NGOs and non-profit groups such as yours to do this work and to localize those strategies within those communities?

**Mr. Kevin Barlow:** Most definitely. Civil society can do things that government cannot. You guys have to study things and talk about things forever. We can do things a little quicker.

I made the point about urban programming for indigenous people and the flaws this programming contains. My agency has been held up as an example of an urban coalition they want to replicate across the country, yet there are flaws within that funding. One of these is that it only funds my position. I'm getting close to retirement, so everything to do with professional development and all those things is geared toward my position, me as a person, not the organization. We need to build the organization up as a coalition that will be a solid vehicle to do all these different things.

I've been working with the Minister of Crown-Indigenous Relations and Northern Affairs to try to change those things, but I'm hearing groups all across the country talking about the changes that need to happen so that the urban population has a strategy, a system, that's going to support us, because that's where the majority of indigenous people live.

• (1630)

**Ms. Jenny Kwan:** Can you share those recommendations of what needs to be done with this committee so that we can learn to duplicate best practices and what needs to be fixed with existing practices so that we can magnify the results I think we all hope for?

**Mr. Kevin Barlow:** I certainly can. We had shared the brief with the Minister of Crown-Indigenous Relations and Northern Affairs, but I can do that more broadly.

**Ms. Jenny Kwan:** Thank you very much.

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

**Hon. Murray Sinclair:** Read the report. The TRC report has a lot of that in it already. It really is a useful document.

**Ms. Jenny Kwan:** Okay, the government says they will recommend all those recommendations, but in reality how does that measure up?

**Hon. Murray Sinclair:** They've started to do some things. The problem we have right now is that many of the elements are being done by other segments of society and they need to be supported in what they're doing too.

**The Vice-Chair (Hon. Peter Van Loan):** Thank you very much, Mr. Sinclair and Mr. Barlow.

I want to particularly thank Mr. Barlow for his observation on the importance of people learning history. I had someone come to me with the issue of John A. MacDonald. I asked him if he knew that MacDonald introduced a franchise bill in 1885 to extend the vote to aboriginals. He didn't know that. I said that it was also supposed to give the vote to women, but it was resisted so fiercely for two years, that until he dropped the part about votes for women he couldn't get it through the House of Commons until 1887. Aboriginals got the vote then, but women did not. Then in 1897 under Laurier they took away the vote for aboriginals, which was not to come back until Diefenbaker's era. I didn't see that anywhere in much of the coverage about the MacDonald controversy. It's important that people know that history. Thank you for that reminder.

At this point, I'm told we're going to have Mr. Nantel step in with a notice of motion, and I'm told by the chair's staff that the preference is to deal with that now.

**Ms. Julie Dabrusin:** I would ask that if we're going to be discussing committee business we do so in camera first.

**The Vice-Chair (Hon. Peter Van Loan):** That will mean everyone who is not a member of the committee has to leave. Sorry, you'll have to wait out in the hallway.

Do members agree that they want to go in camera?

**Mr. David Anderson:** Can't this wait until the end of the next hour? We have no idea what they're introducing.

**The Vice-Chair (Hon. Peter Van Loan):** This is a motion that has been circulated I believe to everyone about the minister

appearing with regard to the new vision she gave on cultural policies.

I will suspend briefly while we move in camera.

*[Proceedings continue in camera]*

• (1635)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1645)

*[Public proceedings resume]*

**The Vice-Chair (Hon. Peter Van Loan):** I call the meeting back to order.

We have two further witnesses. From the Canadian Muslim Forum we have Mohammed-Nur Alsaieq, who is the outreach coordinator; and Samer Majzoub, who is the president.

From the Canadian Muslim Lawyers Association we have Faisal Bhabha, associate professor at a fine law school, Osgoode Hall Law School; and Yavar Hameed, who is a barrister and solicitor.

Each group is going to have 10 minutes to present, however you want to divide up the 10 minutes of time. I'm going to warn you that in about 13 minutes, I'm going to walk out of the room and it's not because I am outraged at something you have said. I am going to another commitment, and Mr. Vandal will assume the chair at that point in time.

We will start with the Canadian Muslim Forum for 10 minutes.

**Mr. Samer Majzoub (President, Canadian Muslim Forum):** Thank you very much for receiving us. My name is Samer Majzoub. I am president of the Canadian Muslim Forum. Mr. Mohammed-Nur Alsaieq is a board member. It's a pleasure to be with you today.

First, I would like to announce our condemnation for the terror attack yesterday that happened in Edmonton and today in Vegas. This is only to prove that terror has no religion and no race.

We will go back to our subject and start with the Canadian Muslim Forum. The Canadian Muslim Forum is an organization that was established in 1994. We mainly focus on advocacy and civic engagement. We try to get the community together on common interest issues that face our community in Quebec and in Canada. Today our subject is about Islamophobia. The Canadian Muslim Forum and I have taken this subject very seriously since day one. As you all know, we have initiated petition e-411 to fight Islamophobia, with Mr. Frank Baylis.

We all know that Islamophobia has been an issue, and I think we are at the point that Islamophobia or discrimination against Muslims is not disputable anymore. It is there in the statistics. It is there on a daily basis. We had it in Quebec City against the mosque, and generally in 2017. It is an issue to recognize because it is proven to be there.

On October 1, 2015, the National Assembly of Quebec unanimously denounced Islamophobia. In the House of Commons on October 26, 2016, Islamophobia was also denounced unanimously and, on March 2017, motion M-103 was adopted about Islamophobia at the same time.

What is positive about this commission in particular is the fact that Muslims are suffering discrimination, hatred, and violence, but it is not contested anymore, as mentioned. What is contested, especially in the media, and lately by some politicians, since March, is whether the word "Islamophobia" is to be used. As an issue, the subject itself has been agreed upon.

Islamophobia was originally developed as a concept in the late 1990s by political activists, to draw attention to discrimination against citizens of the Muslim faith. This has not been limited to Canada and Quebec, but it is worldwide. We have seen it in many places, and even in the United States. In the United Nations, in Geneva, they have created a special committee to fight Islamophobia worldwide.

The word itself is not something new. It is not something we have created. It has existed for a long time. The issue that comes into concern is what Islamophobia means. This is one of the things that was taken on, and the media and some political parties also took this on. There are many definitions for this particular terminology. I have many of them, but I will mention just one or two to shed more light on it.

It is "a widespread mindset and fear-laden discourse in which people make blanket judgments of Islam as the enemy as the 'other' as a dangerous and unchanged, monolithic bloc that is the natural subject of well-deserved hostility from Westerners". This is a definition by Zuquete. Another definition that is very popular is that Islamophobia is "a rejection of Islam, Muslim groups, and Muslim individuals on the basis of prejudice and stereotypes. It may have emotional, cognitive, evaluative as well as action-oriented elements like discrimination and violence".

Islamophobia has many terminologies and explanations that have been given to this particular word by many scholars.

As for us, we have opted for the following definition. It is a criticizing or scathing negative opinion that might directly or indirectly cause humiliation or damage to the reputation and or incite to hatred and to violence against a person or a group of persons for the only reason that they are of Muslim faith.

Regardless of any definition, the House of Commons has the right to provide their own definition.

● (1650)

We come to the wording itself, Islamophobia, when it is targeting Muslims and individuals and properties like mosques and community centres. If we would like to give clear comparisons here, we have the anti-Semitism and we have racial profiling. Anti-Semitism is well known to be whenever there is hate targeted against the citizens of Jewish background. It is called anti-Semitism and there is no dispute that this exists.

The question that comes up is that we know that Arabs are Semite, but still when an Arab is being attacked, we never say that this is

anti-Semitism. Why? The definition now is that they are related by impression and by political concept to the Jewish community and there is no objection to this.

It is the same thing when it comes to racial profiling. Whenever we speak about racial profiling, what comes to our mind is that, when citizens of African descent, or black Canadians, for example, are being targeted, right away we say it's racial profiling. There might be other races that have been targeted, but it is rarely we use the words "racial profiling".

The third example is bashing. When we speak about bashing of races, most of the time, whites are the target or the bashing of many races could be any other race.

There are terminologies that are used, so that at one time, the definition is associated with this group or the other.

I will conclude by saying that one of the concerns that was raised is that when we use the word "Islamophobia" we are limiting freedom of expression. This is not the objective and we do not accept this. We do not want any excuse to limit the freedom of expression. We support it. It is something very important for our democratic societies.

We are not suggesting in any way or for any reason to limit the freedom of expression.

I will stop here and leave it to my colleagues. When it comes to the questions, I am ready to clarify any point.

Thank you so much.

**The Vice-Chair (Hon. Peter Van Loan):** We have 10 minutes for the Canadian Muslim Lawyers Association.

**Professor Faisal Bhabha (Associate Professor, Osgoode Hall Law School, York University, Canadian Muslim Lawyers Association):** Thank you, Mr. Chair.

I'm here with my colleague, Yavar Hameed, and we represent the Canadian Muslim Lawyers Association. The CMLA is an organization made up of self-identified Muslim Canadian lawyers coming from a diversity of backgrounds and a variety of professional expertise.

Although we are lawyers, the approach that we advocate underscores the urgency here for Parliament to research, study, and understand Islamophobia. It is not to create a legal term of art or a set of prohibited practices that need to be specifically identified and legislated. Rather, it is to recognize the social problem that needs to be understood and documented in order to better inform on government policy and legal decision-making. That's our general position.

Why does Parliament need to study Islamophobia? The police already investigate crimes of hate-motivated assault, vandalism, anti-Muslim terror, and hate speech. We have civil courts that redress wrongs of battery, libel, and slander. There are ombuds, labour boards, police complaints procedures, and a variety of other administrative avenues to complain about discriminatory treatment. Many of these processes operate as quasi-judicial bodies, which means they have the power to apply human rights norms and the charter. They have a mandate to consider evidence of systemic discrimination in order to better understand the specific facts that are before them. Systemic discrimination doesn't produce on its own findings of individual liability. It allows us to better understand specific facts in context.

The challenge, though, is that those various bodies are not human rights experts. They don't have social context at their fingertips. They are equipped to ascertain facts before them, but they need evidence about the underlying social conditions that is usually admitted only through expert evidence. The problem is that the law can't protect against Islamophobia. Rather, it is policy-makers, administrators, police, judicial and administrative decision-makers that need to be sensitive to the depth of the problem and its social manifestations, so that they can better consider that as the context in which individual disputes arise.

The best experts on Islamophobia are social scientists, and that's because they observe society. They write about what they see. Social scientists have observed that the war on terror and the divisive public discourse that has focused heavily on Islam as the problem have had trickle-down effects. Our society is obsessed with the way a handful of women dress, with how and where people pray, and whom they associate with. We've heard calls to screen immigrants for values, testing for loyalty.

All experts tell us at the same time that white extremism is a real threat. We see attacks by white people against Muslim women, perceived foreigners, racial minorities on buses and in malls around the country, the murder of six worshippers in Quebec City in a mosque, daily physical and verbal assaults on innocent ordinary Canadians for no reason other than how they look or what they are perceived or assumed to be. All the while Muslims are still painted as the terrorists and continue to be subjected to hate because of that.

What we know about is just the tip of the iceberg. We know, as Muslim Canadian lawyers who hear from members of our community, that under-reporting is a big obstacle. There's a chill on reporting. But we do know enough to know there's a problem, and we know enough to know what we don't know. That's why we support this government taking a closer look at the problem, to better understand it.

Islamophobia is not a legally defined concept. It's a term developed by social scientists to describe the social problem. Defining it is not impossible, but expecting a perfect definition is unrealistic, so don't do it. Too much time has been wasted arguing about finding the perfect definition, and not enough is being done to understand the problem that everybody of reasonable mind accepts and should acknowledge exists. Having said that, we do offer a simple working definition that is not any different from the definitions you have heard, but as lawyers we boil it down to a

very simple analogy. Islamophobia is simply anti-Muslim discrimination or hate.

• (1655)

We all know that anti-Semitism means something like anti-Jewish discrimination or hate. We also know that homophobia means something like anti-gay or anti-LGBTQ discrimination or hate. It's not that hard to extend that thinking, using logic, to Islamophobia.

There are two important dimensions: the individual and the systemic. Systemic Islamophobia involves a pattern, practice, or policy that is rooted in discriminatory criteria or assumptions and which has a broad impact on members of that group. Islamophobia gives a name to the system of structural obstacles that coalesced and deepened after 9/11 to produce exclusions, burdens, and barriers on people in various aspects of public and personal life just because they fit a particular profile. Once these exclusions, burdens, and barriers become embedded in our institutions, they can be difficult to identify and remove. This is why it's important to study systemic discrimination.

At the individual level, Islamophobia can be considered a subset within the category of discrimination. We hear from members of the Canadian Muslim community all the time and sometimes ourselves even experience the casual forms of ordinary daily discrimination that people face in various social areas or as a result of state surveillance and over-scrutiny. It consists of contempt, prejudice, aversion, and distrust. It may be rooted in irrational fear, beliefs or even in claims of expertise. It may even be couched in neutral language, and it's often connected to particular movements such as the backlash against multiculturalism, the backlash against political correctness, or the backlash against reasonable accommodation.

It can be observable in critical and hostile behaviour on the basis of religion or on the basis of perceived religion, and it can manifest in the denial of benefits or of opportunities based on unstated assumptions. It's difficult to unearth and to identify. It can lead to outcomes that people cannot see and therefore cannot address, and for this reason it is even more important to study the systemic patterns that cause those things to be embedded in our society.

• (1700)

**Mr. Yavar Hameed (Barrister & Solicitor, Canadian Muslim Lawyers Association):** I have just a couple of comments to add to those of my colleague. I want to address how the Canadian state is blinded to the dangers of Islamophobia and what we propose to do about it.

In terms of this blinding, Islamophobia not only clouds judgment, but it can also make the state so blind that it fails to see actual danger. Should we be surprised then that while white supremacist Alexandre Bissonnette was dreaming up his murderous plot to attack a Quebec city mosque, the RCMP were basically manufacturing crime in the case of John Nuttall and Amanda Korody, Muslim converts who were recovering heroine addicts living on social assistance, whose terrorism charges were stayed last year after a court found they had been entrapped by the police?

This country's top courts have recognized for more than 20 years that unconscious bias operates in law enforcement as it does in all social relations. These biases are shaped by history and social context, unstated assumption, and pre-existing prejudices.

In terms of legal tools, as my colleague has mentioned, there already exist numerous legal provisions that address the various possible sites of manifest Islamophobia, as well as human rights legislation that protects against discrimination in housing, contracts, employment, etc., and in this sense, the injection of Islamophobia is consistent with the tenor of human rights jurisprudence; however, there is a glaring gap in the empirical research to understand why there is what my colleague referred to as an under-reporting of incidents of hate and discrimination against Muslims in Canada. Civil society organizations, such as those many of you have heard from, receive confidential complaints and information regarding hate crimes, but only a fraction of these are pursued through official investigation or adjudication. I, as a barrister and solicitor, routinely receive such complaints.

The Arar report, after the case of Maher Arar, provides only the narrowest and most general comments about religious profiling by the state, despite its focus on the unlawfulness of the actions of the RCMP. Chief Commissioner Dennis O'Connor noted that given the tendency to focus national security scrutiny on Muslims and Arabs, members of these communities are more likely to be affected by human rights violations. The report stands as a watershed in changing national security practices, but Islamophobia, in that context, was really like the elephant in the room in that inquiry and its aftermath.

Similarly, despite the scathing comments of the Supreme Court in the case of Omar Khadr and a \$10.5 million settlement to Mr. Khadr, there needs to be an indication of how the government will learn from its mistakes in terms of a prospective strategy of addressing

Islamophobia within foreign affairs practices and information sharing, and its involvement in the global war on terrorism.

**The Acting Chair (Mr. Dan Vandal):** Mr. Hameed, your time has expired.

I want to thank all the speakers for their presentations.

We're going to go to the first seven-minute round of questions and answers.

First up is Arif Virani.

**Mr. Arif Virani (Parkdale—High Park, Lib.):** Mr. Chair, I'm going to share my time with Mr. Frank Baylis.

I'm going to ask a few questions right at the outset, because it's meant to be about three and a half minutes in total.

It's very important that all of you are here. Thank you in particular for petition e-411, for raising such an important cause on a national basis.

Mr. Majzoub, I want to ask if you could comment on the rise of particular anti-Muslim sentiment in Quebec, the rise of groups like La Meute and how that's different, and whether we need to approach things somewhat differently in your province in particular.

I want to ask the lawyers on the panel about how we encourage reporting, but also how we facilitate prosecutions. We've had some witnesses thus far who have talked about the need for the AG's consent on incitement to hatred. Others will be coming and talking about that. Could you comment on that and what you think are impediments or not to prosecutions?

Last, I want any of you to speak about the role of media in fomenting division. You've all talked about the fact that there's a climate right now where people feel emboldened. We know there have been rallies that have been held.

I will confess that I find it quite troubling with certain types of fringe media, such as the Rebel Media group, which is often a platform for division. We know that entity and their subjective coverage of Charlottesville has prompted even the leader of the opposition to withdraw from the Rebel Media. We know that just last week we had witnesses in this very committee, Ms. Raza and Mr. Cameron, who appear and continue to appear on Rebel Media.

Could you comment on platforms like that and what they are doing to encourage the division we're so desperately trying to combat?

Thank you.

• (1705)

**Mr. Samer Majzoub:** I believe Rebel is a very important concern that we are facing in Quebec and in Canada in general. After the terrorist attack in Quebec, in January 2017, Islamophobia was more manifested in the province of Quebec, or that's what we felt at least. It was more reported than any other province. After the terrorist attack, and unfortunately after the adoption of motion M-103 by the House of Commons, we have seen that this has been extended. The Islamophobic sentiment has also been really clear in English Canada.

To go back to your question, we were amongst the first to raise the concern and the worry about the far right groups, La Meute, or some other groups. What is the danger of such a group? First of all, they are openly anti-Muslim, anti-immigrant, anti-whomever new comes to this country. Second, they tend to present themselves with their military background, that they are doing some patrols in Quebec City streets. They are just there to stop the Islamization of Quebec City. They are creating this Islamophobic sentiment that has now started to affect the security and safety of Quebec citizens. I don't know if you're following Quebec news. There is mainstream media in Quebec opening their doors and their air for such groups to express themselves.

One of the other things that is really strange, especially about security departments—and we have raised this issue—is that if you go to social media, you see that those groups are expressing their hatred, their violent expressions openly, and no one has really approached them. They even threatened the Prime Minister of Canada to be shot and killed. They attack Muslims—do this, do that. There is very rarely any approach by the security department against those groups.

I will conclude that those groups are increasing their visibility. It does not mean they're increasing by number. What is worrying is that socially they are more and more accepted, especially in the province of Quebec.

**The Acting Chair (Mr. Dan Vandal):** Thank you, Mr. Majzoub.

There are three minutes left, so I'll go to Frank Baylis.

**Mr. Frank Baylis (Pierrefonds—Dollard, Lib.):** I want to first of all congratulate Mr. Majzoub and Mr. Alsaieq for the excellent work that CMF has done to fight intolerance and discrimination in Canada.

In that light, with regard to the word “Islamophobia”—and we've heard from both of you—it has been said that you can't criticize Islam. It's said that if you use the word, it curtails free speech.

**Mr. Samer Majzoub:** Not at all. This is not the intention, and we don't want this. You have to make it clear.

This has been a political game that has been played. In no way are we asking to limit criticism. Islam from within has been criticized, and that is why it has evolved during the last 1,400 years. In no way do we speak about the limitation of freedom of expression. We are just limiting the definition of Islamophobia that creates hate and violence against citizens of Muslim faith.

**Mr. Frank Baylis:** Mr. Bhabha, would that also jive with your views on Islamophobia, that it does not curtail free speech?

**Prof. Faisal Bhabha:** Well, I certainly don't think that studying Islamophobia poses any greater threat of state interference in speech than studying any other forms of discrimination. We already have laws that curtail speech—namely, hate speech laws, libel laws. Nothing about studying Islamophobia and nothing about adopting some sort of anti-Islamophobia initiative would on its own curtail speech.

At the same time, there is no constitutional principle in this country of unlimited free speech. In 2013 the Supreme Court of Canada justified the infringement of an individual's free speech, finding that this individual was not free to quote the Bible and publicly propagate discriminatory and hurtful comments about LGBTQ persons. The case, called *Whatcott*, involved the careful balancing of free speech with anti-discrimination principles. There is a long tradition in this country of speech and equality being in constant dialogue. Unfortunately, those who wish to undermine this important Canadian constitutional tradition are waving the flag while doing that, but—

• (1710)

**The Acting Chair (Mr. Dan Vandal):** There's only about a minute left.

**Prof. Faisal Bhabha:** Okay. I'll leave it at that.

Thank you.

**Mr. Frank Baylis:** Just to make this very pointed, then, let's say I have a criticism against Islam. That doesn't mean I'm.... Islamophobia doesn't curtail my rights to criticize one religion or another religion.

**Prof. Faisal Bhabha:** I engage in critical discourse about Islam all the time. That's part of my religion. It's part of my existence. Critiquing Islam is not the problem. Hating Islam is the problem.

**Mr. Arif Virani:** Do you have any comments to add with regard to the prosecution piece about the incitement of hatred?

**Mr. Yavar Hameed:** Our position is that the fact that there is a criminal infrastructure is effective. The thrust of our position is that around those provisions, there is an adequate legislative infrastructure. We just need to understand more about where complaints are coming from and where incidents are arising. We think that data needs to be researched. It doesn't exist. So the focus of our comments is not around the threshold or around the issue of consent

**The Acting Chair (Mr. Dan Vandal):** Thank you, Mr. Hameed.

We'll begin our second round with Scott Reid.

**Mr. Scott Reid:** Thank you very much, Mr. Chair.

Those were fascinating presentations. Thank you, gentlemen.



Mr. Bhabha, I wonder if I could start with you. You indicated very early on in your remarks, and repeated, that you don't want to ban any form of speech. You went on and provided a definition of Islamophobia. While you cautioned us against seeking the perfect definition, you provided one that strikes me as being a good one for the purposes of trying to move forward—that is, a working definition—in the sense that having one definition to work with, perfect or imperfect, is simply a useful exercise. I just wanted to say that. Of the definitions I've heard so far, in this and other meetings, it's the one that strikes me as being the best.

You also mentioned the Supreme Court. Of course, you quoted correctly from the Whatcott decision that it's unacceptable to cite biblical verses that call for the stoning of homosexuals. I have to ask this question. My understanding is that one would find similar passages in either the Quran or the Hadith. Would it also be appropriate for the courts to say that this limit ought to be placed on those passages as well, or on the use of those passages in a manner similar to what Mr. Whatcott had done?

**Prof. Faisal Bhabha:** It's a question of jurisdiction, actually. For example, section 13 of the Canadian Human Rights Act, which would have permitted incursions on speech where that speech was hateful, was repealed in 2015 as a result of political pressure. That was as a result of many Canadians getting together, speaking loudly, and pressuring legislators to do something they wanted them to do.

If there is a law that applies to speech, and if there's an analogous case similar to the Whatcott case, dealing with other scripture, I would expect the same principles to be applied.

**Mr. Scott Reid:** That seems reasonable to you?

**Prof. Faisal Bhabha:** Of course.

**Mr. Scott Reid:** Okay. I just wanted to ask that question. Thank you. That's very helpful to me.

You said this a bit later on: "Critiquing Islam is not the problem. Hating Islam is the problem." That's a direct quote. I wonder if what you meant to say was that hating Muslims is the problem.

**Prof. Faisal Bhabha:** It's an interesting distinction, because I think the distinction between Islam and Muslims is a factual distinction, but I think it has also become a political distinction, used at times for motives that I would characterize as hateful or discriminatory. One can set up the thing to attack an abstract entity like Islam, but the problem is the way Islam is defined when it's being set up for attack. It can be Islamophobic to critique Islam if you define Islam in such a way that it encompasses more than what you're actually critiquing.

• (1715)

**Mr. Scott Reid:** I'm not sure you're saying this, and I want to be careful.

There are some people who believe that Islam is inherently a religion of violence. I believe they are incorrect about this; I'm a historian and I take my historical facts very seriously.

We all know of some examples that we can cite here. I have a book here by Christopher Hitchens, a notorious atheist whose book is called *God Is Not Great*. He condemns and ridicules Islam, Christianity, and Judaism—all of them. Also, Ayaan Hirsi Ali speaks

about Islam as being inherently a religion of violence. She has become an atheist, although she was born a Muslim.

Would you say that either of those two are acting or speaking in an Islamophobic manner? Also, in terms of that kind of speech—I could give examples, though I am reluctant to quote—should that be regarded as speech that ought to be prohibited by law?

**Prof. Faisal Bhabha:** Right. Those are two very different questions.

Our society permits me, if I wanted to, to take the position and to articulate the position that those two are Islamophobes—if I wanted to, and I don't necessarily. There are people who've done that.

I met Christopher Hitchens. He's a very kind man, and he worked very closely with many Muslims and with some Muslims I know. Whether that should translate into legally actionable sanctions is a totally separate issue. I can exist in the world and believe and espouse the view that they're Islamophobes. They can respond that they're not, and they can have their allies. That's what free speech is all about.

I would not have any ability to convert my belief that what they're saying is Islamophobic into some sort of a state sanction, and I would suspect that any speech that didn't cross the line into hate speech would be protected by the Constitution. I would expect the state to protect that speech. I could attack those individuals with my own opinions. That's what free speech is all about. I don't need to respect their rights by granting that what they say is true. I can dispute it.

**Mr. Scott Reid:** I agree with you a hundred per cent.

By the way, that's why I put my preamble in there. I do not actually agree with either of them on this point. I wanted to ask the question because it is, I think, the nub of things. There are people who are afraid that where this committee is going is that it will make a recommendation to the government that we ought to put greater restrictions on speech, including the critique of religions, and that this will then be acted upon by the government. Now, they could be entirely wrong, but I think that expresses the problem you were addressing in your remarks.

The Universal Declaration of Human Rights, in article 18, says:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others...to manifest his religion or belief in teaching, practice, worship and observance.

For many people—this includes Muslims and it also includes Christians and some others—this involves trying to get others to convert to your religion, which necessarily means saying that these other religions are either partly false or entirely false. Would it ever strike you as being speech that could be regarded as Islamophobic in the case of someone who's critiquing Islam because they believe you should convert from it to their faith?

**Prof. Faisal Bhabha:** If somebody was trying to convert me to their faith, would I consider that Islamophobic? If they were telling me that what I believe is not true....

**Mr. Scott Reid:** They are effectively telling you that your belief is not true, and they may say it's because it's the work of the devil. Who knows what they say?

**Prof. Faisal Bhabha:** Right.

**Mr. Scott Reid:** The question is, does that make them Islamophobic?

**Prof. Faisal Bhabha:** I don't see how that's in any way Islamophobic.

**Mr. Scott Reid:** That is enormously helpful testimony. Thank you very much. I apologize to our other witnesses that I couldn't get to them, but you were the one who put the quote forward that provided this line of questioning. Thank you very much.

**Prof. Faisal Bhabha:** Thank you for your questions.

**The Acting Chair (Mr. Dan Vandal):** Thank you.

The next round goes to Jenny Kwan.

**Ms. Jenny Kwan:** Thank you, Mr. Chair, and thank you to all the witnesses for their presentations.

I want to explore this issue of under-reporting. As we know, a lot of incidents that occur are discriminatory incidents based on race, religion, and so on. I'm wondering if the panel has any suggestions on how we can better capture those lived experiences of discrimination that happen every single day in our communities.

I'll start with you, Mr. Hameed.

• (1720)

**Mr. Yavar Hameed:** One of our recommendations is that there needs to be more research done. That research can be done by the government. Civil society can be enlisted and researchers can go out to the communities. The problem in under-reporting is that people feel a certain apprehension in engaging, whether it's with systemic processes, complaint mechanisms, forms, or government officials.

Doing that research and having people go out and document in the communities—and there are ways that can be done—requires a sensitivity to the communities, and it requires going to the communities themselves.

Taking that research and bringing that research back to where policy is made is where we see an important gap and where there needs to be development.

**Ms. Jenny Kwan:** Thank you.

Does anybody else want to add to that?

**Mr. Samer Majzoub:** We have for many years now, 10 or 15 years so far... Recently we created a 1-800 number for all Canadians, not limited to our Muslim community, but really for those people who have to face issues that are discriminatory and who are being attacked for who they are. What we have realized through our experience on this is—although it is not a federal issue, it is more of a local issue—that there are two elements to this.

First of all, there are people who come from countries where they are hesitant to come and present themselves, especially to security departments.

Second, and this is most important, from our experience so far, security departments all over do not really take seriously the complaints they have received. I'll give you an example. If a woman is being targeted because of her hijab, and she goes to the police to make this complaint, they start asking questions: "Do you have a witness? Who was there? Are you fine? What kind of violence was there? Did you go to the hospital?" When the woman doesn't have all the answers, there's a sort of discouragement. Since there were no other witnesses who were ready to present themselves at this certain incident, there is no need for you to really.... CMF, Canadian Muslim Forum, has approached authorities and city authorities to tackle this issue.

They face another problem. Even if the police take it into consideration, there is no serious follow-up. This is also another discouragement where we call on authorities, whether at the city level or the provincial level, to have this sort of orientation for all police departments to take such instances very seriously and to be followed up seriously when they are reported.

**Ms. Jenny Kwan:** Thank you.

I want to focus on recommendations because part of the work is about what we should do about the current situation. We know that there is a real effect of some leaders outside of this country that is really fanning, I think, fear and hate and normalizing discrimination of a whole variety of different types. I won't go further into that.

In light of that, part of the work here is to ask what we do about it. What can we do as a whole-of-government approach to this? We used to have, for example, a national strategy on anti-racism that's now sort of in abeyance. In our last panel, some people suggested that perhaps we should separate out work that needs to be done on racism and on religious discrimination, that there should be two separate streams around that.

I wonder if you can shed some light on what action should be taken. Most particularly, I'm interested in a strategy that focuses on a national perspective so that it's not a single stream, but across the country.

**Prof. Faisal Bhabha:** I'll just say something on this racism versus religious discrimination piece, because I think that we can't generalize for all religions.

For Muslims, and when talking about Islamophobia, it really is the intersection of religious discrimination and racism, whereas that might not be the issue for other cases of religious discrimination, for example. I know many Christian groups are concerned about incursions on the various churches' freedoms. That's, I think, a different issue from the specific nature of Islamophobia, which is more akin to homophobia and anti-Semitism because it's an intersectional form of discrimination. For Muslims, it's on the basis of religion, but it's also on the basis of a perceived otherness, a foreignness and a colour, but not always colour because we're a diverse community of many races, and that causes many people to say, "What do you mean?"

Let me give you an example. My own mother, for example, is white in colour. She's an old-stock Quebecker who became a Muslim 40 years ago and has been wearing the hijab for about 25 years. Over the last 10 years, she has, at various points in time, been told to go back to where she comes from, which is a small village in rural Quebec where she probably wouldn't be welcome looking the way she looks. That, I think, illustrates what race is and how it's not about colour and hair texture.

• (1725)

**Ms. Jenny Kwan:** Fair enough.

What about recommendations?

**Mr. Yavar Hameed:** I have a couple of recommendations. One is, I'm not speaking to the national strategy but certainly taking that information and bringing it back to policies that exist. I would flag Bill C-59, things that were not touched under Bill C-51, so using that information to inform existing state policy.

Number two is to create a repository of complaints. If complaint mechanisms already exist within departments, I think perhaps there should be an overarching way to collect that information, to gather that information, so we have a sense of the kinds of discrimination that Muslims are facing across the board, so coalescing that in some way.

The last one I would say is to improve oversight. There's a lot of discussion. We can get into this as well. Oversight we know post-Arar is deficient. We need to enhance those methods, but the only way we can do that is to understand the problem.

**The Acting Chair (Mr. Dan Vandal):** Thank you, Mr. Hameed.

We have a few minutes left before 5:30.

Pierre Breton.

[*Translation*]

**Mr. Pierre Breton (Shefford, Lib.):** Very well, Mr. Chair.

I would like to continue along the same lines as Ms. Kwan in terms of the recommendations that you might make to the government to reduce racism in general. Mr. Majzoub and Mr. Alsaieq, please use the few minutes we have left to tell us about that.

[*English*]

**Mr. Samer Majzoub:** Thank you very much for the question.

If you don't mind, I will just conclude by saying that when we come here, we don't come here as foreign objects coming from another planet. We come to the House of Commons as Canadians. My four children were born in Canada. This is what we're looking for, for the future of all Canadians, because always when we're looked at, it's "He's an immigrant coming from I don't know where." This is how we are being dealt with. We have to be dealt with equally. We are not looking for favouritism.

I will conclude in one word when we say we need equality in the way we are being asked to have equality existing in obligations. We pay our taxes. We face the law. We are all the same. We would like to have our equality and rights too and freedom.

Thank you so much.

[*Translation*]

**Mr. Pierre Breton:** That's good, thank you.

**The Acting Chair (Mr. Dan Vandal):** Thank you.

[*English*]

It's close to 5:30. I think we're done for the afternoon.

May I get a motion to adjourn?

It is moved by David Anderson.

The meeting is adjourned.





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