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Chair

Mr. Robert Oliphant

Standing Committee on Citizenship and Immigration

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• (1530)

[English]

The Acting Chair (Mr. Nick Whalen (St. John's East, Lib.)): It being 3:30, I call to order the 158th meeting of the Standing Committee on Citizenship and Immigration. Today we begin our consideration of part 4, division 16, of Bill C-97, an act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures.

For this first session, we have Minister Blair and his officials with us. My understanding is that Minister Blair has a presentation of a little less than seven minutes. We will start immediately with that and, hopefully, we can get our full 51 minutes of questioning in.

Minister Blair.

Hon. Bill Blair (Minister of Border Security and Organized Crime Reduction): Thank you very much, Mr. Chair. I'll try to get through this as quickly as possible. I thank you for the opportunity to appear before the committee today. I'm happy to speak regarding our asylum system and border enforcement proposals, which we have included in Bill C-97.

Mr. Chair, we are in a world that is experiencing unprecedented levels of migration. The United Nations Refugee Agency has estimated that there are approximately 258 million people who are now on the move globally, including economic migrants. However, 25.4 million of those individuals are deemed to be refugees, those who are fleeing war and persecution and are seeking protection.

Like many other countries in the world—almost every other safe country in the world—Canada has seen an increase in migration. The growth in global migration suggests that a higher number of asylum seekers is likely to continue, and points to a need to continue to ensure that our borders and asylum system are well-managed to meet our international and Canadian legal obligations.

It's imperative that we maintain a refugee protection system that is predicated on two important principles: fairness and compassion. Budget 2019 has proposed to invest \$1.18 billion over a five-year period, starting in 2019-20, with \$55 million per year ongoing to enhance the integrity of Canada's borders and our asylum system. These investments also support the government's border enforcement strategy. They will increase the asylum system's capacity to handle higher volumes of claims in order to provide timely protection to refugees and ensure that a failed asylum claimant is removed quickly and compassionately from our country.

The border enforcement strategy includes detecting and discouraging the misuse of our visa system by preventing travel to Canada by individuals who may not be legitimate temporary visa applicants. This means investing significantly in intelligence gathering and trend analysis to limit the number of Canadian visas issued to people who would use a Canadian visa only to establish themselves permanently in Canada.

We are also continuing to work with our international partners to share information and trend analysis that may impact visa issuance; are significantly increasing the interdiction of would-be irregular migrants abroad; engaging recalcitrant countries in support of removal operations by obtaining their co-operation in a timely way for the issuance of travel documents for failed asylum claimants after they have exhausted all legal recourse in Canada; and we are also discouraging would-be irregular migrants via targeted outreach, by correcting misinformation and providing the facts about Canada's asylum system, to make sure that people understand our laws and how this system works.

Mr. Chair, the border enforcement strategy will also maintain the integrity of Canada's border. We are investing in an ongoing building of capacity for interceptions between ports of entry as the Royal Canadian Mounted Police continues to increase its capabilities at key locations at the border and invest in new border technology equipment.

We are putting in place contingency measures to ensure that we are ready to respond to any potential increase in the number of irregular migrants, and we have introduced legislative changes, which we believe will improve our ability to manage flows along the border in the event of any increase and influx. This includes, for example, an amendment that will eliminate the three-day time period for officials to determine if an individual is eligible to make an asylum claim before the claim is automatically referred to the independent Immigration and Refugee Board. Removing this requirement will give the government greater flexibility to manage volumes at the border and will ensure that everyone is examined properly and in a fair way.

We are also putting in place measures to discourage irregular migration by those who try to make multiple claims in different countries—and this is described in the BIA legislative change. Just like other existing ineligibilities, these individuals will be barred from accessing the Immigration and Refugee Board. Instead, they will have access to an enhanced pre-removal risk assessment, or the PRRA, prior to removal, to ensure that they are not returned to a situation of risk.

Mr. Chair, I think it's very important to emphasize that no one who has been barred from accessing the IRB as a result of this new measure will be removed without a PRRA hearing. This proposed measure will also help lessen the caseload at the IRB, while ensuring that everyone receives fair treatment before any removals take place.

Mr. Chair, we maintain public confidence in our system by treating those who cross irregularly in exactly the same way as those who currently do so at regular points of entry, as a means of eliminating any incentive or perception of unfair advantage.

In addition, we're continuing to engage the United States to modernize and enhance the safe third country agreement. The Government of Canada has been in continual contact with the U.S. government on issues related to our shared border.

- (1535)

I also advise you that I have recently met with numerous stakeholders, including U.S. members of Congress, Customs and Border Protection and the Department of Homeland Security officials, and we are seeking to enhance U.S. co-operation to address irregular migration challenges, including the modernization and enhancement of the safe third country agreement to the mutual benefit of both countries.

Canada and the U.S. share a mutual interest in ensuring the orderly handling of asylum claims while protecting the safety and security of our citizens and respecting the rights of those who are fleeing persecution.

We are investing in an asylum system that will be fast, fair and final. We are increasing funding for the asylum system as a whole to process higher volumes of claims. This will allow the IRB to make decisions on up to 50,000 asylum claims and 13,500 appeals by fiscal year 2021. With this additional funding the board will be able to finalize more decisions, thus reducing wait times for those in need of protection, and leading to faster, more efficient removal of failed claimants.

I would also note that in recognition of the increasing volumes of asylum claims, we're investing more in settlement funding as more people will be given protected person status. Given that protected persons are eligible for settlement services such as language training, this investment is an investment in the future of Canada.

In addition, we are increasing funding to allow for timely removal of individuals who are found not to be in genuine need of protection, and we are taking measures to expedite the removal of failed claimants who cross irregularly into Canada.

Finally, with the budget 2019 investments and the legislative proposal that I bring before you today, Canada will continue to

respect its international obligations for people who are legitimately fleeing persecution, and will achieve finality in our asylum system.

Thank you, Mr. Chair.

I welcome your questions.

The Acting Chair (Mr. Nick Whalen): Thank you very much, Minister.

As members are aware, we'll do our best to restrict the questions and comments to part 4, division 16. But this is discussion and commentary on the budget, so people will appreciate that it might be a bit further ranging than that.

Mr. Tabbara.

Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.): Thank you, Minister, for being here today.

We just finished a study on global migration, and per the numbers you've given us, we do know that around 258 million people are on the move. Many of that number are refugees, as you mentioned in your statement.

You mentioned investing at the border—ensuring that our borders are secure, making sure that the men and women working at the borders have the proper tools and that the federal government is investing in that so that we maintain the integrity of our border. However, in previous years, \$143 million was cut from CBSA. I want you to speak to that. When we're seeing this new global trend of 250 million-plus migrants on the move, we'd better be prepared to invest in our borders, or else we may see a situation that is hard to handle.

Since you've been in office, what are some of the changes you've seen? There have been cuts before; now we're investing. I want you to elaborate on that.

Hon. Bill Blair: We've been doing a number of important things.

I want to share some good news with this committee. We have seen significant reductions in the number of people who have been presenting themselves irregularly at our border and subsequently making a claim for asylum. So far, year-to-date, there has been about a 47% reduction in the number of people who have crossed our borders irregularly. That's a direct result of some very effective interventions that our agencies and officials have been undertaking—outreach into populations in the United States and elsewhere around the world to provide them with better information about our system. Unfortunately, there's a great deal of misinformation and people who would exploit those who are in a vulnerable position, which has I think contributed to that influx of people at our border.

We've also been working very closely with U.S. and other international officials with respect to the issuance of visas. We saw, for example, a significant number of people from one particular country in Africa who were issued tourist visas to come to the United States who subsequently presented themselves at the Canadian border seeking asylum. As a direct result of interventions made with U.S. border patrol officials and their visa issuance systems, as well as through investments made by CBSA, which put officials overseas to work collaboratively with the U.S. officials in the issuance of those visas, we've achieved a 73% reduction in the number of individuals coming from that country through the United States who subsequently present.

One of the things we found, and I hope this gets to the answer of your question, is that we also needed to significantly increase the capacity of the IRB to conduct timely hearings. Their ability to conduct those hearings was resulting in their falling further and further behind due to the volume of people who were presenting—and not just irregularly. We've also seen a significant increase in the number of people who are crossing regularly at airports, regular points of entry, and making inland claims. So we needed to invest in IRB's capacity to do timely hearings.

We made an investment last year of some \$73 million to begin to build up their capacity. It significantly improved their ability to deal with that backlog, but we recognized that more needed to be done. That's why in budget 2019 we're adding over \$207 million to the IRB, with the intent that by 2020 they'll be able to process 50,000 claimant hearings each year. As a result of better administration of those hearings, more timely results are being determined, and the amount of time it takes to resolve these eligibility claims is being significantly reduced. In achieving that reduction, I think we were able to create a system that is much more balanced and in which people have a reasonable expectation that if they are in need of protection, they'll receive it in a timely way, and if they are not in need of protection they'll be removed from Canada in a timely way.

● (1540)

Mr. Marwan Tabbara: Regarding some of these amendments that are being put forward, can you elaborate further on our international obligations and the global impact on migration referred to in the UN report? Are we ensuring that our immigration system is fair and compassionate to those who are coming to our borders?

Hon. Bill Blair: I will tell you that among the pillars, the values on which I believe our immigration and refugee protection system is based, are both fairness and compassion and the upholding of our international obligations and the rule of law. We have ensured in every step of this process that we have complied with those requirements, not just with the letter of the international law, but with its spirit as well.

I am very gratified by the support and the comments made, for example, by the UNHCR, the United Nations refugee agency, which has acknowledged that Canada, throughout all of these changes and investments we're making, at all times maintains and upholds its international obligations to provide people with access to due process and a timely determination of their eligibility, and that as a direct result of the investments we're making in the IRB, Canada is maintaining a world-class asylum determination system.

I've recently also had the opportunity to meet and spend a lot of time with Amnesty International. I explained exactly how our system was working and was able to provide them, for example, with reassurance that before any individual would be removed from Canada, regardless of whether or not they're eligible to have access to the IRB, regardless of the circumstances under which they have come, would be afforded an enhanced pre-removal risk assessment, and according to our laws, they would always have the opportunity to be heard, to have legal representation. If there was a determination that they were at risk, we would not send them back into a dangerous situation. Instead, they would be afforded protected person status.

Mr. Marwan Tabbara: You referred to our system as fast, fair and final. Can you elaborate on that?

Hon. Bill Blair: To be a properly, efficiently managed system and to maintain a system of fairness, people must have an expectation of a timely determination of their application. As a result of under-resourcing and inadequate capacity at the IRB to come to a final determination, it was taking a long period of time.

That delay actually contributes to unfairness in the system. For people who truly are in need of protection in an unresolved situation, this does not contribute to their settlement and integration into Canadian life. At the same time, for those who were not eligible for our protection, the long delay has served as a bit of an incentive to make an application and to be engaged in that process. Making it faster is an investment that actually also contributes to its fairness.

● (1545)

The Acting Chair (Mr. Nick Whalen): Ms. Rempel.

Hon. Michelle Rempel (Calgary Nose Hill, CPC): Thank you.

I think maybe we should just cut the baloney.

You are sitting here, Minister, in an invented position with bureaucrats who don't report to you, but who, nonetheless, have the misfortune of working with you. We are in the final days of a Parliament where we've seen your government purposefully go out—again, regardless of your opinion on the American president—and poke the Americans in the eye with #WelcomeToCanada, then allow 40,000-plus people to illegally enter the country and claim asylum, while saying that the safe third country agreement upholds...and then putting in place a permanent tent city, establishing bussing programs to the GTA and spending hundreds of millions of dollars on hotels for people who likely, by your own colleagues' admission, don't have valid asylum claims.

Then you proceeded to vilify any Canadian who said that maybe people who are in upstate New York have not been subject to the same level of persecution as somebody coming from northern Iraq. Maybe we shouldn't be spending hundreds of millions of dollars on hotels and creating pulls into our system that result in years-long backlogs.

You've vilified anybody. Your colleague, the Minister of Immigration, and the Prime Minister himself tried to score cheap political points with #WelcomeToCanada and then calling people un-Canadian and racist if they questioned this, which has inflamed tensions. You sat here and you blustered that we can't call it illegal, and then you proceeded to spend hundreds of millions more dollars on this program. You ramped up the rhetoric until we started to get close to an election.

Then, all of a sudden, we have division 16 in the budget implementation act that includes measures that have been routinely panned by virtually every immigration professional in Canada and not likely to hold up to any sort of court challenge whatsoever. Frankly, people will testify during these hearings that these are likely to result in even more of an administrative backlog in and burden on the system.

You and your colleague then proceeded to blame this situation on Stephen Harper. Good on you; you've got to do what you've got to do, being paid to be a communicator. But the reality is that you inherited a 10,000-case backlog, which of course had been reduced from a massive backlog at the IRB under a previous Liberal government. We're now at a 71,000-case backlog at the IRB according to the Auditor General.

You said that the system is fast. Fast is five years-plus to have a refugee claim hearing.

You also added to the backlog by lifting the visa requirement on Mexico when your government had not done a formal review of the system. We've now seen, I believe, over 1,500 claims from Mexico in the last two months. We know that the about 22% of those claims will be determined to be valid. The average case load right now, or the average level, is about 55%, so we know that many of these are bogus claims.

I believe that we should have a strong asylum system. We should be allowing people into the country who have legitimate needs from persecution, but you've managed this system like it's a joke for votes. Fast? Come on, really? It's Stephen Harper's fault? When we form government in October, we're going to have to clean up a 120,000-case backlog left by you.

Now, in the dying days of this Parliament, when you have seen polling showing that your mismanagement of this is unpopular because people are saying this isn't fair, all of a sudden you now throw something into an omnibus budget bill. I had a colleague on this committee who had to fight to get it parsed out to review here—we only had one piece of legislation come through this committee in the entirety of this Parliament—and it's not even going to work. It's probably illegal and unconstitutional.

You haven't even picked up the phone to the Americans. Your department literally sat here and we asked them if the government had given them any direction to close the loopholes in the safe third country agreement. The answer, Minister—in case you weren't briefed—was nope. That's because you guys didn't even pick up the phone, saying that you don't know if the Americans can.... You didn't even pick up the phone and say that we have a problem here and maybe we should deal with this.

No. You had your foreign affairs minister go sit on a stage in the middle of a trade negotiation with the American president—again, regardless of how you feel about it—and compared him with Bashar al-Assad and the North Korean dictator. That's maybe not the best thing to do in the middle of a trade agreement while you're trying to negotiate asylum system reform.

● (1550)

This is incompetence. I've seen a lot of incompetence, but this is incompetence that has a human face, because the hundreds of millions of dollars that you've spent on the baloney you're peddling is costing Canadian taxpayers. It's costing people who are trying to come into this country legally, because you're redirecting resources to people who are abusing our system, and you're raising taxes on Canadians. This is not how to manage an immigration system.

Then, the government, to add insult to injury, hires you. They hire you to be a communicator on the file. You don't have authority over any of these bureaucrats. You don't have the ability to bring a memorandum to cabinet or instruct the RCMP on this sort of thing. You're a glorified mouthpiece for the Prime Minister on this stuff.

This has real implications. You guys have bungled so badly—so badly that it's embarrassing—and you should be held to account for it in the fall. We're just tired of it. This is a sham. This is a joke.

My question for you is this. Are you comfortable with your personal legacy—you've had a long career as minister—breaking Canada's immigration system for your, and the Liberal Party's, political gain?

Hon. Bill Blair: Thank you very much for the question.

Some hon. members: Oh, oh!

Hon. Bill Blair: I'm very comfortable. The job I was given included taking steps to more efficiently and effectively manage the issue of irregular migration and, as I've already advised this committee, I'm very—

Hon. Michelle Rempel: I guess I'll take that as a yes, and I hope voters hold you to account for that in October.

Hon. Bill Blair: If you don't want the rest of the answer to that, Ms. Rempel, I'll defer to the chair.

Hon. Michelle Rempel: I just—

The Acting Chair (Mr. Nick Whalen): You have about 25 seconds.

Hon. Michelle Rempel: I just think the answer to that is yes. You know, I feel bad for you, Bill. I really do.

I do, so I wish you the best after October.

Thank you. I'm done.

The Acting Chair (Mr. Nick Whalen): Ms. Kwan.

Ms. Jenny Kwan (Vancouver East, NDP): Thank you very much, Minister, and your staff for being here today. I could rant, but I won't. I'm going to ask some questions instead.

Jean-Nicolas Beuze from the UNHCR said in April in an op-ed that he was assured by the government that “no one” would be removed “without a hearing”. That is a quote. Currently, the pre-removal risk assessment does not guarantee a hearing. Is the government planning on changing the pre-removal risk assessment process and expanding it in use and scope to include a guaranteed hearing process?

Hon. Bill Blair: Thank you very much for the question.

The answer is essentially yes. What we intend is that for people who have been determined to be ineligible for referral to the IRB because they have made a claim elsewhere—this is what is in division 16—in another country that is deemed to be a safe country, they will be given an opportunity to have a pre-removal risk assessment. That will not be just a paper exercise. There will actually be a hearing. They will have an opportunity to bring forward legal counsel, and it will be heard.

They also get the benefit of judicial review in a Federal Court. Just to facilitate that, included in these budget submissions is an increase in the number of federal judges—by three—in order to facilitate those hearings in a timely way.

Also, once they've had that hearing, if it is determined that they are at risk, they will not be removed.

Ms. Jenny Kwan: Okay. You're saying that everyone will be guaranteed a hearing process. It will be conducted by judges through the Federal Court. Did I hear you correctly?

Hon. Bill Blair: No. It would be conducted by officials. The officials who currently conduct the pre-removal risk assessments will still have that authority and responsibility, but it will be a face-to-face hearing, not a paper exercise, in which an individual will have legal counsel—

Ms. Jenny Kwan: I'm sorry. I'm going to interrupt you for a minute.

Hon. Bill Blair:—and it's subject to judicial review.

Ms. Jenny Kwan: Is it going to be a hearing? Or is it an interview? There's a substantive difference between a hearing versus an interview. What you're talking about right now in that process is an interview with officials. Is that not correct?

Hon. Bill Blair: We'll give you an absolutely clear answer.

Paul, could you clarify exactly how the PRRA will work?

Mr. Paul MacKinnon (Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration): Yes. I think “hearing” is the correct term, Mr. Chair. I would also state that at the hearing—

Ms. Jenny Kwan: I'm sorry. Who are the officials who will be conducting these hearings? Will it be IRCC officials?

Mr. Paul MacKinnon: Officials of IRCC.

Ms. Jenny Kwan: How are they trained to conduct these hearings?

Mr. Paul MacKinnon: Mr. Chair, these are individuals who are trained to make a determination about refugee status similar to the way the IRB members are trained. They are looking at the very same issues. They are looking at the refugee convention and at the convention against torture.

These are independent. They're not taking direction from any of us at the table. They are unfettered in their decision-making and have years of experience doing this work.

● (1555)

Ms. Jenny Kwan: How many hearings will IRCC be funded for?

Mr. Paul MacKinnon: IRCC is funded to handle, what we assess will be, approximately—we'll check the figure exactly, Mr. Chair—about 3,500, which is what we expected, if this had applied, would have gone through this new system over the last couple of years.

We are funded for that in budget 2019.

Ms. Jenny Kwan: You are funded for 3,500. It is anticipated that there will be 50,000 applications that will come through.

The minister just said that everyone will have access to this hearing, so then you're short 15,000—

Mr. Paul MacKinnon: It's important to remember, Mr. Chair, that this is about individuals who have made a claim in another country such as the U.S.

It's not the complete cohort of 50,000. The vast majority of folks are going to the IRB.

Hon. Bill Blair: To be clear, we're not changing the process of the PRRA for those who have had an asylum claim that was deemed to be ineligible. We're not changing it for those who have never made an asylum claim and are engaged in the removal process.

We are adding this for those individuals who have made a claim previously in a second country, a safe country, who would not therefore be eligible under these rules for referral to IRB. They will have the benefit of this enhanced PRRA.

Ms. Jenny Kwan: The government's own 2016 review states that “One of the key findings from the previous evaluation was that the program”—the program they refer to is the pre-removal risk assessment program—“had evolved from its original intent of providing a 'safety net' for migrants requiring removal, to providing failed asylum seekers one more step in the asylum system, evolving into a de facto appeal mechanism.”

Isn't that what you're doing with this process, turning the pre-removal risk assessment process into basically a de facto appeal process?

Hon. Bill Blair: For those individuals who perhaps—and we can personalize it—have been in the United States and had previously made a claim in the United States, who then come to Canada and attempt to make a second claim, they will not be eligible for referral to IRB. However, they can't be returned to the United States. They would be returned to their source country.

Before that takes place, they will now have the benefit of a pre-removal risk assessment, which is in fact a hearing, in which they have legal counsel and which will be subject then to judicial review by a federal court. That is in order to ensure that those individuals have protection. We don't want to remove somebody to a dangerous and risky situation.

The pre-removal risk assessment for those individuals, because of the circumstances under which they are not eligible for the IRB, we think is an appropriate level of protection for them.

Ms. Jenny Kwan: Okay, I won't debate the issue; I just want to get answers to some of these questions.

As the pre-removal risk assessment is only available if you're at risk of being removed, what happens to individuals who are from a country of origin that Canada has a temporary suspension removal or administrative deferral of removal with at this time? Those are the countries that are deemed to be too unsafe to deport anyone to.

What happens to them?

Hon. Bill Blair: Please go ahead, Paul.

Mr. Paul MacKinnon: Mr. Chair, they would remain in Canada, just as if they had gone to the IRB and that referral was in place.

We're not going to remove anybody to a country—

Ms. Jenny Kwan: Sorry, but they're not allowed to go to the IRB.

If they have crossed over irregularly from the U.S., let's say, and they've already made a claim in the U.S., they are prevented under this bill from making an asylum claim here in Canada.

Mr. Paul MacKinnon: I was trying to say that it's a comparable process.

If they go through this new process and there is a removal order in place, after the hearing is heard, the government would not remove somebody to a country where there was a removal order in place.

Ms. Jenny Kwan: Are you saying that those individuals will then be referred to this pre-removal risk assessment process, and then, if it's determined that the country is not safe—it is apparently on Canada's list of countries that are not safe...? Why are we referring them to a hearing when we already know that country is not safe? Isn't that a duplication of service?

Actually, just on that point, we have a report from the Auditor General telling us about the significant problem within the government on duplication. You could have someone asking for—

The Acting Chair (Mr. Nick Whalen): You might get back to that in your final three minutes, Ms. Kwan.

Ms. Jenny Kwan: Sorry?

The Acting Chair (Mr. Nick Whalen): We may get back to that in your final three minutes, but you're at seven minutes already.

Ms. Jenny Kwan: Thank you.

The Acting Chair (Mr. Nick Whalen): We'll go over now to Mr. Sarai.

Mr. Randeep Sarai (Surrey Centre, Lib.): Minister, thank you for coming.

In your short tenure as minister, and after the hearing today, I'm pretty impressed that we've been able to reduce irregular border crossings, I believe by 47% year over year, and this has been done without any special or separate legislation. In fact, it's been done by outreach, and efficient enforcement and processing by your department and the department under IRCC.

For me, obviously, British Columbia is an important constituency. Can you tell me how many irregular migrants have crossed over the Canada-U.S. border into B.C. in subsequent months...?

• (1600)

Mr. John Ossowski (President, Canada Border Services Agency): For the calendar year to date for British Columbia, it is 67.

Mr. Randeep Sarai: Only 67 people have crossed over?

Mr. John Ossowski: For the calendar year of 2018, it was 479.

Mr. Randeep Sarai: That sounds like, by rough numbers, a 70% or 80% drop.

Mr. John Ossowski: Yes.

Mr. Randeep Sarai: How will this legislation keep curtailing an inflow of ineligible migration while protecting our international obligations and our compassionate and humanitarian history?

Hon. Bill Blair: It will in a number of ways.

There is the measure that we've just recently put in place: that those who have already made a claim in another country, in the United States, a safe country, cannot subsequently make a claim in Canada as well and will not be referred to IRB. That rule is already in place for those people who would cross at a regular point of entry, so we're just ensuring...and this is on the principle of fairness.

People are subject to rules should they cross at a regular point of entry. We believe that people should be subject to similar rules should they cross at an irregular point of entry. That's to remove any incentive or advantage to crossing irregularly. We're trying to encourage people to enter the country appropriately.

There's also been a fairly significant outreach to those communities where people are, in fact, not in need of protection, but perhaps are desiring to migrate to Canada for economic reasons and a better life. A lot of it has been outreach, as well, to direct people to the appropriate way to make an application to emigrate to Canada, and I think that those efforts have proven successful as well. However, we also recognize that we need to be able to respond to whatever presents itself at our borders.

We've been building up our capacity because we want to be able to assure Canadians that, first of all, the safety and security of the country is being maintained and that, secondly and equally as important, we're upholding our international obligations and the Canadian rule of law. Canadians expect a fair and compassionate system, but they also want it to be well managed.

We're making sure that we are rightsizing, and we're working very collaboratively with our partners in the United States and other countries to make sure that proper intelligence is gathered, that people take proactive steps to manage the situation and that those who do come are given access to a faster system. I don't wish to characterize the system as fast enough currently; it's not. That's why we're making significant new investments in budget 2019 to increase the capacity of IRB to conduct timely determinations of eligibility.

We're also working hard to make sure that those processes and systems are efficient so that the CBSA can fulfill its responsibility for those who are determined to not be eligible, and so that they can effect timely removals for those individuals.

Mr. Randeep Sarai: What has the UN office for refugees' reaction been with respect to this proposed legislation?

Hon. Bill Blair: We've had a very positive response. Of course, we consulted with them prior to the implementation of any measures.

Their concern was that—and exactly the same concern was expressed to us by Amnesty International—they wanted to make sure that any individual, before being removed to a situation of potential risk, would have the benefit of a pre-removal risk assessment, and that we would acknowledge the importance of the same decision in this country so that people would have the opportunity to have legal counsel, a proper hearing and a review at our federal courts.

We were able to provide that assurance, and UNHCR has strongly indicated to us that it believes that the measures we are putting in place uphold Canada's international obligations, are entirely consistent with principles of asylum primacy and afford people with what it believes is a world-class asylum determination system in Canada.

Mr. Randeep Sarai: For the record, this applies to people who have claimed asylum in countries like the United States, Great Britain, Australia and New Zealand, and if they've claimed it there, they cannot reclaim it here.

By the same token, they would not be returned back to a country that is considered by Canada as at risk, where it would be unsafe to return them. Those would be protected, as I think Ms. Kwan—

• (1605)

Hon. Bill Blair: First of all, the countries to which they've already made a claim—if they have—are those countries with which we have an information-sharing agreement, and those are the Five Eyes countries that you mentioned. An important part of this process is that, even if people were not eligible to be referred to IRB because they had made claims in one of those other countries, they would still be given the benefit of pre-removal risk assessments, and where there are determinations that they would be at risk, they would receive Canada's protection.

Mr. Randeep Sarai: Do you have an idea of what this will affect in terms of volume? How much of our volume of refugee applications would this affect? Is it 10%, 20% or 30%? What cohort would—

Hon. Bill Blair: Of the 40,000 people who entered Canada irregularly at our borders, I understand that approximately 3,000 of them had previously made a claim in the United States.

Mr. Paul MacKinnon: It's about at the 3,500 level over a two-year period.

Mr. Randeep Sarai: What's your understanding on the legalities of it? It was raised that it may be subject to the Supreme Court ruling in *Singh v. Minister of Employment and Immigration*. Has your department looked at it, have both ministries looked at it, to see if this would withstand a charter challenge?

Hon. Bill Blair: I believe it would. Of course, everything is subject to the potential of a challenge, but it is our strong belief that this is constitutional. It's consistent with previous court decisions, and it upholds our legal obligations and our obligations internationally.

The Acting Chair (Mr. Nick Whalen): You have just 20 seconds, Mr. Sarai.

Mr. Randeep Sarai: That's fine, thank you.

The Acting Chair (Mr. Nick Whalen): That's great.

As we move to our next round of five minutes, I do recognize that the time belongs to the members and they can use it however they wish, but I hope we can be respectful and try to keep the questions related to the legislation before us.

[*Translation*]

Welcome, Mr. Paul-Hus. You are not a regular member of the committee, but I'd like to hear your questions.

If you'll be speaking French, anyone needing interpretation should put in their earpiece.

Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Whalen.

Good afternoon to you, Minister, and to the officials here with you.

Minister, today the Auditor General's report came out on the management of immigration applications, specifically, the processing of asylum claims. It's quite a critical report.

Let's set aside the matter of those who come to Canada to claim asylum and talk about the government's administrative issues.

As far as dealing with the problem goes, the Minister of Immigration, Refugees and Citizenship couldn't do the job, and the Minister of Public Safety and Emergency Preparedness had bigger fish to fry, so the government opted to create a new position, Minister of Border Security and Organized Crime Reduction, to coordinate the response. You were appointed to the position last year.

Can you tell us how you've been effective in the job?

[English]

Hon. Bill Blair: Frankly, it was a little less than a year ago. In the responsibilities I have been given, I have been working very closely with senior officials. I think we've made some significant progress, as I've already iterated to you. We've seen a significant decline in the number of people who have been presenting themselves irregularly since my appointment, and frankly that had nothing to do with my appointment. It is directly as a result of some very effective measures that have been implemented by our officials and the work they have done internationally. It's very important to acknowledge that.

We've also brought forward a number of measures that we believe will continue to build upon the capacity in budget 2018 and now subsequently in budget 2019, and rightsize the ability of the IRB to do timely determinations of people's eligibility. And we brought forward measures that I think remove some of the disadvantages and perhaps incentives that existed in the previous system that encouraged people to cross irregularly. We made—

[Translation]

Mr. Pierre Paul-Hus: I have to stop you there, Minister. You're still talking about people who want to come to Canada and the fact that you're trying to discourage them. We all know changes need to be made to the third safe party agreement between Canada and the United States, but I'm talking about the problems we have right now internally.

The federal government invested more than a billion dollars over three years. That doesn't include what the provinces have spent to manage the cases. How do the bill and the funding being sought fix the problems internally?

Today, we found out that everyone works in a vacuum, without any coordination of efforts. The people at Immigration, Refugees and Citizenship Canada and the people at the Canada Border Services Agency each work in their own little corners and don't talk to one another. The backlog is huge, but the two institutions don't communicate. The Auditor General noted problems with the information technology systems.

You've been appointed and this is now your responsibility. How is the bill going to make things better?

[English]

Hon. Bill Blair: Yes, perhaps you are unfamiliar with the asylum system management board that has been established that brings together the senior officials of IRCC, CBSA, the RCMP, of all departments that have a responsibility to manage the issue of the refugee system, including irregular migration. That was formed in 2018. They have significantly improved the collaboration and horizontal integration of these services.

As well I think you'll see reflected in budget 2019 that we've identified where additional investments were required at IRCC, at IRB, at CBSA, at the RCMP, in order to support the important work that they do to maintain the integrity of our borders and to manage in an efficient, fair, consistent way—

• (1610)

[Translation]

Mr. Pierre Paul-Hus: Minister—

[English]

Hon. Bill Blair: —our asylum system.

[Translation]

Mr. Pierre Paul-Hus: All we keep hearing about is more and more investments. Isn't there anything else you can do to fix the problems?

Coordination and direction are lacking, but there has to be a way to change that. More than a billion dollars has been invested with nothing to show for it. That's not coming from us; it's coming from the Auditor General.

I'd like to use the minute I have left to talk about security.

The Auditor General noted that the Canada Border Services Agency had a problem conducting criminality and identity checks in some cases. At least 400 people who crossed into Canada did not undergo a proper security check. Can you tell us about that?

[English]

The Acting Chair (Mr. Nick Whalen): In 45 seconds, please.

Hon. Bill Blair: Let me say absolutely emphatically that no individuals with any serious criminality or security concerns were admitted into Canada. There have been a very small number whose biometrics were not properly enrolled in databases.

John, quickly, do you want to comment on any aspect of the work CBSA is doing on that^

Mr. John Ossowski: I think it's important not to conflate a biometrics enrolment in the GCMS with the proper security check. You can still do a check with the U.S. and Canadian criminal databases with biographic information. We do that. We've gone through the files as a manual review and assured ourselves that this in fact was done and that the officers dealt with the criminality as they would with anybody else who presents themselves who has any criminal issue.

[Translation]

The Acting Chair (Mr. Nick Whalen): Thank you, Mr. Ossowski.

Mr. Ayoub, you may go ahead.

Mr. Ramez Ayoub (Thérèse-De Blainville, Lib.): Thank you, Mr. Chair.

Thank you, Minister.

I'd like to begin by apologizing to the officials who are with you for some of the comments that have been made. I would call them appalling. Minister, you came here today to speak with us, and I have no doubt that you are working with your colleagues to make the system better countrywide.

You mentioned some of the things you've achieved, but I'd like you to repeat the numbers because I don't think they sank in. You said the number of people crossing the border irregularly had dropped by 47%. In the summer of 2017, Quebec was very busy dealing with those individuals.

What impact will the bill have? What makes you confident that it will change things for the better?

[English]

Hon. Bill Blair: Certainly, I think when the immediate influx occurred in Quebec, there was an excellent response at that time, but it was a reactive response, with the large surge of people who presented themselves at the border, particularly at the end of Roxham Road in Quebec. The impact was also in other places, such as Emerson, Manitoba, and on the Pacific Highway in B.C. But our officials, I think, responded quite appropriately and have dedicated the resources and put in very effective processes, which I've reviewed very extensively. I'm quite reassured by the excellent level of collaboration and the thoughtful way they have been managing this increase, which is being experienced around the world, but is being exceptionally well managed, in my opinion, by our officials at the border. Due to the fruits of their labour, we've seen a significant reduction in those who are presenting themselves irregularly at our border.

I'll give you another example. We heard earlier about B.C. In Manitoba, in 2017, nearly 1,300 people crossed irregularly from the United States. Last year that number was reduced to approximately 500. In the first three months of this year that number is down to single digits. It's a direct result of some really good work that's been done by our officials in collaboration with their partners in the United States and in other parts of the world that has affected this change. But at the same time, we recognize that timely determinations by IRB required significant new investments, and so we've been working with the new director of IRB to make sure that he has additional personnel to make those timely determinations.

The level of collaboration and innovation between our officials through this new management board of our senior officials who oversee these processes have resulted in a number of innovations. For example, there's an integrated claims assessment project now under way, which is bringing much greater efficiency to those processes. For those people who would seek asylum in Canada and are perhaps not in need of our protection, I think that as there is greater awareness of the improved efficiencies and the more timely determination, and the certainty that you will be subject to removal if you are determined not to be at risk, that is helping us reduce the number of people who would present themselves irregularly.

•(1615)

[Translation]

Mr. Ramez Ayoub: If you happen to have Quebec's figures on irregular border crossing claims, I would really like to have them.

The other part of my question has to do with the fair handling of claims by people who cross the border irregularly and those who enter the country unlawfully. How can we be sure that the system will process all of these people's claims fairly and impartially with respect for their human rights?

[English]

Hon. Bill Blair: Mr. Ayoub, in the early part of this discussion about the large number of people who were presenting themselves and crossing our borders irregularly seeking asylum, there were a lot of suggestions that this was a security or safety risk. I can assure you that it is not. Our officials go to exceptional lengths to ensure that there is no threat of criminality or a threat to national security.

There was also an issue of fairness. I think many Canadians were concerned that people who were presenting themselves irregularly perhaps were receiving some kind of an unfair advantage. That's one of the reasons we have worked very hard and brought forward measures in this budget bill to reduce any incentive or advantage those who might choose to cross irregularly would have over those who choose to cross at a regular point of entry. It's simply an acknowledgement and a respect for Canadians' sense of fairness. The system needs to be fair, it needs to be efficient, and it will always be compassionate.

The Acting Chair (Mr. Nick Whalen): With the last four minutes, I believe we can move now to a combination of Ms. Rempel sharing her time with Mr. Maguire.

Ms. Rempel.

Hon. Michelle Rempel: What percentage of the people who have entered Canada illegally from upstate New York since January 2017 and subsequently claimed asylum would division 16 of the BIA apply to?

Hon. Bill Blair: For those who had made a previous claim in the United States, my understanding is that the number is somewhere between 3,000 and 3,500.

Is that correct, Paul?

Hon. Michelle Rempel: Was it less than 10%, like 5% or 6%?

Hon. Bill Blair: That's for that particular provision for those who previously had made a claim.

Hon. Michelle Rempel: Thank you. I just wanted to put that on the record.

You didn't quite answer your colleague's question. I think it was something to the effect of your having done any analysis to see if this would survive a Supreme Court challenge or a court challenge. You said you believe that...

Was there an analysis completed, and would you table that with the committee for review?

Mr. Paul MacKinnon: We've certainly worked with the Department of Justice on that analysis, and we have the charter analysis. Whether or not, Mr. Chair, Justice is okay with our tabling that before the committee.... We'll certainly follow up on this question.

Hon. Michelle Rempel: I would say it's a little material to this. If that analysis shows that it's not likely to survive a court challenge, which I don't think it will, is it your intention to use the notwithstanding clause to uphold it?

Hon. Bill Blair: I remain confident that it will, in fact, meet that challenge. That's the advice we've received from Justice, but again, I wouldn't presume to speak for them. If we have an opportunity to table that opinion with the committee, we'll certainly endeavour to do so.

Hon. Michelle Rempel: Do you expect court challenges of this?

Hon. Bill Blair: In my experience, almost every area of law is subject to litigation. That's the nature of any new law, so it's certainly possible that someone may seek—

Hon. Michelle Rempel: That's something else.

Hon. Bill Blair: —to challenge it, but I remain confident in its constitutionality.

Hon. Michelle Rempel: Have you budgeted anything for the fact that this most definitely will be litigated? How much is that anticipated to cost? Again, are you anticipating using the notwithstanding clause?

Hon. Bill Blair: There is nothing in budget 2019 that we presented that specifically speaks to that. We don't anticipate that we would require extraordinary resources to deal with such a challenge.

Hon. Michelle Rempel: I'll pass it over to Mr. Maguire.

Mr. Larry Maguire (Brandon—Souris, CPC): One of the things that I took upon myself last year was to put a letter to the Parliamentary Budget Officer on what all of the illegal border crossers who have had come into Canada over that period of time will cost. The government had budgeted a couple of hundred million dollars for it all. It came back last November. They told us it was \$1.1 billion. Now I see that you've come up with \$1.18 billion for recommendation 2.28 over five years to try to handle some of this processing of 40,000 asylum claims. There's a backlog of 71,000.

Do you see this coming anywhere close to the cost required to be able to manage this, considering that this doesn't include any of an equal amount the provinces have indicated they are going to need to pay as well?

• (1620)

Hon. Bill Blair: We believe the budget we have submitted is the appropriate budget to adequately resource IRCC, IRB, CBSA, the RCMP and other federal agencies that have a responsibility for this.

Mr. Larry Maguire: Do you believe that's going to do it when there is already a backlog of 71,000? You are going to do 50,000, and you have claims you're hoping, from what I understand in the report released today... There is a hope that that will allow them to catch up, because if there are fewer coming in this year, it will allow officials to catch up on some of the heavy, and very public, backlog.

Hon. Bill Blair: To manage this properly, Mr. Maguire, we're doing two things. We're making a significant effort to decrease the number of people who are crossing irregularly, and we've achieved, as I've already indicated to this committee, a significant level of success in that regard. We are also significantly increasing the capacity of our agencies and departments, the IRB in particular—

Mr. Larry Maguire: Mr. Blair, it's a little late. As my colleague said a little earlier, it's just a few months until an election. Why didn't you start two and a half years ago when this first became a problem?

Hon. Bill Blair: We did.

Mr. Larry Maguire: No, you didn't.

Hon. Bill Blair: You may not recall, but in budget 2018 we added \$74 million, for example, to significantly increase the capacity of the IRB to conduct hearings. That was, as I recall, discussed at this committee. I'm not sure whether or not you recall that—

Mr. Larry Maguire: That's my point, Mr. Blair. The \$74 million is a drop in the bucket compared with what is required by the

provinces, and even your federal departments, to be able to manage the backlog from the last few years. In two years there were about 40,000 illegal crossers.

The Acting Chair (Mr. Nick Whalen): There won't be time for an answer to that question, but maybe Madam Zahid will ask a similar type of thing.

Mrs. Salma Zahid (Scarborough Centre, Lib.): Thanks, Minister, for coming today. I have many immigrants in my riding of Scarborough Centre and you also have many immigrants in neighbouring ridings. Like all Canadians, they believe in the importance of a fair immigration system for everyone. I know Canada is a welcoming country with strong support overall for immigration. Crucial to maintaining that public support is the perception that the system is fair to everyone.

Can you please assure us that these changes being brought in through division 16 will protect the integrity of our immigration system, and at the same time also meeting Canada's international obligations and ensuring that we are a place that welcomes those in genuine need of our protection?

Hon. Bill Blair: Ms. Zahid, I think your question is important.

I think that maintaining public Canadians' confidence in their refugee protection system is critical. We have worked very hard to make sure that it's adequately resourced to deal with the volumes that Canada and other countries in the world are currently experiencing. We saw a fairly significant increase in the number of people seeking asylum. We also heard from many Canadians concerned about whether those who were crossing the border irregularly were being treated in the same way as those who chose to seek asylum here at a regular point of entry.

We've examined all of the rules and worked very hard to make sure that we strike that balance and maintain fairness in the system. We have also ensured that there will be no particular advantage for an individual who might choose to cross irregularly, while also acknowledging that, for people who are fleeing war and persecution and who fear for their lives and the safety of their children, we are always going to be a country that is welcoming and receptive and offering protection to those individuals.

We understand as well that fairness in the system requires timely determination of whether or not a person is eligible for the protection of Canada, so we know that we needed to make significant new investments in IRB's capacity to do that. At the same time, we will have to make sure that those systems are also conducted with efficiency because some of those individuals are determined not to be eligible. They have to be subject to a timely removal and that's done in a careful and compassionate way, but it's important that the system also reach a finality to assure Canadians of its fairness. I think we've achieved the right balance of success.

As I've already indicated, I've had extensive conversations with UNHCR and Amnesty International and others who want to ensure that Canada maintains a compassionate, welcoming approach for those who are truly in need of protection and that we uphold our legal obligations. I believe very sincerely that the measures we propose in budget 2019, in the bill before this committee, have achieved that balance and that we are implementing measures that are thoughtful, reasonable, lawful and appropriate for the circumstances.

• (1625)

Mrs. Salma Zahid: You mentioned in your opening remarks that there are 24 million refugees globally and that 258 million migrants are on the move. The refugees are either fleeing war zones or they have had to leave their countries because of natural disasters. Do you think that the number of irregular border crossers we saw come to Canada was because of a simple tweet?

Hon. Bill Blair: Frankly, I believe that's an absurdity. One only has to read a newspaper to see what's going on in the world and to see how other countries that are like Canada in being welcoming, compassionate and safe places, where people from all over the world have sought refuge....

There are real conflicts and real risks in many parts of the world. Canada has a long and very proud history of being a place of welcome to those who are truly in need of our protection. We also reflect on the contributions made to building a great, strong and resilient Canada by those who have come here seeking our protection.

I think it's a source of great pride for all of us, but to suggest that 250 million people all of a sudden were on the move because of a tweet is silly, and to suggest that the global phenomenon of nearly 25 million true refugees is influenced.... Just to put it in context, of that 25 million people whom the United Nations Refugee Agency identifies as true refugees, fewer than 0.16% of them have sought refuge in Canada.

The Acting Chair (Mr. Nick Whalen): We have a final three-minute round of questions from Ms. Kwan.

Ms. Jenny Kwan: I just want to talk numbers for a minute.

You have a backlog of 71,000 cases. The IRB told us they expect about 60,000 cases this year and 60,000 new claims next year. The budget provides for the funding of 40,700 this year and 50,000 next year. Simple math tells us that you're actually going to run into "legacy 2.0." The leftover problem the Conservatives handed to you with "legacy 1.0" will now actually become "legacy 2.0," even with your additional funding. How will this really solve the problem?

On the issue of creating the pre-removal risk assessment stream and shovelling 3,500 cases through it, aren't you actually diverting the work from the IRB to IRCC to do exactly the same thing?

Hon. Bill Blair: No. To your second question, I would respectfully submit that no, it's not. The processes through the IRB—all of the subsequent reviews and appeals and the judicial review—take a fairly significant amount of time. The pre-removal risk assessment, notwithstanding a hearing with legal counsel and subject to judicial review, I believe can be done in a far more timely way. I also believe that individuals who realize they won't have access to the full determination of a second asylum claim if they've already made a claim in another country would be encouraged and incentivized to remain in the existing country, which will help us reduce the numbers.

I agree, it takes time. We've had many discussions with IRB. It takes time to build up their capacity to address the numbers currently in the queue, but they are making real progress. Increasing their capacity is part of our strategy, and so is reducing the number of claims. We aim to make sure that people have a clear understanding of our immigration systems and the laws that pertain to asylum claims in this country, and to make sure.... We have discovered that by being proactive, by going out and communicating more effectively and by working with our international partners, we've been able to achieve a very significant reduction in the number of people presenting themselves.

Ms. Jenny Kwan: Thank you for that. Based on the IRB's own projection with respect to the number of cases they anticipate for this year and next year, however, if you run through all of these numbers, you will still have a backlog of over 80,000 cases. You're not really solving the problem. Those 80,000 cases, even from the Auditor General's report—and he was only projecting a 50,000 caseload increase each year, and his office is now projecting a five-year process in which people are going to be stuck in limbo—is not much better, frankly. In fact, it's pretty well the same as what the Conservatives had handed over to you. What this government is now going to do, on the eve of an election, is hand it over to whomever assumes office after this.

• (1630)

The Acting Chair (Mr. Nick Whalen): Ms. Kwan, can you be very quick with your question? Your three minutes is up, but if the minister is prepared to stay and answer it, he can.

Ms. Jenny Kwan: I'll ask a very quick question. I asked the minister if I could have a private sit-down with him to go through this legislation and get the questions answered without being limited by time. I was not granted that request. I wonder whether or not I can make that request now of the minister.

Hon. Bill Blair: Of course. I'm not sure what the difficulty was in scheduling some time, but you and I have had an opportunity to speak previously on other matters. If we can find a mutually convenient time, I'd be happy to meet with you.

Ms. Jenny Kwan: Tell me when and I'll be there.

The Acting Chair (Mr. Nick Whalen): Thank you very much, Minister.

We'll recess for one minute while we clear the table. My understanding is that your officials are staying for the next hour.

Thank you.

• (1630) _____ (Pause) _____

• (1630)

The Acting Chair (Mr. Nick Whalen): We'll now have an opportunity to continue with ministerial officials on the questioning we've just had with Minister Blair regarding part 4, division 16 of the budget implementation act, 2019.

I believe the first opportunity to ask questions of the officials is Mr. Sarai's.

Mr. Sarai.

Mr. Randeep Sarai: Thank you once again for being here and giving your time.

My first question is about something I perhaps wanted to ask the minister, but I'll ask you.

There's a new authority to issue an order in council to stop processing TRVs. I think it's clause 304. It gives the Governor in Council the authority to issue orders regarding applications for temporary resident visas, work permits and study permits if foreign governments are unreasonably refusing to issue or are delaying the issuance of travel documents.

I'm just curious if this is a common practice. If so, in how many countries is it prevalent? Do you think this tool would be essential to solve that problem?

Mr. Paul MacKinnon: Mr. Chair, I can say a few things on that. I do know that the United Kingdom follows a similar process. The concept is a fairly straightforward one to assist our colleagues at CBSA in receiving travel documents. The government feels that two things could perhaps be helpful: positive incentives to work with those countries on things like the integrity of their documents—their passports—but also perhaps, in certain cases, to decide that the government should pause or stop the visa issuance for all nationals, or a particular cohort of nationals. That decision would be made, Mr. Chair, at that time, specifically looking at the broad bilateral relationship, not just the visa issue and the removal issue.

• (1635)

Mr. Randeep Sarai: Is there an epidemic right now? Are there certain countries that are giving us a problem with their travel documents so that we felt the need for this?

Mr. John Ossowski: There are some, but it's a very dynamic environment, I would say. You have to situate it in terms of the broader bilateral relationship at any one point in time. This would be just another useful tool for us to use. I would emphasize Paul's point about trying to have a positive relationship with these countries in that broad sense, and to recognize our interests in returning these people back and working with them to make that happen as smoothly as possible.

Mr. Randeep Sarai: Regarding the new directions for determining if refugee claimants are eligible to be referred to the IRB, the first step, when a refugee claim is received in Canada, is an eligibility examination. The three-day deadline prior to referral to IRB would be removed now. How much time do officers currently need to assess eligibility?

Mr. John Ossowski: Certainly, from our side, when they present themselves at a port of entry, it could take up to eight hours to go through a claim. It depends on the complexity, how big the family unit is, and what we find during that process.

Mr. Randeep Sarai: Why the need to remove these three days? Is the point that they'll be done more quickly, or they may take longer? I'm trying to figure out the intent of this change.

Mr. John Ossowski: I think it's really just so that we don't get pressed artificially not to have the time to do our processing properly. When there's a period of larger volumes, it will allow us to maintain the integrity of the process without an artificial deadline hanging over our head.

Mr. Randeep Sarai: Previously, how often would the three days be exceeded?

Mr. Paul MacKinnon: We can get those figures for you, Mr. Chair. It really happens during times of significant influx at the border. If you go back to the summer of 2017, when there were a number of people coming in, a portion were outside the eligibility period. We'll get the figure and share it with you. I don't want to take your time.

Mr. Randeep Sarai: Sure.

I asked this of the minister about clause 306 of Bill C-97, which is to make an individual ineligible to make a refugee claim if he or she has made a claim in another country, one of the Five Eyes countries that we have sharing agreements with. An individual in this situation would be permitted to apply for a pre-removal risk assessment. If this provision were implemented, what effects do you foresee it having on the volume of pre-removal risk assessment applications received by IRB? I know currently the minister had said about 3,000 or 3,500 as to the irregular...but would this also affect those who fly in or perhaps those people whom we potentially see in terms of the DACA deadline that's looming in the U.S., who have made claims in the States? The States may otherwise deem them ineligible for the U.S., but they have made claims there.

Mr. Paul MacKinnon: Yes, I guess the best proxy we have, Mr. Chair, to figure out what's going to happen moving forward is looking back, and that's the 3,500 figure that the minister shared with the committee. A significant portion of those 3,500 would be irregular claimants. This applies not just to irregular claimants, as you know, but also to all claimants coming in. We're anticipating and planning for that 3,500 over about a two-year period, but it's challenging prospectively to know exactly what that number could look like.

Mr. Randeep Sarai: How do you plan to deal with the inflow if the capacity rises? Are there measures to deal with this efficiently and quickly so it doesn't become a backlog on its own?

Mr. Paul MacKinnon: We're funded for the figures that we're assessing, so it's around that 3,500, but I think, Mr. Chair, much like we've done during the past couple of years, we would look at how to manage certain influxes, as we've done at Roxham Road—and the president of CBSA has realigned work, so we would look at how to do that. We don't anticipate that kind of influx in this cohort.

● (1640)

Mr. Randeep Sarai: You had stated earlier.... It's not very clear in what's available now, but in terms of doing a PRR hearing, will transcripts be done so that they're available for appeals? Will they have the right to a lawyer there? Will it be in person, or are these made simply on a paper application?

Mr. Paul MacKinnon: Maybe I'll just say a few words on the role of counsel, because I think that's part of your question. Counsel is allowed to assist the applicant in preparing for the hearing, to clarify questions and assist with responses, but is also able, at that hearing, to help clarify or correct information that comes up during that hearing process.

The Acting Chair (Mr. Nick Whalen): Thank you, Mr. MacKinnon. Maybe someone will give you an opportunity to finish the answer.

Mr. Tilson.

Mr. David Tilson (Dufferin—Caledon, CPC): It seems to me that the three main bodies involved aren't talking to each other. I say that because of the Auditor General's finding that the information management systems of the IRCC, the CBSA and the IRB are largely incompatible. I wonder if any of you have any comments with respect to that. If my assumption is correct, how's that going to be resolved?

Ms. Lori MacDonald (Acting Deputy Minister, Department of Citizenship and Immigration): Thank you, Mr. Chair.

One of the things that we put in place last year was a board called the asylum system management board. This is a board where the heads of the departments—Mr. Ossowski here, I and IRB—come together about every six weeks. The purpose of that board is to discuss those issues where we have information-sharing types of concerns or we're putting new initiatives in place where we want to be connected collectively together so that, as we go forward, we are in fact talking both from a person's perspective but also from an IT perspective.

One of the things that the recent budget investments gave us was \$36 million to invest in new IT. One of the things that we've been challenged with is that we have very legacy types of systems from an IT perspective and so they don't talk to each other. Going forward, what we want, obviously, is to be able to be connected in terms of information sharing from an electronic perspective as well. We actually are using the board we have now, where we meet regularly to talk about those issues: how we actually project manage this and how we actually implement those systems, both from a communications perspective and from a technological perspective, so in fact, the systems are actually talking together.

Mr. David Tilson: How often do they meet?

Ms. Lori MacDonald: Right now we're meeting approximately every six weeks, but there are times where we may come together more frequently than that to address specific issues. As an example,

with the budget investments, we pulled together a board so that we could talk about how we will collectively implement these initiatives, so that we do that either without being in each other's way or collectively so that we actually are in lock step and don't inadvertently go off online.

Mr. David Tilson: That's your answer to the Auditor General's comment. You feel this management committee is solving the issue.

Ms. Lori MacDonald: That would be one example, but under the management committee, Mr. Chair, as well, we have an entire governance structure.

As an example, we have a number of director general working groups who collectively work together on a number of the policy and operational implementation issues. We work with other government departments such as Global Affairs, Public Safety, our counterparts in RCMP and CSIS, Public Services Canada, as an example, and Shared Services. Those collective groups are working together so that we actually impact the entire system in terms of both information sharing and communication, so that we can move the system forward in an integrated way.

Mr. David Tilson: I'd like to refer, Mr. Chairman, to clause 301. I'm wondering if any of you could comment why it was necessary to add clause 301, which states, "to maintain, through the establishment of fair and efficient procedures, the integrity of the Canadian immigration system".

My question is what prompted the addition of this clause.

● (1645)

Mr. Paul MacKinnon: I think, Mr. Chair, it just brings clarity as to the objective of these provisions, and it aligns with similar existing objectives in IRPA and simply states that the purpose of this is to maintain the integrity of Canada's asylum system. It's a contextual type of statement that is consistent with other parts of IRPA.

Mr. David Tilson: So there wasn't something that was unfair or inefficient in the existing piece of legislation.

It's just a curious statement to make, but maybe you've answered it.

Mr. Paul MacKinnon: I think, Mr. Chair, that would be the answer.

Mr. David Tilson: I won't push it any further.

Mr. Chairman, the Auditor General has specifically called out the fact that the asylum claim system is inadequately resourced. I'm not one—nor is my party—to advocate for increased government spending, but we do have legal and treaty obligations in determining who is or is not a genuine refugee. That requires an adequately resourced determination system.

What efforts has the government made to come up with a more flexible funding model that responds to changes in the number of applications year over year?

Ms. Lori MacDonald: One of the things we've begun working on right now with our colleagues at Finance and Treasury Board is to develop a more consistent funding model to take into consideration the fluctuations we see in the system and ensure we have the resources available to us in a timely manner.

Of course, we do things all the time, as Mr. MacKinnon indicated earlier. When we see pressures in a certain area we move resources around; we talk to each other about how we can address them. That's not a sustainable way to do business, so part of the conversations we're having with our financial officials and Treasury Board is on how we can create a system that allows us to be more fluid in terms of our resourcing. We've begun those conversations and we're looking at the things that impact us, such as spikes in asylum claims or impacts in terms of movements, so that we can develop a formula that will help us do that. That work is under way now, and we hope to have something here in the coming months.

The Acting Chair (Mr. Nick Whalen): You have about 20 seconds left, Mr. Tilson.

Mr. David Tilson: I'll pass, thank you.

The Acting Chair (Mr. Nick Whalen): Ms. Kwan.

Ms. Jenny Kwan: Thank you very much.

I just want to get back to the IRCC, the new stream that they will be undertaking for about 3,500 cases, the pre-removal risk assessment process. How many cases do they handle now?

Mr. Louis Dumas (Director General, Transformation Office, Transformation, Department of Citizenship and Immigration): Mr. Chair, we handle approximately 2,400 cases per year.

Ms. Jenny Kwan: You handle 2,400 now. You're expecting to have another 3,500 added to your case load. Where are the resources coming from to handle that?

Mr. Louis Dumas: Through IRCC, Mr. Chair, we have an extremely robust cadre of decision-makers across Canada and overseas. Recruitment is happening from within IRCC, people who have the experience and expertise in making those difficult decisions.

Ms. Jenny Kwan: How many people would you add to IRCC to be dedicated for this specific stream?

Mr. Louis Dumas: At the moment, Mr. Chair, I could not provide you with an exact answer, but we're looking actively at the different models and what would be required, as well as the training that would be required to ensure that these individuals make good decisions.

Ms. Jenny Kwan: Previously, we were told that they were already trained. Now you're saying they need to be trained. You need to find the people, and you don't know how many people you're going to find to do this work.

Mr. Louis Dumas: At the moment we have a cadre of individuals who are making PRRA decisions. In addition to that, in order to answer the demand and the inventory that has been created, we are hiring extra people and will be providing training to those individuals.

Ms. Jenny Kwan: Okay, so you're looking to hire. You don't have them yet, and you don't anticipate how many you'll hire to deal with this 3,500 case load.

I'm going to park that for a minute. I want to ask some other questions.

I see that the government has added—aside from the U.S., which is the obvious place—the Five-Eyes countries to this list of countries from which people won't be eligible to make an application. Australia is one of those. In 2016 the UN ruled that Australia's indefinite detention of refugees on Nauru island on secret security grounds was both arbitrary and illegal. Amnesty International, Human Rights Watch and other groups have long spoken against this continuing practice. In 2017, the courts in Australia ordered the government to pay over \$70 million to refugees and asylum seekers who had suffered physical and mental injuries while being detained in Manus Island detention centres. The Global Legal Action Network and Stanford Law School's International Human Rights and Conflict Resolution Clinic went to the International Criminal Court arguing that the treatment of refugees on these island facilities has reached the level of crimes against humanity.

Are crimes against humanity acceptable as long as we have an information-sharing agreement?

• (1650)

Mr. Paul MacKinnon: Mr. Chair, in that specific case, because those individuals would not have made a claim in Australia, because they're not allowed to make a claim there, they would go through the IRB process here in Canada. We would not put them through this process, because this cohort is all based upon the fact that they've actually made a bona fide claim.

Ms. Jenny Kwan: What if they've actually made a claim? If they somehow made their way to the U.S. and made a claim in the U.S., you would be making them go through the process. No?

Mr. Paul MacKinnon: If they made a bona fide claim in the U.S., yes. But to your specific example—

Ms. Jenny Kwan: No. Even if they did make a bona fide claim, even if they just made a claim, by virtue of the fact that they made a claim in the U.S. under this system, under Bill C-97, they would be rejected.

Mr. Paul MacKinnon: Yes. But in your previous example, if they attempted to make a claim in Australia, they would not be allowed to, in that example. So they would not come through this cohort.

If they were in the U.S. and made a claim, yes, they would apply to this cohort.

Ms. Jenny Kwan: Let's say that they somehow left Australia, got to the U.S. and made a claim there, and then crossed over to Canada. They would be going through this process. I'm illustrating this point as a real issue with this process that the government has instituted and the potential flaws within it that put people at risk.

Mr. Paul MacKinnon: Mr. Chair, just to clarify a little bit, it is important to remember that when they come to Canada, we are assessing them under our international obligations. It's different from.... We're not sending them back to a country for adjudication. They are going through the PRRA process here, and we're confident that meets our international obligations.

Ms. Jenny Kwan: I'll just take that for a spin.

If, in that scenario I highlighted, you are saying to the person, "Okay, we won't reject you—you will now go to IRCC to be assessed under the PRRA process", isn't that a duplication of work, when you already know that Australia has this history? Hence, I mention the point that's been raised by the Auditor General about duplication. The right hand doesn't know what the left hand is doing. You have people applying for an expedited process. In the meantime, they're still just being processed regularly. It turns out that the expedited process is not any faster than a regular process.

Here you are setting up another system to deal with this dedicated group of people, effectively, as far as I can tell, creating a duplication in process. I'm not quite sure how efficient it would be. Maybe in numerical terms, if we diverted 3,500 cases to this other process, it would seem to lessen the demand on the IRB. The IRB, even by doing that, still has over 40,000 cases before it, and the IRB isn't funded adequately to do the job. The whole point of the Auditor General's report speaks to the inability of the government to ensure that the IRB has rapid access to resources to process claims. This really doesn't solve the problem. The lack of resources does not really solve the problem.

I have another question that I would like to ask. I'm not sure if I missed it when I went to the bathroom.

You have a provision under this bill that would allow the government to bar the issuance of temporary visas to all citizens of a country if that country refuses to issue passports to some of its citizens. So, effectively, you would punish a group of people from a particular nation if that government is refusing to issue passports to some of its citizens.

Under what circumstances do you anticipate this being used? Why was this actually put in Bill C-97?

The Acting Chair (Mr. Nick Whalen): You have just 25 seconds, but I do note this was answered in response to a question by Mr. Sarai.

Mr. John Ossowski: I can take that.

I think this is just another tool for us to put in place, and other countries are doing this. The United Kingdom does this. They try to engage, in a positive way, with the country to make sure they understand our interests in taking their people back—

•(1655)

Ms. Jenny Kwan: In other words, this is just basically a stick. It's a threat, to say that we're going to do this.

Mr. John Ossowski: What I said earlier was—

The Acting Chair (Mr. Nick Whalen): We'll move on to Ms. Zahid.

Mrs. Salma Zahid: Thanks to the officials.

What period did the AG study? From which year to which year was the report by the AG based on?

Mr. John Ossowski: It was January 2015 to June 30, 2018.

Mrs. Salma Zahid: Since then, has the government made any investments or changes that directly respond to the Auditor General's findings and recommendations? Can you please explain what changes you have made or what resources have been invested beyond that period?

Mr. John Ossowski: I can start from our side, certainly.

There were investments in budget 2018, certainly, that we took advantage of to help us adjust to this new posture that we needed to respond to, and then subsequently in budget 2019. There has been a continuous evolution throughout the period the AG examined. Since the AG's study ended, we've been looking at investments to increase our efficiency in how we process people before they arrive, in the interdiction work that we do with our U.S. counterparts; and when they arrive; and the process after that, including the IRB and subsequent removal, should they be found not to be in need of protection.

Ms. Lori MacDonald: Mr. Chair, the investments that we've seen are supportive of those kinds of pillars where we're focusing our attention on the issue in order to increase the capacity to respond to the volumes, to be more efficient and to work collectively and more closely in our processes and deterrents.

In various pockets, we see investment across the various departments. Some examples are, at IRCC, approximately \$280 million; and at IRB, approximately \$208 million. These are monies invested to help us increase our capacity and efficiency. They include things such as ramping up with new resources to actually be able to respond to the volume of claims that we have, and at the same time, putting things in place, such as structures that I spoke about earlier in terms of our asylum management board, working together more effectively across the broader spectrum.

Mrs. Salma Zahid: Now, if someone coming through the regular border has made a claim, processing will be done by the officials of the IRCC. Is there any training program in place for those officers who would be doing the PRRA hearings?

Mr. Louis Dumas: I'm very proud of the work that has been done by colleagues at the RCMP and CBSA, and also at IRCC, addressed specifically at making sure that we have well-managed migration flows in respect to irregular migrants. We want the process to be fair. We want the process to recognize the fact that it's not illegal to claim asylum in Canada, and to make sure that these people are treated in a fair and humane manner.

People are being processed in an extremely efficient fashion. For example, they receive interim federal help within a few days. They also receive work permits, because we want these individuals to access the labour market very quickly. It is done in a very integrated fashion. That's why last year we had the pilot called the integrated claim analysis centre, by which we were coming together, with our colleagues from the CBSA and IRB and IRCC, and looking at how best to perform the process in order to make sure that it is fast and efficient.

Mrs. Salma Zahid: What is the difference between the hearing process at the IRB and the PRRA? Can you please explain how these two processes differ?

The Acting Chair (Mr. Nick Whalen): Are you sharing your time with Mr. DeCoursey?

• (1700)

Mrs. Salma Zahid: Yes, I'll share my time with my colleague.

Mr. André Baril (Senior Director, Refugee Affairs, Department of Citizenship and Immigration): The refugee protection division is a quasi-judicial tribunal. It's similar to a court setting, so if the minister's delegate intervenes, it becomes adversarial.

In a pre-removal risk assessment context, it's an IRCC official who reviews the application, and in the case where there's a hearing, would interview the applicant through that hearing.

Mr. Paul MacKinnon: Remember that they both look at the same issues to determine refugee determination. It's the refugee convention and the convention against torture, so they're looking at the same standard.

The Acting Chair (Mr. Nick Whalen): Ms. Zahid, you can continue for another minute and a half. I believe Mr. DeCoursey has access to Mr. Tabbara's time.

Mrs. Salma Zahid: I have one question for the CBSA officials.

I believe in the past there has been some confusion regarding the security screening applied to asylum seekers. Could you please describe the security process that happens during a border crossing, and the security process that happens once a claim is found eligible to be heard?

Mr. John Ossowski: When somebody shows up at a port of entry, certainly for all refugee claimants we conduct a series of processes using both biographic and biometric information. We do criminality checks with CPIC and NCIC, which is the U.S. criminal information system, and we would share biometric information with our partners to see if they've had claims in other countries.

There's an interview where we gather all that information and make sure we're dealing with all the inadmissibility issues first, and then we would get into the eligibility aspects. They have to be, first of all, admissible to Canada; and then we would deal with the eligibility for claiming asylum.

Subsequent to that process, when they finally have their hearing with the Immigration and Refugee Board, we do a more in-depth screening process. That's looking more at national security threats and organized crime things where we would check other databases and work with our national security partners, specifically CSIS.

The Acting Chair (Mr. Nick Whalen): We are now moving on to five-minute rounds, beginning with Mr. Maguire.

Mr. Larry Maguire: Did the CBSA review the legislation it would take to close the loophole for anchor relatives arriving at point of entry?

Mr. John Ossowski: We're into the safe third country agreement.

Mr. Larry Maguire: Yes.

Mr. John Ossowski: We've certainly been participating in conversations with U.S. officials, along with our colleagues from IRCC, and under the minister's leadership. Yes, we've—

Mr. Larry Maguire: Have you had any results with that?

Mr. John Ossowski: We're still having fruitful discussions, but it's a process. It's ongoing, and there's a lot of goodwill, but it's situated in a larger context of the bilateral relationship, so it could take some time.

Mr. Larry Maguire: What process has actually taken place? Is it discussion with equal departments in the U.S.?

Mr. John Ossowski: Yes. In fact, I was down in the United States a couple of weeks ago, and I had discussions with Homeland Security about this. They expressed a lot of goodwill to look at the matter.

Mr. Larry Maguire: Do you think solutions to that should become part of division 16?

Mr. John Ossowski: I think that's a separate treaty we have with the United States. It would be separate from any legislative frame we would establish through this process.

Mr. Larry Maguire: As an example, if a person in Canada were to cross the U.S. border between border crossings—between ports of entry—how would they be treated if they sought asylum in the United States? How would they be treated under the safe third state agreement?

Mr. John Ossowski: Are you talking about under the new proposed legislation, or currently?

Mr. Larry Maguire: No, just—

Mr. John Ossowski: Currently, if they show up between ports of entry in the United States, and they had already started a claim process in the United States, they would still be able to initiate their claim here. Is that correct?

Ms. Jennifer Lutfallah (Director General, Enforcement and Intelligence Programs, Canada Border Services Agency): That's correct.

Mr. Larry Maguire: What would the Americans do with them?

Mr. Paul MacKinnon: Mr. Chair, they would have access to the U.S. asylum system. They cannot send those individuals back to Canada, because the treaty works both ways. If they went into the U.S. at an official port of entry, they would, of course, be returned to Canada.

Mr. Larry Maguire: Mr. Chair, this Auditor General's report states that 65% of hearings were postponed at least once before a decision was made. Every time a meeting is postponed, it adds a lot of time—usually an average of five months, according to the Auditor General, as opposed to cases with no postponements. About a quarter of the claims were postponed multiple times, adding at least eight months to the delay—25% of the claims.

That wouldn't be so bad, I suppose, but it appears that in some cases, new claims were being dealt with before the postponed ones. It looks like a very high percentage of that.

Can you elaborate on why that would be? What process wasn't followed there, to allow that to happen?

• (1705)

Mr. André Baril: I can't comment in detail about how the scheduling and postponements are taking place, but cases are postponed for multiple reasons. It could be that security screening is not ready for the hearing. It could be for an actual justice and fairness matter, when applicants, claimants or their counsel are not able to come to a hearing, or for operational, internal reasons, such as if the decision-maker at the IRB is sick or unavailable.

Then the IRB proceeds with the postponement, and it's up to them as to how they schedule this, in light of all the other claims they have scheduled.

Mr. Larry Maguire: A lot of those postponements, from what I understand, were due to administrative issues that were—according to the Auditor General's report—within the government's control. If you look at these boards' scheduling practices, it says the postponed hearings should be rescheduled within 10 days, but only 10% of them were. What's being done to improve that?

Ms. Lori MacDonald: Maybe I'll add a couple of pieces to André's comment.

One of the things we've established with our asylum management board is a specific conversational topic to look at what we call “pain points”—the kinds of things that are clogging up or blocking the system—and then peeling those back to determine where the root causes are. For example, say there's a delay in security clearances—why is that? Is it an information-sharing piece, or is it because it's with another department? Other things that we are—

The Acting Chair (Mr. Nick Whalen): Thank you, Ms. MacDonald. Hopefully, we can get some more examples in the next set of questions.

We move now to Monsieur Ayoub.

[*Translation*]

You have the floor for five minutes.

Mr. Ramez Ayoub: Thank you, Mr. Chair.

I'm going to plunge right into the new directions.

Currently, when an asylum claim is made in Canada, the first step is to determine whether the immigration applicant or refugee claimant is eligible. The assessment must be done within three days.

Going forward, that deadline will be eliminated. What will the new process be? Why was the deadline eliminated? What will the next steps for these people be? Will they still be treated fairly?

Mr. André Baril: What the bill actually does away with is the fact that a claim is automatically deemed eligible when the three-day deadline has not been met, even if it has not been assessed by a Canada Border Services Agency or Immigration, Refugees and Citizenship Canada officer.

We still plan to assess the eligibility of a claim in a timely fashion, whether it be within eight hours, as Mr. Ossowski mentioned, or a few days, depending on the information we receive when the claim is made.

However, in the event of an influx of migrants at the border, we want to give officers the time and ability to properly assess the eligibility of a claim before it is automatically referred to the Immigration and Refugee Board of Canada.

Mr. Ramez Ayoub: It's an additional security measure, then, to provide the flexibility needed to manage a higher number of claims. Is that the rationale behind the measure?

Mr. André Baril: Yes. It will give our officers more time to assess admissibility to Canada and the eligibility of a refugee claim.

Mr. Ramez Ayoub: How often are claims denied outright or immediately referred to another authority?

• (1710)

Mr. André Baril: According to our figures, since January 2017, approximately 23,400 claims have been automatically referred to the board prior to our officers having completed their assessments. Of course, they keep working on the assessment, even after the file has been referred. At that point, we identified about 25 cases where we had to review eligibility and stop the process initiated by the board.

Mr. Louis Dumas: It's very important to point out that Immigration, Refugees and Citizenship Canada is committed to processing claims quickly and efficiently. It is absolutely in our interests to identify those claimants, make sure they have access to health care and ensure they obtain a work permit so they can enter the workforce as quickly as possible.

Mr. Ramez Ayoub: Thank you for clarifying that.

I have another question. This time, it's about clause 306. When an individual comes to Canada to make a claim but has already made a claim in one of the four countries with which Canada has a data-sharing agreement, that person is deemed ineligible.

Do you have a sense of how many claims would be deemed ineligible as a result of this measure? I'm referring to all the claims already received or currently being examined.

Mr. André Baril: No, we don't have that information.

The new measure is meant as a deterrent. We hope it will encourage people to follow through with the process that was initiated in the country where they claimed asylum and to comply with the resulting decision.

According to our numbers, if the measure had been in place in 2017 and 2018, between 3,200 and 3,400 people could have been affected, given that they had made a number of refugee claims. Approximately 75% of them crossed the border irregularly. Most of those cases have not yet been processed by the board.

About a hundred or so made refugee claims in Canada, then went to the U.S. to do the same thing, before returning to Canada to make another refugee claim.

In addition, approximately 150 people made a refugee claim at a port of entry to Canada, but were sent back to the U.S. further to the safe third country agreement between Canada and the U.S. Those people then decided to return to Canada by crossing the border irregularly. Most of them were Haitian. As of now, the number of successful claims is fairly low, but many of them have yet to be processed by the board.

Mr. Ramez Ayoub: Have you observed the principle of communicating vessels at work when people come to Canada and make a claim that is subsequently deemed ineligible? Does their claim still receive consideration after the fact so that it isn't denied without the possibility of further recourse? Can their claim be considered at a later stage or is that the end of the line for them?

The Acting Chair (Mr. Nick Whalen): Unfortunately, Mr. Ayoub, we don't have enough time for the witness to answer the question.

Mr. Ramez Ayoub: Perhaps he could send us the answer in writing.

The Acting Chair (Mr. Nick Whalen): If Mr. Tilson asks the same question, we'll get an answer.

[*English*]

Mr. Tilson.

Mr. David Tilson: I'd like to comment a little bit more on something that has to do with division 16, which amends the Immigration and Refugee Protection Act to prevent asylum claims in Canada if a claimant has been rejected in certain other countries with whom we have information-sharing agreements.

I expect this is the area that will most concern the witnesses who are going to be appearing before us after you. I wonder if you could help us as to the rationale behind all of that. By listening to what has been said in the media and elsewhere, I can anticipate that this issue is not going to be accepted by a large number of people.

Mr. MacKinnon, do you have any thoughts?

Mr. Paul MacKinnon: I can offer a couple of thoughts. I guess the first thought would be that we are confident that this meets our international obligations, albeit it's a different process than going through the IRB. As I've said on a couple of occasions, it makes the determination based upon the same standards and thresholds as the IRB.

My second and final point would be that, in some sense, we're not breaking brand new ground here. We have situations where certain claimants who come into Canada do not have access to the IRB and they go directly to a pre-removal risk assessment.

I'll just give you a couple of examples. We have five or six that I can leave with you, Mr. Chair, if it's helpful.

If someone has already made a previous asylum claim in Canada—including those whose claim was withdrawn or abandoned—if they already have protection in a third country, that is, if they have already been granted asylum but they show up in Canada and make another asylum claim, they will go directly to the pre-removal risk assessment. Or, if someone is inadmissible for security reasons—violating human or international rights, serious criminality or organized crime—they do not go directly to the IRB for the refugee protection division, the refugee appeal division, the Federal Court and then the PRRA. In these examples, they go directly to the pre-removal risk assessment, which is a process comparable with what we're suggesting for this cohort.

The main point I would leave with you, however, is that they are looked at under the international obligations to Canada, which is critical. The government does not want to send anybody back to persecution.

• (1715)

Mr. David Tilson: I would expect the exact opposite, that this is a move to reject asylum claims.

Mr. Paul MacKinnon: To reject asylum claims? No, it's a move to recognize that you should make your claim for asylum in the first safe country you enter.

Mr. David Tilson: Yes.

Mr. Paul MacKinnon: My colleague shared some figures of people claiming asylum in the U.S., then coming to Canada and claiming asylum, then being sent back to the U.S. under the safe third country agreement, and finally coming back to Canada through Roxham Road. In that case, we think it's best for the overall system if that individual makes the claim in the first safe country.

Mr. David Tilson: I may be asking you a political question, but we'll see what the chairman says. We'll test him out. It's time to be tested.

Are you aware of any discussions that have gone on with the Americans on this topic?

Mr. Paul MacKinnon: Well, I'm aware, because as officials—

Mr. David Tilson: Are you able to talk to us about it?

Mr. Paul MacKinnon: That might be a political question, I think, Mr. Chair.

I'm not sure exactly the question....

Mr. David Tilson: I'm hoping you'd say it wouldn't be.

Mr. Paul MacKinnon: As senior officials, we speak to our American colleagues all the time.

Mr. David Tilson: Yes, but this is a concern. It's going to be raised at this committee, so I'm interested as to the comments that may have been made between you and the Americans.

Mr. Paul MacKinnon: I can only speak to my conversations. In a general sense, we give them a briefing on what the government is putting in the BIA, and we'll keep them up to date as this committee deliberates on where you take this proposed legislation. It's very much a briefing type discussion.

Mr. David Tilson: How have they responded?

Mr. Paul MacKinnon: I think it's fair to say, Mr. Chair, that they have responded positively, in that they haven't raised concerns with anything that's in the BIA.

Mr. David Tilson: Does the government have a plan to implement the Auditor General's recommendations on developing a more flexible funding model? Ms. MacDonald, I think you referred to that.

The Acting Chair (Mr. Nick Whalen): Mr. Tilson, that's a wonderful question, but I'm afraid that you've reached your five minutes.

I'll be moving on now to Mr. DeCoursey.

Mr. Matt DeCoursey (Fredericton, Lib.): Mr. MacKinnon, I wanted to give you a chance to answer a question that I don't think you had an opportunity to answer properly earlier. What is the distinct difference between a refugee claimant who would have been barred from the ability to ask for asylum in Australia, who made their way to the U.S. where they claimed asylum, and then came to Canada versus an asylum claimant who was in Australia, unable to make the claim and then came to Canada? Could you please answer that, so we can get that on record. What is the distinct difference in the way that division 16 would treat those two different applicants?

Mr. Paul MacKinnon: On the member's previous question, Mr. Chair, in the example of folks in Australia who are going off to one of the two islands, they don't actually make a claim in Australia. They're not allowed to make a claim in Australia. If they ended up wending their way to Canada somehow and made a claim here in Canada, they would get access to the IRB. They would not be part of this cohort because the key element here is that you have made a claim in one of those other countries for which we share information and, in essence, those individuals did not make such a claim.

Mr. Matt DeCoursey: Okay. Thank you.

I wonder if folks at the table could talk in more specifics about the significant amount of activity that has taken place—not as a result of the AG's report, but coming out of the Yeates report that was tabled a number of years ago—to help build up the capacity of the departments involved and the Immigration and Refugee Board, which the Yeates report clearly articulated was under-resourced and unable to deal with the demand on the system.

Could we maybe talk about the laundry list of activities that have increased efficiency and resources for the Immigration and Refugee Board to help process the demands on our asylum system?

• (1720)

Mr. Paul MacKinnon: I can offer a couple of comments and maybe others want to jump in.

Certainly there have been broad investments, Mr. Chair, across all agencies simply to keep up with capacity. Those investments have been made both in the 2018 budget and significantly over the billion dollars in this 2019 budget.

There have been investments in intelligence gathering and intelligence analysis that look at these cohorts broadly and determine how we can work with other countries, for example, on the issuance of visas. A lot of significant work was done, Mr. Chair, with our

colleagues in the operations branch working with U.S. officials and officials in other countries on the issuance of U.S. visas to those citizens because, as you know, a big percentage of people arriving primarily in Quebec actually have a valid U.S. visa.

We've had significant outreach by members of Parliament and others, in particular right after the Haitian arrivals, which we think helped, at least in part, with those numbers of irregular arrivals. I might keep it there to be respectful of time. I don't know if John has other comments.

Mr. John Ossowski: I would simply add that the essence of the Yeates report was that we needed to look at it as a system and that we needed to make sure that we are better coordinated than we currently were. That's something we took to heart. We've referred to our asylum systems management board a couple of times now. That's the mechanism that we used to sort of work together without impinging upon the independent, quasi-judicial findings and processes that the IRB had.

There's still a lot of stuff that we can do to make sure that the scheduling is done properly and on how we prioritize our work, but it doesn't impede or infringe on their independence in making decisions.

Mr. Matt DeCoursey: It might be helpful for people at this table to understand how the IRB is better triaging claims for asylum as a way to make the system more efficient and ensure there is finality and fairness in a fast manner. Could we talk a little bit about that?

The Acting Chair (Mr. Nick Whalen): Respond very briefly, please.

Mr. Louis Dumas: I want to point out, Mr. Chair, that I've talked about the integrated claim analysis centre pilot that we had in Montreal. We are ramping up to have a similar centre in Toronto where most of the claims are being presented. They're working at the claims according to three phases, if I may. They're really looking at how we can stream some of those claims and be more efficient in their process. They're looking at the staffing, the hiring and the training that we've talked about. They're looking at IT solutions for the different entities participating in this centre—IRB, CBSA and IRCC—and having a more centralized registry that would assist in the process of the claims.

The Acting Chair (Mr. Nick Whalen): Perhaps you could go for four minutes if you would like, Ms. Kwan. Mr. Maguire and I will each take a minute at the end.

Ms. Jenny Kwan: Thank you very much. That's very kind.

I want to go back to the Australian example for one minute. For the people who came from Australia and somehow got into the United States to make a claim, if they then make the decision to cross to Canada, they would be subject to the IRCC process. That is the point. They will not go to the IRB; I want to say that very clearly.

If the IRCC's pre-removal risk assessment process provides the same standards and threshold as the IRB, then why set up another process? Why not just go through the IRB if it's effectively the same?

That's what I'm hearing from the government, the minister and officials. They say, "Don't worry, we will actually have due process afforded to them". Why set up a different process if all things are being equal and they will just have to go through the process in any event?

Mr. Paul MacKinnon: The minister referred to the term "deterrents". That part of this is also about potential deterrents in the system. People will not make a claim in one of these countries, then come to Canada and make another claim.

• (1725)

Ms. Jenny Kwan: In essence, this is a process to send a message to people, potentially putting them at risk, by saying, "Don't bother coming if you've already made a claim, even though you may very well have a valid claim." Even though, under the international refugee convention, they may very well have a valid claim, we're just saying to them, "Don't come anyway."

We're talking about this having an impact on 3,500 claims, which is what the government's projecting. Six months from an election, the government wants to make a political statement to people to the effect, "Don't come to make a claim", thus really aligning itself with the Conservatives in saying to the refugee claimants, "Don't come to Canada to make a claim." In essence, that's what I'm learning now in this process.

I get it. This is a political comment and not directed to the officials, but to the government. I wish the minister were here to hear this, because in essence, we're playing with fire and with people's lives just to send a message. At what risk? People who actually have a valid claim have nowhere to go. With nowhere to go, they are subject to this situation. That's what we're talking about. To me, I find it astounding.

We will have other witnesses come forward who will talk about the risks that people are facing, including being in the United States. I know that the government and UNHCR will say they are in a safe country, but there are a whole lot of other experts who say they are not. In fact, Amnesty International brought an expert that we had a breakfast reception for—with all the parties and senators—and the experts from the Americas told us that, in fact, people there are faced with the worst violence in the world. They are faced with sexual and gang violence. Those individuals, seeking asylum in the United States, will be rejected out-of-hand because the Trump administration has declared that it will no longer accept those claims. Those individuals are being forced to seek asylum somewhere else.

Children as young as seven to nine are being recruited by gangs, and the workers there were trying to negotiate with gang members. What were they trying to negotiate? "Please don't recruit the children until they're 13." That's what they were negotiating. That's why people cross over irregularly, because they are absolutely at risk. What is Canada doing? We're going to throw up as many barriers as we can to say to people, "Please don't come to Canada"—just so that we can reduce our numbers. That is the political game that's being

played, really catering to the Conservatives and the alt-right in a move to close Canada's border.

Frankly, I do—

The Acting Chair (Mr. Nick Whalen): Thank you very much, Ms. Kwan.

Ms. Jenny Kwan: —find it shocking. Yes, these are my four minutes, so I'm going to use them accordingly.

The Acting Chair (Mr. Nick Whalen): Those were your four minutes.

Ms. Jenny Kwan: It's unbelievable that we have now arrived at this stage.

The Acting Chair (Mr. Nick Whalen): Thank you very much, Ms. Kwan.

Mr. Maguire.

Mr. Larry Maguire: I wanted to make the point earlier, when I was raising the issue of postponed hearings, the 10 days... It's a concern of people through the whole process, that those that were postponed were actually jumped in the queue by new claimants coming in and getting ahead of them, leaving the postponed to be postponed even longer. That was a point that needed to be made. We can read the conclusions from the report on the delays and that sort of thing. I was going to read it, but I won't bother reading the conclusion.

We're here to say that, in other words, it's not the bureaucracy's fault that all of these things have folded out into such long wait times, backlogs and everything else. It's just the fact that the government didn't give departments the flexibility or the resources to shorten the backlogs in a timely manner.

The Acting Chair (Mr. Nick Whalen): Ms. MacDonald, is the amount allocated in the budget for the delivery of this program the amount that was recommended by your department, or is it a lesser amount?

Ms. Lori MacDonald: It was the option we put forward to our government, taking into consideration all the various factors we were dealing with across the system.

The Acting Chair (Mr. Nick Whalen): Thank you very much.

We will recess for people to grab some dinner and recommence at the scheduled meeting time of 5:30.

• (1725)

(Pause)

• (1735)

The Acting Chair (Mr. Nick Whalen): Thank you for coming to this third round of the 158th meeting of the Standing Committee on Citizenship and Immigration, where we're discussing part 4, division 16 of Bill C-97, the 2019 budget implementation act. We just finished meeting with Minister Blair and ministerial officials on this part of the budget.

We'd like to thank Christian Leuprecht, professor in the department of political science at the Royal Military College of Canada; Nafiya Naso, from the Canadian Yazidi Association; and Jean-Nicolas Beuze, a frequent flyer to our committee now, from the Office of the United Nations High Commissioner for Refugees and its representative in Canada, for being with us today.

Mr. Leuprecht, if you are well settled after your late train, I'll begin with you or we can begin somewhere else.

● (1740)

[Translation]

Dr. Christian Leuprecht (Professor, Department of Political Science, Royal Military College of Canada, As an Individual): I'm ready to go.

[English]

The Acting Chair (Mr. Nick Whalen): Please, you have seven minutes.

[Translation]

Dr. Christian Leuprecht: Thank you for inviting me.

I will be pleased to answer any questions you have in either official language.

[English]

I'll provide some context and then give a sense of where we stand with the current bill and some of the things in it that I think could be remedied in a broader way forward.

To be clear, there is a whole series of pressures in the international context, everything from population growth of another three billion people in the next four decades, to climate change, social and economic disruptions, civil and religious strife and whatnot, that's going to put general and continuing pressure on migration, and in particular issues of war and civil war, and civil-war-like circumstances in some countries in South America. In that sense, we can expect the demand to remain the same or more likely to intensify.

Co-operation with the U.S. has been absolutely critical to maintaining the integrity of the system, and includes everything from enhanced travel authorizations to biometric travel documents and intelligence exchange. I cite as one example the co-operation with the U.S. authorities between mid-2017 and mid-2018 that has reduced the flow of irregular travellers, border crossers, from 87 to 42 a day.

It shows that demonizing our neighbour or calling into question the rule of law, circumstances and the integrity of our neighbour is strategic folly. Given the changes we've made to make it more difficult to come to Canada by air for people who might otherwise be inadmissible, we will continue to expect greater pressure along the land border, and so co-operation obviously is going to remain integral to...since we only have one bilateral partner on the land border.

Then there are supply issues that were already mentioned by the Auditor General and others, like Neil Yeates in his report on the system.

I also need to point out in context that there's a social contract with regards to immigration into Canada, and it has three cornerstones. First is a well-administered migration policy around rules and principles—a principled approach with the rule of law preserving the integrity and security of Canada's borders. The second component is the successful economic and political socialization and integration of migrants into Canadian society, and the third is that immigration is of collective benefit to Canadian society and to Canadian prosperity

overall. Those three components are integral to safeguarding the integrity, the sustainability and legitimacy of the immigration system.

The Auditor General's report, as well as Neil Yeates' report and others, point out that there are questions from Canadians and others around how well-administered the system is. There are questions about being able to control borders to ensure a principled approach to migration. There are challenges around socialization and integration of migrants. At 1% of our population, we now have a legal immigration rate compounded by a surge in refugee claimants. There are serious challenges around whether the premise over the last hundred years of immigration and socialization of migrants is going to continue to sustain our society. I think there's also some question about whether we'll be able to sustain the collective benefits.

The broader problem is people taking advantage of the right to claim asylum without meeting the criteria for eligibility. The challenge then is to make Canada's refugee policies more timely and effective in distinguishing between persons who are genuinely in need of protection within the scope of Canada's international agreements from aspiring economic migrants who are seeking to exploit loopholes in Canada's border management system.

To that effect, we have had and we've been observing a trend towards what I might call a “libertarian” approach to borders that is essentially facilitated by the ease of transportation, communication, broad communication strategies, misinformation and disinformation through social media and otherwise in accessibility to Canada and whatnot. All of this is facilitated on a global scale by systematic human smuggling that is well-documented and amounts to some \$10 billion a year. So by not ensuring that we have an integral system, we are also implicitly aiding and abetting the global human smuggling industry.

I also wanted to dispel the idea that somehow we can wait out the current political executive in the U.S. The phenomenon we're seeing might have been exacerbated by some decisions made by the Trump administration, but we can demonstrate empirically that it long precedes the advent of the Trump administration, so it will persist beyond the Trump administration and we will need to find a sustainable approach to this.

● (1745)

By way of example, two-thirds of the people who cross irregularly

The Acting Chair (Mr. Nick Whalen): Excuse me, Mr. Leuprecht, you're speaking fast, and it makes it difficult for the interpreters to—

Dr. Christian Leuprecht: I have this problem regularly before committees, so I'll slow down.

By way of example, two-thirds of the people who cross irregularly, the single largest group of migrants to Canada in term of irregular entrants, have been Nigerians who enter the United States on visitor visas. We also have the same documented phenomenon with regard to Saudi nationals. I cite those in particular, because that is from open source information. It is here, for instance, where co-operation with U.S. authorities is integral, given that it is the mainstay of about two-thirds of the people who are crossing irregularly. It is not individuals who are seeking to escape decisions with regard to temporary protected status, as some people have suggested.

It's important to maintain effective checks and balances to maintain access to our asylum system for people in need of protection while limiting actual and prospective abuses to the system. I point here in the legislation in particular to clause 306. With my colleague, Geoffrey Hale, with whom I co-authored the submission, I think an absolute ban on sequential applications may be an excessive response to a valid concern. For reasons that we don't have time to get into, concerning different administrative processes and whatnot, we would suggest limiting the proposed exclusion of eligibility for refugees to perhaps three years from the date on which previous claims in countries with whom we have agreements have been finalized.

With regard to clause 304, it makes sense.... With the enforcement of reciprocity in the application of national immigration laws, the way that clause is worded leaves a lot of room for interpretation. I have lots of concerns about the ambiguities that leaves with regard to the minister, which would need to be clarified.

In general, we strongly support the measures in the current budget, given that it's always been difficult for governments to anticipate and manage all the trade-offs associated with policy decisions in general, in particular with regard to migration.

I would like to close on the issue of the way forward. The way forward has to be to restore section 41 of the Immigration Refugee Protection Act, a regulation that's known as the so-called "direct back provision". That provision allows a person who is at significant risk to apply for refugee protection status from within the United States, if they are not otherwise covered by provisions of the STCA. Such measures would provide a safety valve in case of changes to U.S. temporary protective status provisions, likely to significant risks of another surge in the regular migration.

However, a necessary condition of reinstating section 41 would be to include amendments within the revised STCA that would provide for standstill and prospective U.S. deportation proceedings for any person awaiting a Canadian refugee protection hearing under these provisions. Implementation of such measures would require safeguards to clarify the categories of persons at risk who are subject to such provisions, to preserve the benefits provided by the STCA and provide effective triage of claimants from third countries.

The Acting Chair (Mr. Nick Whalen): Thanks, Mr. Leuprecht.

You've managed to squeeze that in. However, if you have that particular recommendation in writing, we can table it.

Dr. Christian Leuprecht: It's in the submission. I think there just hasn't been time to get it translated. The request came on a rather short fuse for me to appear.

The Acting Chair (Mr. Nick Whalen): Thank you.

Ms. Naso.

Ms. Nafiya Naso (Spokesperson, Canadian Yazidi Association): Thank you for having me. It's an honour to be here and part of such an important conversation. Today I'm here representing the Yazidi community in Canada to talk about the importance of family reunification.

We are thankful to the Canadian government for extending the one-year window opportunity. This has given hope to many families who have found out that family members who have escaped ISIS now have an opportunity to reunite once again. We are receiving news of family members escaping frequently, and to know that this barrier is no longer an issue is key in reuniting families. We have only scraped the tip of the iceberg, however.

The Yazidis traditional way of life consists of a mother taking care of the home, and the father doing the labour outside and providing for the family. The Canadian government has brought in primarily women and young children from the Yazidi culture, which has known this way of life for thousands of years. How can we expect them to successfully integrate and become a positive addition to our economy and social fabric in Canada if we are setting them up to fail and be forever reliant on social welfare? They will not integrate or settle successfully.

We need to expand the definition of family to include distant relatives for this vulnerable and traumatized Yazidi population to succeed and prosper. We need to amend the definition of family under the family reunification program. Currently only immediate family is considered. It has been five years now since the genocide began, and many still have heard nothing of their immediate family members' whereabouts, or they have already been confirmed dead. Just as a special program was created by the government to sponsor Yazidis, we now need our policies to reflect the realities on the ground and to be understanding of the special circumstances surrounding this traumatized Yazidi population.

It's been five years since the Yazidi genocide began, and it's still ongoing today. The Yazidi women who faced the most barbaric attacks from ISIS are seeking answers and justice. In Iraq and around the world, different steps are being taken to help, and victims are beginning to heal. For example, countries such as the U.K and Germany are starting to collect evidence in order to pursue legal actions against the perpetrators and justice for the victims. In Iraq a group of investigators was sent under Security Council Resolution 2379 to collect evidence of war crimes, crimes against humanity and genocidal acts by ISIS and to begin the exhumation of mass graves.

I work with the Yazidi women in Winnipeg and have spoken with the Yazidi community around Canada. There is a consensus that justice to them right now is to be reconnected with their family members. This is one of the main reasons the Canadian Yazidi Association has been prioritizing the reunification of families.

A couple months ago members of the Canadian Yazidi Association went door to door to every Yazidi family in Manitoba and recorded the names and information of family members who are still left in Iraq. We have recorded just over a thousand names. We have the capacity, the will, and the financial means to reunite these families and allow them the opportunity to live a successful and productive life in Canada, but a political will of action must be present for this to happen. We hope our government will do the right thing and allow these vulnerable families to be whole again.

Thank you.

• (1750)

The Acting Chair (Mr. Nick Whalen): Thank you for your comments, Ms. Naso.

Mr. Beuze.

Mr. Jean-Nicolas Beuze (Representative in Canada, Office of the United Nations High Commissioner for Refugees): Thank you, Mr. Chair, for the opportunity to appear before this committee once again regarding the proposed change to Canada's asylum system as outlined in the BIA, the budget implementation act.

Providing technical advice to increase efficiencies in the asylum system is an integral part of UNHCR's—the UN refugee agency—advisory role worldwide. We support any measures that ensure prompt decision-making while upholding the essential element of a fair asylum system. While the number of asylum seekers arriving in Canada increased over the last two years, I have previously noted before this committee that measures taken have maintained access to asylum in a humane and efficient manner with adequate security checks.

UNHCR recognizes that governments, including Canada, must strike a balance between managing migration flows, ensuring border security and maintaining public confidence in asylum and immigration systems. In doing so, they must abide by their international obligation to grant refuge to those at risk of persecution. In this context, mixed flows and onward movement from countries like the United States may be perceived, particularly by the general public, as a misuse of asylum. This was referred to earlier on. It is, therefore, legitimate for governments to take measures to address such concerns and find ways to triage cases to ensure fair, efficient and robust processes in a timely manner.

UNHCR welcomes important investments to Canada's asylum system in the 2019 budget. They build on increased efficiencies gained over the last few years, and the recent proposed legislative changes that we are discussing today form part of a broader strategy. They include a significant increase in funding to the police, border agency, legal aid, and Immigration and Refugee Board. They seek to increase cost-effective efficiencies at the front end of the asylum process. Investment in refugee health care, as well as housing, will also benefit refugees and asylum seekers.

Under the proposed changes, as we have heard today, individuals who have made an asylum claim in other countries with whom Canada has a data-sharing agreement will be barred from having their cases heard before the IRB. However, they will not be barred from claiming asylum in Canada or from being recognized as refugees. Indeed, they will be channelled through the pre-removal risk assessment, also known as the PRRA. The PRRA has the same protection objective as the refugee determination process at the IRB. It is based on the same grounds and confers the same degree of refugee protection. In other words, the same definition will be applied to assess whether someone is in need of protection in Canada because of the risk that he or she may face in his or her country of origin.

I would like here to take a moment to discuss a concern often heard recently. It is true that the PRRA has an acceptance rate of 7% when it provides last recourse measures after a negative decision by the IRB and the Federal Court. This low acceptance rate suggests that the IRB and the court are performing their mandate in an effective manner. However, the acceptance rate goes up to approximately 30% when it is the first instance mechanism. It must also be noted that based on the last two years of data, some 3% to 4% of claimants will be channelled to the PRRA as a first instance mechanism. Any discussion around acceptance rates should be taken with a grain of salt. What ultimately matters is that no individual is forcibly returned to a country where he or she will be at risk of torture or persecution, and every case must be assessed on its own merits.

Protection safeguards built into the PRRA process may not be fully utilized, and all stakeholders have a responsibility to make sure that they are used to ensure that there is a fair PRRA process. We have heard Minister Blair explain those measures. With those enhanced PRRAs referred to by the government, UNHCR has received assurances that no one would be removed without due process, which notably includes a right to a hearing prior to removal. This is in line with Canadian and international jurisprudence.

• (1755)

Asylum seekers falling into this new stream will need to continue to have access to information about the PRRA process, effective language interpretation and access to counsel. Similarly, PRRA officers will have to be trained further on how to specifically conduct individual hearings in a fair and efficient manner, including by ensuring that counsels play their role fully through interventions during the course of the hearing. Again, we have had both ministers and civil servants explaining the measures that are now contemplated.

In the past, UNHCR has also advocated for the reduction of procedural steps throughout the front-end case process that cause delays and increase costs. Our recommendations included exceptions for people coming from moratorium countries to be given a protected person status, given that they cannot be returned home, and automatic status of removal during appeals of negative asylum decisions.

UNHCR is looking forward to lessons learned from the various pilots that relate to inter-institutional coordination on case processing, which was referred to in the example of Montreal; simplification of data collection and forms; triaging and streamlining. In addition, timely removal of those not in need of international protection, after all available remedies have been exhausted and due process completed, will continue to be key to guarantee an asylum system that is fair and efficient, and thus maintains the public's confidence.

UNHCR has long supported the IRB and its independence as a model, and continues to do so. Finding ways to increase efficiencies through better triaging while upholding access to fair procedures are, however, legitimate. In discussing these complex realities, often of a technical nature, we all have a responsibility and must work together to ensure that the conversation about asylum and refugees remains objective and balanced, based on sound legal analysis and facts. Asylum systems must, at times, be flexible to address changes in the patterns and profiles of asylum seekers to remain fair, cost-effective and efficient, thus ensuring public confidence in their integrity.

Thank you.

• (1800)

The Acting Chair (Mr. Nick Whalen): Thank you very much, Mr. Beuze.

Thank you to all of our guests for keeping their presentations timely.

We'll begin now with Mr. Sarai.

Mr. Randeep Sarai: Thank you all for your presentations.

I'll first ask Mr. Leuprecht. You spoke about the three ingredients that make a successful immigration policy. I won't go over them due to time. You're a fellow at the NATO Defense College. How do you think this proposed legislation will be perceived by at least the Five Eyes partners who are members of NATO as well? Have you ever had any conversation with them? Is it in line with similar language used by any of them?

Dr. Christian Leuprecht: I think that's a very apt question, because of course the challenges that we're discussing here are not unique to Canada. They are challenges from across the world.

One way to sum up the problem is that the supply of potential migrants greatly exceeds the fiscal and social capacity of most receiving countries, as you point out; and the effective management of immigration policies is vital to our continued prosperity, social cohesion and democratic legitimacy.

Much of the world looks to Canada for its being able to build a successful model not just in terms of immigration.... But what's unique in Canada, especially since the mid-1990s—and Keith Banting and Stuart Soroka have done some very interesting work on this—is the increase in popular support for immigration policies at the same time as we've raised the levels of immigration. These are not necessarily negatively correlated.

I think it is important that Canada is able, in terms of the problems that are laid out, to lead by example, because so many other countries are struggling with this. I think there is a risk that, in light of the challenges that I've laid out.... I think this is the struggle that....

One of the unique things in Canada is that 95% of the people who come to Canada are people whom Canada selects, and 5%—a bit larger since 2016—are people who just show up. In Europe, we have the opposite challenge, where 95% are people who just show up. I think that within the Five Eyes countries there's a sense of that. Because of our unique, geo-strategic situation, we have an opportunity to build and ensure we can coordinate a system that is legitimate and sustainable.

If we can't find a way forward that effectively deals with the current circumstance in terms of irregular migration, I think it will send a signal to our partners that there's probably not much hope especially for our European partners, for instance within the Dublin process, to find a measure of coordinating effectively on refugee policy. I think the medium-term strategy within the Five Eyes—and I think most people understand this—with the co-operation that we have, has to be somewhat more harmonization in the way we approach this particular issue.

There is a high level of awareness of exactly the problem you lay out.

Mr. Randeep Sarai: Mr. Beuze, you commented in *The Globe and Mail* on April 16 that the federal government's tougher line on asylum seekers is no cause for alarm.

Can you explain this?

Mr. Jean-Nicolas Beuze: Those were the words used by the journalist. What I said precisely was that the measures contemplated now under the budget implementation act would not violate any international obligation of Canada, because asylum seekers will still have access to the PRRA by which they will be assessed in terms of their risk of persecution. Since we heard that the government is ensuring this will be done through a hearing with the right of counsel—legal advice—this meets the jurisprudence of both international mechanisms and Canada in ensuring that there's a proper hearing before somebody is removed from this country.

• (1805)

Mr. Randeep Sarai: You monitor migration patterns and asylum claims around the world due to the nature of your work. Do you think people migrated to Canada because of a tweet by the Prime Minister or because of the global conditions that have displaced 23 million people?

Mr. Jean-Nicolas Beuze: I've had the opportunity to clarify this point. It's very clear that there are push and pull factors causing people to cross international borders and to seek asylum. Every case is individual. I think it would be inappropriate to think that people who are fleeing persecution would end up in Canada just on the basis of a tweet. They do that as a last resort, when they feel their life or the lives of their loved ones are at risk. They take a number of risks in doing so, including sometimes having to resort to smugglers and traffickers. It's also why it's important that we keep the integrity of the asylum system fully respected.

Mr. Randeep Sarai: Do you think Italy or Greece issued any similar types of tweets in 2015-16 that justified the large numbers of migrants who sailed across the Mediterranean Sea to seek asylum?

Mr. Jean-Nicolas Beuze: Again, I repeat that I don't believe that a tweet or any particular statement made by government officials here or in other countries triggers the movement. People have difficulty leaving their homes, have difficulty crossing international borders, and do it only as a last resort when they feel that it's the only way to protect themselves and their loved ones.

Mr. Randeep Sarai: I asked Mr. Leuprecht this earlier. Do you know of other countries, asylum destinations perhaps, that have issued similar types of legislation, where if you claimed asylum somewhere else you cannot repeat it elsewhere? Has there been similar types of legislation to this, or is Canada the leader on this, as he said, in terms of expectations on immigration and asylum?

Mr. Jean-Nicolas Beuze: Asylum countries are finding ways to triage cases to make sure they find not only the most effective, but also the most cost-effective, way of assessing who is in need of international protection. It's important that this process remain robust and fair, which is the case with the measures contemplated now by Canada. But it's also important that we ensure that people are being processed in a timely manner so they don't continue to have to ask questions about whether they will be able to remain legally in the country where they have sought asylum.

Therefore, European and other countries have been enacting similar measures in triaging cases.

The Vice-Chair (Ms. Jenny Kwan (Vancouver East, NDP)): We're 20 seconds over time, so we're moving to Ms. Rempel.

You're going to split your time with Mr. Tilson?

Hon. Michelle Rempel: I think so. We'll see.

I'll start with you, Dr. Leuprecht. You've written extensively, I think, about human smuggling and some of the issues. I'm going to go on to that, but I just want to touch on some of the comments you were making with regard to the Dublin renegotiation and the coordination of asylum system reform.

It's my understanding that Canada can operate the safe third country agreement with the United States and still be in compliance with our international obligations because of some of the provisions that are in article 19 of the Geneva Convention, which, again, are there to prevent asylum-claim shopping, and because of how the agreement is structured.

It seems to me that division 16 of the budget implementation act, Bill C-97, or whatever it is.... I'm not sure it's going to survive. First of all, I don't think it's going to survive a court challenge in the Canadian context.

It doesn't really impact people. As the minister just said, it's going to impact less than 10% of the people who have entered Canada from the U.S. in the loophole in the safe third country agreement over the last few years and have claimed asylum.

For that reason, my position has been that we actually need to undertake—it's one of the roles Canada could undertake—global asylum system reform, where we're looking at a network of safe third country agreements. We could use international fora to really lead a

discussion on what constitutes a safe third country and what monitoring agreements need to be in place in order to ensure that they happen over a long period of time.

I don't think division 16 is that; I think it's a last-minute shortcut—that's kind of how I read it—that probably isn't going to work. Would you say that this assessment is correct or is in the right ballpark?

• (1810)

Dr. Christian Leuprecht: Look, we have to start somewhere, I think, given the current situation. I always say that hope is not a method. Just sitting and hoping something is going to change in light of the factors that are pointed out is not going to happen—

Hon. Michelle Rempel: I know. In this situation, though, this is not hope. There's something on the table, but if it's likely to be heavily litigated within the Canadian legal system, cost the government a lot and then see appeals and then grandfathering—blah blah blah—as we often see, would that hope not be better placed in taking concrete action?

I was in Europe last year and meeting with European parliamentary colleagues of all political stripes on the Dublin renegotiation. It's a start, but again, it doesn't offer a lot of hope. I'm just wondering if perhaps what Canada should be doing is really taking a leadership position and saying, look, we support asylum claims, and we don't support asylum systems being used to facilitate economic migration—frankly, calling a spade a spade, really, that's what's happening in Canada right now—so here are the venues by which economic migrants can come into Canada.

Dr. Christian Leuprecht: With regard to refugees, the Dublin negotiations, as you know, are at an impasse. One of the things that Canada needs to think about.... Yes, we need to establish an international regime among countries that are sought after as destination countries, ultimately, and, as the bill points out—and as Mr. Sarai also pointed out—we have a Five Eyes arrangement emerging, and that's the most likely prospect. I think we build this from the bottom up.

At the same time, I think we could do better at how we can incentivize better behaviour by people who—for instance, in the Dublin process—are the veto players. For instance, I suggested even at the time when the government decided to admit a significant number of Syrian refugees that we could perhaps use some of the numbers we have at our disposal to incentivize the sort of agreement that the Europeans are currently lacking, by saying that Canada will bail out, for instance, for x number of years, some of the countries that are currently veto players in the Dublin process so that these countries can very slowly not only ramp up systems, but—

Hon. Michelle Rempel: That sounds like a lot of money.

Dr. Christian Leuprecht: —can also—

Hon. Michelle Rempel: If I may, just because I'm running out of time—

Dr. Christian Leuprecht: We're going to need incentives.

Hon. Michelle Rempel:—I want to go to Ms. Naso.

I'll ask you a very simple question, Ms. Naso, and I'll give you the rest of my time to answer it. Really, at the heart of this conversation is a conversation on who should have priority access into Canada's refugee and asylum systems. I want to give you some time to articulate your position on that and why.

Ms. Nafiya Naso: Where do I start? I work as a full-time settlement coordinator and I assist Yazidi refugees. My job was to assist the privately sponsored Yazidi families and the wave of the GARS who came in. We're now assisting them. The families that have come in are all broken families, young mothers with lots of young children. We're constantly getting calls from extended family members back home who are left in refugee camps. There are hundreds of thousands of Yazidis struggling in refugee camps in Turkey and Iraq today. Well over 3,500 Yazidi children and women are still held captive by ISIS.

One of the biggest projects that we're working on right now is to work with all levels of government to reunite some of these families. For example, I'm dealing with a family right now who is here with a stepmom and three step-siblings. About a year ago, she found out that her 17-year-old brother was alive and had managed to escape ISIS and was actually bought back from smugglers for \$14,000 U.S. We put forward an application forward in the hope that the government would reunite these siblings. The application was rejected. It was rejected because they need the signature of the parents. Well, the parents are missing and probably dead. So these are the things that need to change for this specific population. When we say "broken families", these are families in which, for the most part, a lot of people are missing. So with family reunification, when we say we need to amend the definition, we mean it needs to be not just parents and siblings. We need to expand that. We need to include aunts and—

•(1815)

The Acting Chair (Mr. Nick Whalen): I'll now move on to the next round of questioning.

Ms. Kwan.

Ms. Jenny Kwan: Thank you to the witnesses.

I'm just going to build on what Ms. Naso said for a minute here and let her finish her thought, because I think that is a very important point for her to present, to call on the government, if I understand her correctly, to expand the definition of family beyond just parents and underage children for sponsorship, but rather to move beyond that to recognize siblings, as an example. Some would argue for including even aunts and uncles, because many different communities define their immediate families differently. Am I correct in interpreting that?

Ms. Nafiya Naso: Yes, you're correct. Thank you for that.

Ms. Jenny Kwan: By the way, Canada used to have a program that allowed for siblings to sponsor each other. That's how I came to Canada. My aunt sponsored my dad and a family of eight to come to Canada, and that's how we made Canada our home. We should actually go back to the system and extend that to the refugees.

Thank you so much.

I do want to turn to the UNHCR for some of my questions. The UNHCR wrote a 20-page report speaking out against the 2012 Harper government's changes to the refugee determination system under Bill C-31. That was back in May of 2012. Amongst other things, there were a number of key recommendations. One of them is that the UNHCR is recommending against the differential treatment of refugees and asylum seekers where it infringes on established rights of refugees. As far as I can see under Bill C-97, there are different treatments of refugees under different streams now. So why is it okay now in this stream and it wasn't okay back in 2012?

Mr. Jean-Nicolas Beuze: It's important to remember that the pattern and profile of an asylum seeker changes over time. The situation in 2012 and the situation in 2019 are radically different in terms of the numbers, but also in terms of the profile of people who arrive in this country, including through irregular means. That's the first point.

The second point is that we clarified, as you noted, that it is about procedural guarantees. As we have heard today, under the process, this new stream of people will still have the guarantee of a hearing and the right to counsel that will be actively participating in the discussion. It's not about the body. It's about the procedural guarantees that are afforded to asylum seekers to ensure that it's a fair process.

•(1820)

Ms. Jenny Kwan: Thank you for that.

I would argue that of irregular crossers who have come over so far, under our IRB determination process more than half of them have been deemed to be valid claimants. That said, I'm going to park that point for a minute. However they cross over is not really the issue, is it? It's whether or not they have access to a proper process once they get to Canada. That's your point.

You say that under Bill C-97 there is a proper process for them. I would beg to differ. Right now, those who are made to go through the pre-removal risk assessment process would not have an appeal process. The UNHCR back then recommended that all asylum seekers have access to an appeal process on their merits to the refugee appeal division. Under this system, when people go through the pre-removal risk assessment process, there is no appeal for them to go to. They cannot go through the RAD process. OCASI, an organization in our community, in fact spoke out against that. They were deeply concerned that Bill C-31 would create a two-tier system of refugee protection in Canada, which would result in some claimants being denied the right to appeal. That is what's happening right now under Bill C-97. Why is it okay now and not okay then?

Mr. Jean-Nicolas Beuze: I beg to differ from your interpretation. They will have a right of appeal to the Federal Court, which is in line with both Canadian and international jurisprudence.

Ms. Jenny Kwan: Well, people who go through the pre-removal risk assessment process do not have a right to go through the RAD.

Mr. Jean-Nicolas Beuze: They can appeal to the Federal Court. The UNHCR has been very clear in international jurisprudence and is very clear that it's about a fair process, which is entrusted to the Federal Court. I think amongst all of us here, we can agree that it is a robust mechanism to assess whether the PRRA officer may have missed some element in the determination of whether the person needs to be protected as a refugee in Canada or not.

Ms. Jenny Kwan: I would be interested, too, in looking into the access to the Federal Court and how difficult it is for refugee claimants to access that procedure and that process and to get the representation, so that they can in fact have the due process and fairness afforded to them. I would argue that most people do not have that access.

Mr. Jean-Nicolas Beuze: This is why we were very pleased to hear the minister confirm that they will have access to a legal counsel.

Ms. Jenny Kwan: The minister stated that the process is there, but who would actually really be able to access it remains another story and another issue. Many asylum seekers, as we know, do not often have access to legal representation and, therefore, access to the court procedures.

Mr. Jean-Nicolas Beuze: We are very pleased that the federal budget increased the legal aid.

Ms. Jenny Kwan: Actually, we just heard that in Ontario, legal aid is being cut. In fact, refugees do not have access to it.

I do want to go into this other issue, too. We clearly differ in that opinion. The UNHCR also recommended the removal of the five-year bar for designated foreign nationals to file an H and C application from the date of decision or the date of designation. That was back in 2012. Now, under Bill C-97, there is also a bar for people to make application under H and C.

Again I ask this question, why is UNHCR now silent on the current expansions of the H and C application bar?

Mr. Jean-Nicolas Beuze: We do hope that mechanisms will be put in place, for those who need to have an H and C to be able to receive the protection of the H and C. As I have mentioned in my statement, we are kindly suggesting that there is also a stay of removal pending a final decision by the Federal Court for all cases—not only those that are part of this new stream, but also for those who, under previous provisions of the law, may be at risk of being deported before there is a final decision by the Federal Court.

Ms. Jenny Kwan: With respect to the bar for H and C claims under Bill C-97, a group of refugees would not be able to access H and C claims under this current system. Effectively, that means some individuals would be denied that opportunity. I raise this issue, because what's really important is that at the end of the day what Canada has to live up to is to ensure that all refugees have access to the same process—which is the original position of the UNHCR—with respect to the refugee determination system. That is what is at risk right now under Bill C-97.

• (1825)

Mr. Jean-Nicolas Beuze: I want to repeat that it's the same procedural safeguard.

The Acting Chair (Mr. Nick Whalen): Thank you, Mr. Beuze.

Ms. Jenny Kwan: With all due respect, it's not.

The Acting Chair (Mr. Nick Whalen): Mr. Ayoub, for seven and a half minutes.

[*Translation*]

Mr. Ramez Ayoub: Thank you, Mr. Chair.

Mr. Beuze, I've been listening to the questions carefully.

Canada has always been considered a safe haven, even more so now. I would say the system is even better today. In fact, that's part of the reason for the increase in the number of claims.

As Mr. Leuprecht said, Canada's geostrategic situation is unique in that 95% of the people who come to Canada are people Canada selects. That's the figure that was given. Achieving the right balance is crucial. We have to strike a balance between what we must do, what our international agreements require of us and what Canadians are willing to do and accommodate. That's the government's job, and that's what we've done over the past few years.

I always find it troubling when immigration and refugee protection policies are the subject of hypocritical language and doublespeak. Parties call on the government to block or turn away certain refugees, and at the same time, they focus on the economic side, talking about investing more money or providing more services to refugees, for temporary housing, for instance. That fuels misinformation.

What we want is to make sure we are bringing in quality people in order to keep Canadians safe, and that's one of the things this bill does. It reassures Canadians so we can ensure Canada remains a welcoming nation.

Explain to us, if you would, how the current process works when the claims of refugees and immigrants are denied. I'd like to hear about their rights in that regard. Sometimes, a person's claim is denied but they have the right to appeal the decision. A question was raised earlier. Who is going to be able to help them because they will no longer have access to the services? Someone suggested consultants; that's one possibility.

What is your view, Mr. Beuze?

Mr. Jean-Nicolas Beuze: When asylum seekers aren't recognized as refugees or people in need of Canada's international protection, they have access to certain appeal mechanisms. They could include an appeal to the Federal Court of Canada further to a pre-removal risk assessment or an appeal to the Refugee Appeal Division after having appeared before the Refugee Protection Division. After going through all those appeal channels, claimants must return to their country of origin.

Their removal can be accompanied by measures to help them reintegrate into their country and host community. In many cases, people leave their home countries because of poverty and a lack of job opportunities. Measures to help with the transition can be put in place and have been in the past.

It's important now, in my view, to send the message that people should be careful and not rely on the asylum system to immigrate to Canada. If they wish to immigrate here, they have access to options other than asylum. They shouldn't spend their life savings and put their safety at risk by taking unsafe vessels or asking smugglers to take their families. It's important to let them know that, upon arriving in Canada, they won't automatically be allowed to stay. It's important to let them know that they can't abuse the asylum system, as is often talked about in the public space.

It also sends the message that Canada remains a country that welcomes those who are entitled to asylum and in need of protection. Perhaps they should have access to similar, but different, processes given the need to find quicker and more cost-effective ways of doing the work. Nevertheless, all those processes have the same objective in the end, protecting those who cannot return to their home countries because they would be at risk of torture and persecution.

• (1830)

Mr. Ramez Ayoub: Thank you, Mr. Beuze.

I have just two minutes left, and I'm going to give them to my fellow member Mr. DeCoursey, who has a few questions.

[English]

Mr. Matt DeCoursey: I wonder, Mr. Leuprecht and Monsieur Beuze, if you could clarify the following for me, because I've heard Ms. Rempel mention the need for Canada's leadership on global asylum reform. I've heard her talk about the need for Canada to be at the table, talking and engaging with the world about global safe third country agreements.

Are these not the very issues that Canada is at the table, leading when it comes to the global compact on safe, orderly and regular migration? Yes or no?

Dr. Christian Leuprecht: We have a situation where people are dispensing with the formalities of national immigration policies on a large scale across countries—

Mr. Matt DeCoursey: Mr. Leuprecht, I'm sorry, but are these conversations taking place when countries get together at the global compact for safe, orderly and regular migration?

Mr. David Tilson: Give him a chance to answer the question.

Mr. Matt DeCoursey: They form part of the document. Is that not part of Canada's leadership on these very issues?

Dr. Christian Leuprecht: We're talking exclusively here about domestic issues. Nothing in this bill suggests to me that Canada's taking cues or coordinating with other countries.

Mr. Matt DeCoursey: No, I'm asking you a question about an earlier comment on the need for Canada's to lead on global asylum reform and safe third country agreements around the world.

Monsieur Beuze, does that form part of the conversation of the global compact?

Mr. Jean-Nicolas Beuze: The short and long answer is yes.

Mr. Matt DeCoursey: Would it be fair to say then that the fearmongering on that issue that we saw from the Conservative leader before Christmas completely contradicts what his critic is saying right now on an area where Canada needs to take leadership? You don't need to answer that.

Monsieur Beuze, are you confident with the procedural guarantees that are in place—

Mr. David Tilson: Why would you raise it then? Just for fun?

Mr. Matt DeCoursey: —to deal with the mechanisms in division 16?

Mr. Jean-Nicolas Beuze: I am, and I hope that at some point the measures which have been described by Mr. Blair will be enacted in a law.

Mr. Matt DeCoursey: Is there anything the government can do to strengthen those guarantees and ensure fairness in the asylum system—which we know is important—to allow Canada to continue to be a place of refuge?

Mr. Jean-Nicolas Beuze: Uphold the decision—which has been commented on here—of having a hearing, a right to counsel, the possibility of appeal to the procedures, and the possibility of having those procedures fully recognized in a piece of legislation.

Mr. Matt DeCoursey: Ms. Naso, thank you for being here today and for your leadership with the Yazidi community across the country with Operation Ezra in Winnipeg.

It's been an important part of this government's leadership on resettlement, and I'm sure we will have more conversations ahead about opportunities to resettle more Yazidis here in Canada.

Would you agree that it's important that Canadians understand the distinction between a fair and strong asylum system and a resettlement system, as two distinct processes and systems, and that there are important areas that Canadians need to be clear on to ensure that they accept our continued global leadership in resettlement?

Ms. Nafiya Naso: Yes.

The Acting Chair (Mr. Nick Whalen): Mr. Leuprecht, maybe I'll just use the chair's prerogative for the last 10 seconds here. Did you want to add something to the last point that Mr. DeCoursey made?

Mr. Matt DeCoursey: I want to apologize, Mr. Leuprecht. I was just hoping for a quick answer before we ran out of time.

If you're going to allow him, Chair, I'll allow for it.

The Acting Chair (Mr. Nick Whalen): How long is your answer?

Dr. Christian Leuprecht: It's 10 seconds.

The reason I wanted to weigh in is that too much of the conversation somehow focuses on protecting whoever gets here. We should be putting the emphasis on protecting the most vulnerable, as opposed to people who are deliberately dispensing with the formalities of national immigration policies.

Nothing in this bill does away with the fact this is the large-scale problem that we need to address the broader issue. Rather than putting all of this emphasis on protecting whoever ends up in Canada, let's put our efforts into people, such as my colleagues—

Mr. Matt DeCoursey: Mr. Leuprecht, these would be the very conversations that take place in these international fora. Would you not agree?

The Acting Chair (Mr. Nick Whalen): Mr. DeCoursey, I think we're done here now. Thank you very much.

We'll take a quick break and then invite the next and final panel up. Thank you.

•(1830) _____ (Pause) _____

•(1835)

The Acting Chair (Mr. Nick Whalen): We're now calling the fourth panel of the 158th meeting of the House of Commons Standing Committee on Citizenship and Immigration to order.

With us for this hour from Amnesty International Canada are Justin Mohammed and Marilynn Rubayika, and appearing for the Canadian Association of Refugee Lawyers, we have Lobat Sadrehashemi.

Each of your organizations will have an opportunity to give a seven-minute presentation, followed now by one round of seven-minute questions, I believe.

We'll open with Amnesty International, please.

Mr. Justin Mohammed (Human Rights Law and Policy Campaigner, Amnesty International Canada): Thank you, Mr. Chair, and I'd like to begin by acknowledging that we are on the unceded territory of the Algonquin people. That is a particular salient message to bring in this committee because aside from our first peoples, of course, when we're discussing issues of immigration and refugee matters we all have a story that's rooted in migration.

Our remarks today will focus exclusively on clause 306 of the bill, which adds a ground of ineligibility for claims of refugee protection made to the refugee protection division of the IRB. I'd like to register our objection to the fact that the changes being proposed to Canada's refugee protection regime are in an omnibus bill. We salute this committee's decision nevertheless to examine this issue, but we're dismayed that we were not consulted prior to the tabling of this bill.

Over the course of my presentation, I would like to make three points. First, Amnesty International considers that Bill C-97 is inconsistent with Canada's commitments under international law. Second, the bill will have the negative impact on Canadian refugee practice by creating a two-tier system of refugee protection. Finally, Canada must not rely on foreign protection regimes to uphold its international obligations.

With respect to the inconsistency in international law, Amnesty International is of the view that clause 306 of Bill C-97 is inconsistent with international refugee law because it constitutes an automatic barrier to the referral of a claim to Canada's refugee status determination system, the refugee protection division.

It operates without regard to when the prior claim was made; the status of the claim in the other country, whether it be finalized,

accepted, rejected, withdrawn, etc.; the fairness of the refugee status determination process in the other country or whether there are other possible bona fide reasons for which a person may seek Canada's protection after having done so elsewhere. We consider that automatic bars to consideration of the asylum claims are not in conformity with the refugee convention.

The convention furthermore prohibits discrimination amongst refugees on the basis of race, religion or country of origin. While the measure in Bill C-97 does not discriminate on the basis of these grounds, it is arbitrary and discriminates on the basis of a claim having been filed in another country if that country happens to be Australia, New Zealand, the United Kingdom or the United States or any other country with which Canada signs an agreement.

We view this to be an analogous ground of discrimination to those covered in the refugee convention and thus a violation of the spirit if not the letter of that convention.

Second, there's the two-tier system. Amnesty International further opposes the measure Bill C-97 because it introduces a two-tier system of refugee protection. While some refugee protection claimants will have access to the robust status determination system in the Immigration and Refugee Board, others will only have access to the PRRA.

The UNHCR has previously expressed concerns about this:

Where access to the refugee determination procedure is denied, and claims referred to the PRRA for determination, there is the risk of creating a two-tier system, in which the protection risks of one class of asylum-seekers are assessed by the Immigration and Refugee Board, while those of another are assessed by CIC officials. This could affect both the efficiency of the system and consistency of decision-making.

The UNHCR handbook, reissued as recently as February 2019, says the same:

There should be a clearly identified authority—wherever possible a single central authority—with responsibility for examining requests for refugee status and taking a decision in the first instance.

Amnesty International supports that view, because the two-tier model results in important differences. I will cover them now.

The first is independence. While the IRB is an independent, quasi-judicial tribunal, a PRRA officer is an employee of the IRCC. This new system would undermine the long-standing policy in Canada that claims for refugee protection are heard by an independent decision-maker.

Second is oral hearings. This is discretionary under the PRRA. However, even if an oral interview is afforded, it does not offer the same protections as an IRB hearing. The refugee claimant has no ability to call witnesses or to test the evidence upon which an officer is relying.

Third is appeals. Decisions of the RPD are appealed to the refugee appeal division, whereas appeals of the PRRA go to the Federal Court for judicial review. Both have different standards of review and, more importantly, while an appeal to the refugee appeal division results in an automatic stay of removal an application for judicial review does not.

Finally, Amnesty International is concerned that Bill C-97 unduly relies on foreign refugee status determination systems where human rights abuses of refugee protection claimants are well documented. The U.S. provides an illustrative example.

In our 2018 report entitled “You Don’t Have Any Rights Here”, Amnesty International documented three categories of human rights violations that are being committed by the United States: illegal push-backs along the U.S.-Mexico border, family and child separations, and arbitrary and indefinite detention.

• (1840)

Since that report, there has been a slew of administration policies that fail to respect the rights of refugees. One will deny bond to persons seeking refugee protection until their claims are finalized, which we know can take years. Another would establish a general rule that disqualifies victims of gang violence and domestic abuse from refugee protection. Only last week, the Trump administration circulated a memorandum that intends to further dismantle the system of protection by having U.S. border guards, rather than asylum officers, consider those claims.

I’d now like to turn the floor over to my colleague, Marilynn, to provide a real-life example of the type of claim that will be affected if Bill C-97 becomes law.

• (1845)

[*Translation*]

Ms. Marilynn Rubayika (Public Interest Articling Fellow, Amnesty International Canada): I’m going to speak French.

Mr. Chair, members of the committee, I’d like to tell you the story of an individual who, thanks to the current system, was granted the protection they had claimed and to which they were entitled as a refugee.

In 2006, this individual left their country of origin, Saudi Arabia, to pursue post-secondary education in the United States. Meanwhile, in Saudi Arabia, the individual’s father, a public personality recognized by Amnesty International as a prisoner of conscience, was arrested and imprisoned twice. He was accused of criticizing discriminatory laws and policies and calling for their reform.

The individual began a social media campaign on Facebook calling for freedom of religion and freedom of expression and, ultimately, their father’s release. A family member who was also involved in the campaign was arrested shortly thereafter and forced to make an incriminating confession.

On that basis, the individual decided to seek asylum in the U.S. for themselves and their family. Their claim was denied despite the fact that Human Rights Watch and Amnesty International had publicly criticized the arrests of their family members.

Fearing deportation with their family members to Saudi Arabia, where they would have faced near-certain persecution, the individual decided to cross the border to Canada irregularly. After examining the individual’s claim, the Immigration and Refugee Board of Canada determined that the individual should receive protection here, in Canada, or they would be at risk of persecution in their country of origin. The claim for refugee protection that had been

rejected by an official in the U.S. was granted by the independent board.

Amnesty International therefore encourages the committee to consider the procedural challenges this individual would’ve faced had they not had the opportunity to demonstrate their eligibility before an independent board.

The Acting Chair (Mr. Nick Whalen): I have to ask you to wrap it up.

Ms. Marilynn Rubayika: Thank you. I need just 10 seconds more.

The individual’s claim was denied in the U.S. for reasons that are not clear.

Refugees have the right to be heard by an independent board, and it is up to Canada to make sure it respects its international obligations.

Thank you.

[*English*]

The Acting Chair (Mr. Nick Whalen): Thank you.

Ms. Sadrehashemi, for the Canadian Association of Refugee Lawyers, please.

Ms. Lobat Sadrehashemi (President and Lawyer, Canadian Association of Refugee Lawyers): Thank you for inviting me to speak.

Some people have said that there is no point in spending our effort opposing these amendments. They say that these amendments are in a budget bill, so inevitably they will be passed into law.

I am here tonight on behalf of the Canadian Association of Refugee Lawyers because these amendments are unfair, and they’re ultimately bad for our refugee determination system. I want us to be in this room together as people who the community has entrusted to make laws that are fair and/or to speak out against ones that are not. I want you to think about whether you feel comfortable creating laws in this way—rushed through a budget bill—laws that directly affect the rights of some of the most vulnerable people in our community.

I’m going to spend my time on clause 306, the amendment that creates a new class of ineligibility. You have heard today from Minister Blair, officials and the Canadian representative for UNHCR. You’ve heard assurances that the changes in clause 306 are not significant, that they won’t have a profound impact. Most of their faith seems to stem from promises that are nowhere to be found in the legislation. I don’t understand their position. The creation of a new ground of ineligibility is a significant change to our refugee determination system that affects a broad category of people and takes away many important protections from these claimants.

This amendment does not only affect claimants who cross the border irregularly. It affects all claimants, no matter how they've travelled here, if they've ever made a claim in one of these countries that Canada happens to have an information-sharing agreement with. It's not limited only to claimants who are rejected by another country. They only have to have made a claim. It's not even limited to claims they made when they were adults. Even if they were children on their parents' claims in one of these countries, they are barred from a hearing before the Immigration and Refugee Board.

What do these claimants in this broad new category lose? They lose a lot. It's not about tinkering and a few procedural differences. These claimants are losing fundamental rights. They lose the full hearing before an independent tribunal. They lose access to an appeal on the merits. They can't go to the refugee appeal division. They have no protection from removal if they are reviewing a decision to the Federal Court. There's no automatic stay of removal. Now today you've heard Minister Blair and others say that there's no need to worry because these claimants will still be offered protection through PRRAs.

I would first like to deal with what is before us: the IRPA and the amendments in this budget bill. Then we can deal with the assurances that are nowhere in the law, the so-called enhanced PRRA that you heard about today. The PRRA is not the same as a hearing before the Immigration and Refugee Board. Any refugee lawyer will tell you that. The PRRA is a written process. You fill in forms. You provide arguments in writing to an employee at IRCC. The IRPA specifically provides that officers are not required to hold an interview, and indeed, they don't. It's extremely rare for them to hold an interview. Even in those rare circumstances, it's not a hearing, as Justin from Amnesty has already set out for you.

We heard assurances today from Minister Blair that there would be an enhanced PRRA. I listened carefully to the testimony, and I am lost. We were told that no one would be deported without an oral hearing. When asked whether by hearing he meant interview, we were told that, no, it will be a hearing with an official, not an interview. As far as I understand, the government doesn't have the power to establish a hearing process outside of the act.

It's also clear that the department has not thought out how this would operationally work if the department was now going to hold thousands of hearings. First, PRRA officers aren't trained to do this. An official today said that PRRA officer training to make refugee determinations is the same as that for members of the Immigration and Refugee Board. I found that answer astounding. It's not true. The PRRA was never meant to be a substitute for the RPD. It's a written process that's done after someone has already had a hearing before the Refugee Protection Division. The officers are not trained to do this work. They don't do full credibility assessments. They barely ever hold interviews. They haven't had training on how to appropriately examine a woman who has experienced violence. There are no guidelines on it. They don't have the tools.

Second, they don't have the infrastructure to do it. Are they going to create a registry and schedule hearings, interpretation and the disclosure of documents? Where are the hearing rooms? None of this has been thought through.

It's very easy to give assurances and not put them in law, and not even think them through as to how they would play out operationally.

• (1850)

Why wasn't this part of the BIA? If this is such a key protection and it's so fundamental, you should ask why it isn't in this legislation. All of this points to the need to separate this provision out of the budget bill and study it properly along with these promised protections. The government's assurances also beg this question: If you're going to give everyone a hearing, why create a parallel process? What is the logic in this? It will just create more backlogs and more delays.

There hasn't been a thorough review of the implications of these provisions, including the gender implications. These provisions disproportionately impact women. For example, the United States does not recognize asylum claims based on domestic violence even where the home state doesn't offer women protection from that violence. Canada has long recognized that domestic violence is a basis on which women may seek Canada's protection, yet with these amendments, we would punish a woman who was rejected in the United States or who abandoned her claim in the United States knowing that it would be dismissed. We would punish these women and their children with an inferior process and tell them they're not deserving of a full, independent hearing before the Immigration and Refugee Board.

I don't know how I would explain to a client, who after living through years of domestic violence managed to escape and make her way from Honduras to the United States, where she was detained and correctly advised that the United States would not recognize her claim, why, after all that, after making it to Canada, she doesn't have an opportunity to present her case to the Immigration and Refugee Board, she is relegated to a lesser process with a government official, and she has no opportunity for an appeal on the merits. Do I tell her our government believes she's asylum shopping? This is not about women shopping for better immigration deals. This is about seeking protection and safety. There's no justification at all for punishing these claimants. Offering claimants an inferior process is a punishment.

There are so many things wrong with these proposed amendments. It will not achieve any legitimate government objective. CARL urges the committee to reject the amendment.

• (1855)

The Acting Chair (Mr. Nick Whalen): Thank you.

We'll begin with Mrs. Zahid.

Mrs. Salma Zahid: Thanks to all the witnesses for coming today and for providing your testimony.

Clause 306 of Bill C-97 would render an individual ineligible to make a refugee claim in Canada if he or she had already made a refugee claim in another country with which Canada has a data-sharing agreement, specifically Australia, New Zealand, the U.S.A. and the U.K. Individuals in this situation would be permitted to apply for a pre-removal risk assessment. Could I ask both of you to tell us your recommendations with regard to making sure that the PRRA hearing is strengthened and everyone gets a fair chance in the PRRA hearing? Do you have any recommendations to make sure that we can strengthen this?

I'll start with you, Mr. Mohammed.

Mr. Justin Mohammed: Amnesty International's recommendation is that the hearing that's provided for refugee protection claimants be the same regardless of the fact of a prior claim. All of the protections that exist in the IRB, after all, exist for a reason. I think if we use logic, we can understand that the protection regime that's found in the IRB is there because it's meant to protect the rights of refugees.

As to hiving off a separate process and putting it in the PRRA, I fail to understand where the additional achievement is if we recognize that those are the protections that refugee protection claimants should have in Canada. We recommend that in fact the same protections that are available to a person under the IRB should be available to any person who is claiming refugee protection in Canada.

Mrs. Salma Zahid: Ms. Sadrehashemi, would you like to comment?

Ms. Lobat Sadrehashemi: I agree with the comments by Amnesty International. I would just add that I think it is problematic that we're talking at this stage about recommendations for protections. If these amendments do not provide for a fair process—and that's what's before you—then we shouldn't pass it.

Mrs. Salma Zahid: No, but everyone would be getting an opportunity. No one would be removed. Everyone would be given the opportunity under Bill C-97, in division 16, to have the PRRA hearing. My question was that—

Ms. Lobat Sadrehashemi: I'm sorry to interrupt, but that's not true.

I understand that there have been communications, and I've seen those communications from Minister Blair's office to MPs, telling them that everyone will have a robust hearing and an appeal, but I'm sorry, that is just not true. That is not what is in the amendments.

When he says “an enhanced pre-removal risk assessment”, what he's talking about is an assurance that they'll provide it. That's not what's before you. That's not there.

Mrs. Salma Zahid: If they are not eligible to make the claim, they will get a PRRA hearing.

Ms. Lobat Sadrehashemi: No, they won't. They'll get a PRRA process. They will have access to a PRRA, and under IRPA, PRRA is generally a written process. IRPA is clear that officers do not have

to hold, not a hearing, but do not even have to hold an interview. Therefore, everything you're hearing about this enhanced PRRA is not in IRPA; that's not in the budget amendments. That's not there.

Mrs. Salma Zahid: We heard from Minister Blair and he specifically mentioned that there will be an interview, so it is wrong to say that there will not be an interview. He came here at 3:30 today and he said very specifically in his testimony that everyone will have the opportunity for a PRRA hearing.

Ms. Lobat Sadrehashemi: Yes, I heard him and he did say that everyone would have an opportunity for a hearing, but if you look at the language in IRPA and at the amendments in the budget bill, there is nothing there. There's nothing about the PRRA in the amendments, so the PRRA remains as it is in IRPA.

There are no amendments to the PRRA in the budget bill, so that is a misconception. It's very unfortunate, because this is such a serious thing that's going to affect people, and it's wrong that you've been provided with these assurances that are actually not in the law.

● (1900)

Mrs. Salma Zahid: I'd like to share my time with Mr. DeCoursey.

Mr. Matt DeCoursey: Ms. Sadrehashemi, if these provisions are given a guarantee through regulation, would that satisfy? Is there a way this could be strengthened to ensure that the enhanced PRRA guarantees an in-person hearing for those who would be part of this cohort who wouldn't be given access to the IRB because they already have a claim in another safe third country?

Is there any recommendation you can make to us that if the new pre-removal risk assessment goes ahead, we could add safeguards in to ensure an in-person hearing?

Ms. Lobat Sadrehashemi: I would first say that, as you're aware, regulations are easily changed, so I have a problem if this is how we say that this process is going to be fair. These are key protections.

Mr. Matt DeCoursey: To be fair, regulations can also be strengthened much more easily than other methods, as well.

Ms. Lobat Sadrehashemi: Well, I just don't understand. If this is a key protection, why wouldn't you put it in within the amendments in the budget?

We haven't seen it. I have not seen any draft regulation. As well, it's very clear that regulations are more easily amended and taken away by subsequent governments, and I wouldn't feel comfortable or satisfied with assurances that are in a regulation.

Here, we don't even have them in a regulation. They're nowhere.

Mr. Matt DeCoursey: You mentioned the potential gender impact. Do you have any evidence to suggest that it would be women and girls who would be adversely affected by this, specifically given that the international UN agency still considers the U.S. to be a safe third country and that they have a mature and robust asylum system to adjudicate claims properly?

The Acting Chair (Mr. Nick Whalen): Very quickly, please.

Ms. Lobat Sadrehashemi: I know there is a witness tomorrow who will be speaking to you about the U.S. asylum system, and specifically gender claims, but it is very clear that the United States does not treat claims based on domestic violence the same as Canada does. There's a decision, the Matter of A-B-, the decision of Jeff Sessions.

I don't think that's a controversial position, so all we are saying is that there are very legitimate reasons that women would either abandon their claims in the United States or their claims would be rejected when their claims are based on domestic violence. I don't see why those women should be punished for that.

The Acting Chair (Mr. Nick Whalen): Mr. Tilson, please.

Mr. David Tilson: Well, you're quite blunt. I think both of you are saying that this piece of legislation is beyond help, that there's no room for amendments. You don't have any suggestions for amendments and you're simply telling members of Parliament to vote against it.

Would that be fair? I hope I haven't misconstrued what you've said.

Certainly, Ms. Sadrehashemi, lawyer Lobat, that seems to be your position.

Ms. Lobat Sadrehashemi: Our position is that we urge you to reject it and, if not reject it, at the very least ask for it to be separated out of the budget bill and put in a standalone bill to be properly debated.

Mr. David Tilson: The government won't do that.

Sir.

Mr. Justin Mohammed: Yes, that's correct. We think that the protections...and I'd like to reiterate some of the positions. We looked at the budget bill. Again, clause 306, the provision that we're looking at, says nothing about enhanced protections. This is a problem because it is beyond repair in that sense. There's nothing that would give an equivalent protection to the protections that are currently existing in the Immigration and Refugee Board. Those obligations that are there under the Immigration and Refugee Board are there for a reason. They're there to protect the rights of refugees.

Mr. David Tilson: Are there any other reforms with respect to the asylum claim system that you would recommend? In other words, I'm getting back to the question as to whether there should be any amendments made. You may have some other ideas as to what amendments could be made to this. You've told us to vote against it. I understand that; you couldn't be clearer. Do you have any other suggestions for reforms to Canada's asylum claim system, either one of you?

Ms. Lobat Sadrehashemi: Generally, our position is that these kinds of major legislative reforms to the asylum system shouldn't be done in a budget bill.

I would say that if we're going to be talking about all these protections that people are going to be given, then one would expect that those should at least be included. If you're going to pass an amendment based on the assurances that people will not be removed while they're judicially reviewing their decision or that everyone will get an oral hearing, then at the very least you would expect to see those as part of it.

• (1905)

Mr. David Tilson: What about Amnesty, Justin?

Mr. Justin Mohammed: I have nothing further to add.

Mr. David Tilson: I have no other questions, Mr. Maguire.

Mr. Larry Maguire: Ms. Sadrehashemi, you're very clear. Both your presentations are very clear in regard to what's not in the bill. If there is nothing in this, if it's put into this omnibus bill in the manner that it has been, why do you suppose this was even put in the BIA?

Ms. Lobat Sadrehashemi: I can't speculate on that. I don't really have—

Mr. Justin Mohammed: I also wouldn't offer any speculation on that.

Mr. Larry Maguire: It's curious that the timing is such that we have a month left in our session here and there's an election this fall. I'm wondering if you have comments on that.

There are a number of things that—as my colleague has pointed out—get into omnibus bills that maybe shouldn't be in them. One recent one called “deferred prosecution agreements” comes to my mind as well. I think that's been thrashed to death by everyone in the whole country for the last four or five months.

You mentioned as well that there's nothing about enhanced protection in clause 306. Can you expand on that?

Ms. Lobat Sadrehashemi: Clause 306 only provides for the creation of this new class of ineligible claimants. It says that somebody who has made a claim in a county that Canada has an information-sharing agreement with will now be ineligible. IRPA is the reason they would get access to the PRRA if they're ineligible. There's nothing changing the normal PRRA process in the budget bill.

Mr. Larry Maguire: So there are areas there where perhaps amendments could be acceptable. When you were asked before if there was an amendment to be made, that might be one of the areas you could do something with. I would totally agree, though, that it probably should have been put forward as a separate bill in that area.

One of the comments was that basically we've lost our sovereignty by going this route. Is there any comment on that?

Mr. Justin Mohammed: The only additional comment I would offer on that is that the notion of relying on protection regimes in other countries is limited in the bill at this point to what many people refer to casually as the Five Eyes countries. Those are the countries with which Canada has signed an information-sharing agreement.

The issue is that the bill says nothing about the Five Eyes. It says nothing about the countries that I and others have listed here. It talks about countries with which Canada has signed an information-sharing agreement. There's no limitation on which other countries might sign such an agreement in the future. So parsing out Canada's international legal obligations to other countries—think what you will of the the four that are included in the information-sharing agreements as they exist now—is where the issue is. There's no discussion about the potential addition of other countries.

Then, just to reiterate, there is the problem of claims that exist in other countries. I've given the United States as an example here. There have been recommendations and responses that suggest that the United States is a country of the rule of law, where there is still a Congress that operates functionally. I would suggest to the committee that while the Congress or the judiciary of the United States may trim the excesses of the Trump administration as they relate to refugees and refugee protection claimants, those changes take time to take place. In the meantime, there are people who are impacted by these decisions right now.

The decision—

•(1910)

The Acting Chair (Mr. Nick Whalen): Thank you, Mr. Mohammed.

We'll move on now to the next seven-minute round of questions, with Ms. Kwan.

Ms. Jenny Kwan: I'm going to let Mr. Mohammed finish his thought, and then I have some questions.

Mr. Justin Mohammed: Thank you, Ms. Kwan.

The finality of that point is just to say that there are people who are impacted by this decision right now. Former attorney general Jeff Sessions' decision on A-B- that my colleague referred to stands right now. It applies to people right now, and until those excesses can be trimmed by Congress or the judiciary—if they are trimmed, and to the extent that they are trimmed—there are people who will be affected by those changes.

Ms. Jenny Kwan: Thank you.

First off, I'd like to say thank you to Mr. Mohammed and Ms. Rubayika for presenting Amnesty International's position. After listening to Minister Blair today, I came away thinking, "Gee, has Amnesty changed their mind? Are they now in support of this provision?" So I'm really glad to hear the clear presentation from you in terms of where Amnesty stands.

On the issue around refugees and asylum seekers being faced with differential treatment here in Canada under these provisions—because that is what is before us at the moment—earlier today, UNHCR's representative argued that because the pre-removal risk assessment process is in place, and a person who is rejected under that process will have access to the Federal Court as an appeal

mechanism, everything is fine. They will have fairness afforded them.

I'd like to get your comments on that. I'll start with Ms. Sadrehashemi, and then we'll go to you, Mr. Mohammed.

Ms. Lobat Sadrehashemi: A judicial review at Federal Court is totally different from an appeal at the refugee appeal division. Judicial review at Federal Court first has a leave requirement. You have to ask permission of the court to even hear your case. Also, it isn't a full appeal, so you can't present new evidence. It's not a full appeal on the merits. Even if you win at the Federal Court, they can only send it back. They don't have the power to say that you are a refugee, as the refugee appeal division does. They also, most times, are reviewing on a reasonableness standard. They're looking at whether or not the decision was reasonable, not whether it was correct, because they don't have the power to say that you are a refugee; that's not within their authority. So they're fundamentally different.

On top of that, people who are rejected from the PRRA don't get an automatic stay of removal while they're filing leave and judicial review at Federal Court. You cannot be removed when you appeal to the refugee appeal division, nor can you be removed when you judicially review a negative decision of the refugee appeal division to Federal Court.

What will be granted to these claimants is totally different. It's what is lost to these claimants, really.

Ms. Jenny Kwan: Mr. Mohammed, do you have anything else to add to that?

Mr. Justin Mohammed: I have nothing further to add.

Ms. Jenny Kwan: Thank you.

I'd like to touch on this notion. Somehow, the government and the minister impressed the point on us that there will be this enhanced process for PRRA, yet we don't know who is going to be doing it. They're in the hiring process, and they don't know what sort of training would be required. We actually don't have very much information about that.

More to the point, or equally important, is this: If they're going to make people go through that new enhanced process versus that of the IRB—and the official suggested that they were the same, all things being equal—why establish a new process? Why not go through the IRB, as it is established? That is a well-founded and well-respected independent process.

I wonder if anybody would like to jump in and comment on that.

Ms. Lobat Sadrehashemi: Yes, I agree with that. It doesn't make a lot of sense, especially now. The Auditor General has said that he thought the IRB was capable of hearing claims and just needed resources and efficiencies. The IRB'S RPD has actually exceeded its targets in the last year. There has been this new investment in the IRB, so why, at this stage, are we creating a parallel process that's inferior and that's going to require a lot of resources and infrastructure?

• (1915)

Ms. Jenny Kwan: One of the issues that was raised is this. According to the Auditor General, they are projecting another 50,000 claims per year. The officials told us today that 3,500 claims would be pushed through to the new enhanced process. That would leave us with 46,500 claims that would go through the IRB, assuming that would be the process people would follow. For all intents and purposes, it's a small number of claims for which they're jeopardizing the entire fairness process for asylum seekers.

The officials said that these claims are not the only reason they're doing it. They're doing it as a deterrent. Then we go to the question that I think Mr. Maguire posed. Why do you think the government has done this? I would speculate. Are they not doing this so they can say now, six months before an election, they would jeopardize the rights of refugees and risk their lives, allowing them to then say they are getting tough on asylum seekers, for 3,500 claims?

Would I be wrong in thinking that way, or do you have any comments to add to that?

Ms. Lobat Sadrehashemi: I don't have any comments on that.

Mr. Justin Mohammed: I won't comment specifically, except on one piece you brought up with respect to deterrence regimes. This is something that Amnesty International has documented carefully, including in the report I referred to, and elsewhere on the continent.

We've had discussions. Our Americas director was in Canada to speak about some of these issues. The reality is that deterrence regimes are being put in place in many countries—the example I've given here is the United States. They deter a problem that is much more expansive in other contexts than the one we see here in Canada.

That's not to diminish the challenge in Canada. It's just to add the context of understanding that right now, in Venezuela, there are 3.4 million asylum seekers on the borders of the countries that surround it. Canada is not dealing—

The Acting Chair (Mr. Nick Whalen): I need you to wind this up.

Mr. Justin Mohammed: I would just end that point by saying this needs to be understood in the context of the North American hemisphere. Canada is largely absent from that problem.

Thank you.

The Acting Chair (Mr. Nick Whalen): The final round of questioning is by Mr. Tabbara.

Mr. Marwan Tabbara: Thank you to the witnesses for being here.

We've been in committee for a number of hours now, and on the previous panel, there was a UN representative, Jean-Nicolas Beuze.

He said that the new measures are not in violation of international law.

I think, in your testimony, you were saying this is a violation. I just want you to comment. If you had been here for the previous panel, how would you have commented on the representative's remarks?

I'll start with Mr. Mohammed.

Mr. Justin Mohammed: I won't repeat the testimony I've given already on why Amnesty International holds the position that this is inconsistent with international refugee law. I'll just add that the idea of protection regimes, and other similar measures, has been studied by refugee scholars, who have also talked about the philosophy of excluding certain claims from refugee protection. In this circumstance, we have an analogous ground that can be drawn out, namely, the notion that the claimant has access to protection in another country before making their request in Canada.

Even the UNHCR recognizes that there may be reasons why a person has made a claim in another country, as circumstances can change and the protection regime in the other country can change. As a result, Canada cannot fail to meet its international obligations by failing to consider that claim.

Mr. Matt DeCoursey: If that were the case, wouldn't the strengthened PRRA determine that person wouldn't be sent back?

I'll ask the same question that I asked your colleague earlier. If that process were more clearly articulated and the adequate safeguards were in place to ensure a type of hearing process that met our obligations, would that satisfy Amnesty International—even if not all the way, some of the way—in ensuring that we are upholding our obligations to asylum seekers who come to our country?

Mr. Justin Mohammed: I have difficulty responding to that. Again, it's the reason that I think was referred to by my colleague. Effectively, you're asking me to comment on something that's not in law, that's not in a bill, that's nowhere for me to see.

• (1920)

Mr. Matt DeCoursey: I'm asking for your recommendation on how to strengthen the law and the bill to satisfy Amnesty's view of it.

Mr. Justin Mohammed: In that respect I'll return to the comments I made previously. The required protection is there. It's what we have in the IRB. If you're looking for recommendations as to what adequately protects the rights of refugees, look to the procedure in the IRB.

Mr. Matt DeCoursey: Mr. Mohammed, you just said that when a person is determined to come to a country, before we can remove them, they go through a PRRA. What we're seeing here is that anybody who is part of this cohort—of previously claiming asylum in another safe third country—would not only get a PRRA but also an enhanced PRRA that would determine their safety, should they be sent back to their home country. If it were determined that it is not safe for them to be sent back, we wouldn't send them back. They would receive protected status here in Canada.

Mr. Justin Mohammed: I may have lost some part of the question, but you made reference to a safe third country. That's certainly nowhere in my testimony. The discussion concerned the refugee protection regime as it exists in the four countries that would currently be captured by this legislation and that have deficiencies in their protection regime, which may give rise to a very valid reason why the claimants would be seeking Canada's protection, as opposed to the protection of one of those other countries listed as having an information-sharing agreement.

Mr. Matt DeCoursey: Canada would rely on the advice of the UNHCR as to which countries would be deemed safe for asylum seekers. That's been a long-standing tradition of Canada to ensure that we rely on these international agencies with the expertise they have to help us make those types of determinations. I think governments of most stripes would at least agree with that—certainly this government.

If there's a way we can ensure a pre-removal process in place with the safeguards to make sure that we don't send someone back to an unsafe country, we would do that. I'm looking at the context of the bill that's in front of us now. Is there a way we can strengthen the pre-removal process and safeguards to make sure we send nobody back to an unsafe situation?

Mr. Justin Mohammed: With full respect to the UNHCR's position of what they've set out as a safe third country, I think I've also given the committee other resources to look at to determine the extent to which the United States is a safe third country. I've pointed to one report and to decisions by legal authorities in the United States, and certainly the ongoing public discussion about the measures being taken in the United States, I would suggest to you, would result in a different conclusion.

Mr. Matt DeCoursey: Can I ask you both for concluding comments on the measures the government has taken other than this particular measure—which has been met differently by both of your organizations—that are helping address issues of irregular migration around the world and those who are displaced or are in refugee situations come to this country as resettled refugees or seeking economic pathways, and the government's work to build the capacity and effectiveness of the IRB to deal with issues in a fast, fair and final way?

Do you see those other measures as strengthening Canada's role in both having a strong asylum system and continuing to be a leader in fair immigration as well as in refugee resettlement?

Ms. Lobat Sadrehashemi: We certainly supported the investment in the IRB. I think that's what makes sense, but that's why this doesn't make sense. The IRB already has a system to do this fairly. Why create this parallel process?

I want to clarify a point, because I think there's some confusion. To be clear, this applies to any country that Canada has an information-sharing agreement with. It has nothing to do with safe countries. Nothing in it talks about making sure that the country has a comparable refugee determination system to Canada's. It just says information sharing.

Mr. Matt DeCoursey: Can that be sanctioned?

Ms. Lobat Sadrehashemi: Canada can enter into any information sharing—

The Acting Chair (Mr. Nick Whalen): Thank you very much.

That brings the round of questioning to a close.

I'd like to thank our witnesses.

We'll have a brief break, then five minutes of committee business in camera before we call today's session to a close.

Thank you.

[Proceedings continue in camera]

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