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Chair: Mr. Randeep Sarai



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• (1540)

[English]

The Chair (Mr. Randeep Sarai (Surrey Centre, Lib.)): I call this meeting to order.

Welcome to meeting number 30 of the House of Commons Standing Committee on Justice and Human Rights. Pursuant to Standing Order 108(2) and the motion adopted on February 8, 2022, the committee is meeting for its study of the government's obligations to victims of crime.

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022. Members are attending in person in the room and remotely using the Zoom application.

I'd like to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking.

Go ahead, Mr. Moore.

Hon. Rob Moore (Fundy Royal, CPC): Mr. Chair, some of the witnesses are having a hard time hearing you, but do they know about their earpieces?

The Chair: I was just getting to that.

There are headsets. Unwind them, put them on and change the channel to whatever your preference is. If you're bilingual, you can probably go with "floor", but English and French are there too. At the bottom, going left and right switches the language preference. The top part is the volume.

Wave if you can't hear or if there's an interpretation problem. Just put up your hand and let us know. We'll immediately stop and it won't take away from your time.

As for interpretation for those on Zoom, they're all members so I don't think I need to repeat that. Use the icon at the bottom to select floor, English or French.

As a reminder, all comments should please be addressed to the chair. For members in the room, if you wish to speak, raise your hand. For members on Zoom, please use the "raise hand" function. The clerk and I will try to get you right away.

Before I introduce our witnesses, I would like to inform the committee that due to the study on our agenda, some may find it difficult to listen to the testimonies presented and/or experience discomfort, given the nature of the topic being discussed. I would like to remind our witnesses, who agreed so kindly to appear in front of

the committee either in person or via Zoom, and members and staff, that if needed, resources are available to them here in Parliament. The clerk will certainly contact them, and you're more than welcome to ask for them either during or after, if need be.

I will allow, if necessary, a little pause for our witnesses so they can deliver their statements in the best environment possible. Our present study will certainly be emotionally challenging for our witnesses, and we admire their courage in coming forward and sharing their very personal situations. I'm sure that all members agree with that.

I don't like interrupting, so when there are 30 seconds remaining in your statement, I'll raise a 30-second card, and when your time is up, I'll give the time's-up card. They're yellow and red. Then just try to wrap up. I don't want to break your train of thought, but that's how we go. It's the same application for members.

It's five minutes for your opening statement. If you don't get all of your information across in the five minutes, I'm sure some members will allow you to speak to it in their questioning, so feel free to do so then.

Our first three witnesses are Morrell Andrews, Dianne and Mike Ilesic, and Sharlene Bosma.

I will begin with Morrell Andrews, for five minutes.

• (1545)

Ms. Morrell Andrews (As an Individual): I would like to thank our host, the Algonquin Anishinabe people.

I hope your study incorporates the Truth and Reconciliation Commission's calls to action, notably call to action 36 on culturally relevant services, call to action 41 on addressing the victimization of women and girls and call to action 57 on training for public servants regarding the legacy of residential schools, UNDRIP, treaty rights, indigenous law and aboriginal-Crown relations.

I cannot speak for all victim complainants today, or convey the reality of those facing systemic burdens due to their sexual or gender identity, race, class or disability, but I will do my best to honour their experiences.

[Translation]

It is impossible to express the anguish and stress of a victim-complainant of sexual assault.

How can I properly explain what it means to have your case dropped, to be excluded from proceedings, to have lawyers too busy to talk to you, to know that your abuser will never have a criminal record, or to spend nights crying while trying to interpret the law on your own?

When I asked other victim-complainants what I should say today, these women often used the same words. They want you to know that the legal system is paternalistic, that it is traumatic and that we feel we are being left out.

[English]

Victim complainants of sexual offences have the right to request a publication ban under section 486.4 of the Criminal Code. This ban enforces privacy and eliminates any negative consequences of being publicly identified.

Publication bans serve a critical function, and they should remain available to anyone who wants them, but there are considerable issues with respect to how we are informed of our publication bans and how we are given information in order to comply with them and lift them, if we so desire.

On April 7, 2021, during the sentencing of my sexual assault case, I learned of the publication ban on my identity. Immediately, I knew that it was not in my interest. While in court, I asked the prosecutor to lift it, but she didn't know how to. Shortly after, I interjected myself and asked the judge to lift it, but she told me she was no longer *functus* and couldn't help. Later, I was told by victim services that I would have to bring my own application to the Superior Court and figure it out on my own.

Nobody ever told me about my publication ban. Nobody asked if I wanted it, and nobody explained that if I breached it I could be fined up to \$5,000 and spend two years in jail. They said this ban was in my best interest, but I felt trapped.

After significant self-advocacy, the Crown agreed to bring an application to the Superior Court, and I was able to ask for my right to speak on May 14, 2021. This was not a painless task. The offender's attorney opposed my application and tried to delay the hearing by over two months.

Begging for my right to speak was humiliating. The court's dignifying the offender with an opportunity to argue why I should be permanently silenced was infuriating, dehumanizing and traumatizing. I told myself to remember what it felt like to be shattered by the legal system, and that one day—for myself, for others I have met and for those who would come after us—I would try to do something about it.

[Translation]

Not only is the current requirement that the judge supervise a victim-complainant's ability to speak about her own experience paternalistic, but it reinforces a sense of stigma and the notion that victim-complainants only need to be protected rather than represented, informed and helped.

[English]

My recommendations are not complicated. Amend section 486.4 of the Criminal Code so that it is no longer an offence for a victim to attribute their own experience. Educate prosecutors and judges on publication bans and our right to choose if we want one. Ensure that prosecutors explain the purpose and scope of a publication ban, and seek our consent before asking for one. Simplify the removal process, making it clear that the offender or accused is not a factor. Provide accessible and multilingual information about publication bans, how to comply with them and how to lift them if we want. Finally, edit the victim impact statement form under subsection 722(4) of the Criminal Code to allow us to opt out of a publication ban at the conclusion of a case without having to justify this decision to the court or the offender.

Of every 1,000 sexual assaults in Canada, only three will result in a conviction, but publication bans remain on the name of those complainants who have not had a finding of guilt in their case. This is a painful burden for those who want to speak out, and it gives the impression that our abusers are protected and actually benefit from unwanted bans.

● (1550)

[Translation]

There is no justice in an unwanted publication ban.

[English]

I have done everything expected of me. I reported. I went to court. I have been vocal about this issue and I have come here today with recommendations. I ask that, at minimum, you show persistence in championing this much-needed change and that you are audacious in demanding something better for us.

Thank you.

The Chair: Thank you, Ms. Andrews.

I will now go to Ms. Bosma for five minutes.

Ms. Sharlene Bosma (As an Individual): Thank you, ladies and gentlemen, for the invitation and the opportunity to speak here today.

Thank you to Mr. Brock.

As I am a victim and have gone through our justice system, I believe that victims' rights and the lack thereof are in great need of review.

My name is Sharlene Bosma. On May 6, 2013, my husband Tim was taken from our home and shot in his own truck across the road from our house. His body was eventually taken to Waterloo airport and then burned in an animal incinerator.

We spent eight days searching the province for him, not knowing where he was. On the eighth day, my world fell apart and I learned one of the most horrifying phrases in the English language: "His body was burned beyond recognition." It took another three years before I was allowed to know what that meant.

Through the excellent work of the Hamilton police department, in conjunction with police forces from surrounding areas, two arrests were made shortly thereafter, and in 2016 we spent six months at trial in Hamilton. The team of Crown attorneys worked extremely hard and were victorious, with not one but both offenders being convicted of first-degree murder. The investigation into my husband's murder led to further charges being laid for the deaths of Laura Babcock and Wayne Millard, both of which also resulted in first-degree murder convictions.

I cannot convey the overwhelming amount of joy and relief that we as a family shared when the court determined consecutive life sentences in each case—75 years and 50 years for cold-blooded, heartless killers. As the mother of a little girl who was not quite two and a half when her father was murdered, I was extremely thankful that she would never, ever have to face the monsters who killed her father for no reason other than they simply could.

In comparison to many other homicide families that I have had the unfortunate privilege to meet in the last nine and a half years, our case, our convictions and our sentencing were the absolute best that anyone in our position could hope for. It allowed hope for other victims that yes, perhaps in the Canadian justice system, justice might actually be served and offenders sentenced according to the crimes they have committed—a true life for a life.

Some may say that because of the overall positive experience that I had with the police departments and the Crown attorneys' offices, I'm in no position to comment on victims' rights. They may be right, but it does not diminish my ability to stand here before you and fight for my daughter's future and for those who were unable to benefit from the same positive experience that I had. Everyone needs and has the right to the same justice system that was bestowed upon me.

In May of this year, our government took away one of the very few things that we as victims had to hold on to, which was consecutive sentencing. It was one of the greatest blows that the Canadian government has ever dealt to victims of violent crime. It says to us that someone can kill as many people as they want here in Canada because sentencing will not change. It says that Canada only places value on the first victim, with the lives of any other victims not mattering—not here in Canada.

My daughter was two and a half when her father was murdered, as I mentioned earlier. She has no memories of her own of her father. She was never given the chance; it was ripped away from her. All she has are stories and photos that I and others close to him share. Some may say that it's enough, but it's not. She had a right to

know her father. She had the right to be raised by him and know him for the loving man that he was, just as much as anyone else.

Now, because of the ruling in May, when my daughter is 27 she will be asked to carry on the fight that I thought I had already fought for her. The parole hearings will begin. She will be called upon to state why these monsters should not be offered any sense of freedom and why they should stay in prison. She will have to face the soulless psychopaths who scarred her life before she even knew that it was her own.

● (1555)

In those moments, she will be the little toddler begging for her daddy to come home, but in the body of a woman. She will be defending her father's life and the lives of Laura and Wayne to keep those men in jail.

It will not only be up to me, but up to my daughter to continue the fight, because this government puts more value on the life of the criminal than of its law-abiding citizens. Our nightmare will start all over again. We will be revictimized and will relive all of the trauma each and every time they apply for parole.

As victims in our current society, we are treated as pariahs in our schools, our places of worship and our work. In many people's minds, it is easier to believe that we have done something wrong to deserve this, rather than to accept that really, truly, there are monsters in human form in this country. If it can happen to us, it can happen to you.

As a victim, I can tell you that Canada does not care about us. I ask this committee to prove to me and to all other victims of violent crime that I am wrong. Stand up for us, as we have fought to do so for ourselves. Show me that I am wrong.

● (1600)

The Chair: Thank you, Ms. Bosma.

Next we'll go to Mr. and Mrs. Ilesic.

Mr. Mike Ilesic (As an Individual): Thank you for allowing us to speak as witnesses before the justice committee.

Our son Brian was brutally murdered while working for an armoured car company in 2012. Two other workers were also murdered. Another co-worker survived, but his life changed immensely after the incident.

The victims were betrayed by their co-worker. All were shot in the head at close range. In fact, Brian's funeral was delayed for a week so that his face could be reconstructed to allow a viewing of the body before the celebration of life.

The Edmonton victims service unit was a blessing to us, as they guided us through the journey of grief. Dianne and I also joined the Victims of Homicide Support Society, which had a huge impact, and we continue to be involved in this group. It has helped us maintain our strength.

The recent decision by the Supreme Court of Canada to strike down the consecutive sentencing law was a very bad decision. This decision impacts all victims and devalues the value of life.

When a parole hearing is scheduled, I want to face the offender and not be subjected to looking at the back of his head. If the offender is not willing to co-operate, a hearing shouldn't be allowed to take place.

Ms. Dianne Ilesic (As an Individual): Our son's murderer was the first offender in Canada to be sentenced under the consecutive sentencing law. He was given a life sentence with no possibility of parole for 40 years. There was a sense of relief in knowing that we would not have to attend a parole hearing for 40 years.

Forty years would mean that we would never have to go, in all likelihood, to a parole hearing. Now with the Supreme Court's decision, the murderer has applied to have his 40-year sentence reduced to 25 years. That means the murderer could be eligible to apply for parole in just 15 years from now.

To call this possibility distressing is an understatement. When we discussed this decision with family and friends and our MP Michael Cooper, we recognized that the majority of people do not support the Supreme Court's decision. The Liberal government should have invoked the notwithstanding clause to override the decision of the Supreme Court.

Please listen to the people of Canada. As a victim, I am mystified and terribly disappointed by the Supreme Court's decision and the government's lack of response. Jail is not cruel and unjust, but murder is.

Recommendation number one is that the government should have invoked the notwithstanding clause to override the Bissonnette decision. I'm disappointed that there has been no response from Minister of Justice David Lametti other than he respects the decision by the Supreme Court.

Recommendation number two is to please not allow mass murderers, like our son's murderer, a chance to get parole after 25 years.

Recommendation number three is that parliamentarians should visit penitentiaries and learn. Jail is not a cruel place to reside. Inmates enjoy many benefits for which taxpayers pay. All their meals are free. There's no fee for room and board. Inmates are offered education. They could possibly end up with a bachelor's degree or a master's degree, but what about the victims left behind?

As to recommendation number four, when this incident occurred, I happened to be in a deep amount of sorrow and grief. I recognized that I needed counselling. Could counselling sessions be paid for by the government? In 2012, the fee for counselling was \$185 an hour. Who can afford that?

Recommendation number five is to please sponsor a way for victims to navigate the justice system. A victims' advocate should be established to help victims navigate the system and arm them with all the information they need and deserve.

In closing, we want to let you know that we have registered for victim notification through Corrections Canada, but we are not receiving updated notifications as promised. The updates would be greatly appreciated.

Thank you for your time and consideration. We have been through the journey and we're still going through it too.

• (1605)

The Chair: Thank you to all the witnesses. It's not easy sharing your stories, and I'm sure you've had to share them over and over again. I urge all members to keep the sensitivities in mind when asking questions.

I will begin with Mr. Brock, for six minutes.

Mr. Larry Brock (Brantford—Brant, CPC): Thank you, Mr. Chair.

I'd like to start by thanking all of the participants today for their courage in coming forward and sharing an extremely difficult chapter in their lives. You are all to be commended for having the strength to come forward and advocate not only on your and your family's behalf, but on behalf of all the victims who exist in Canada. Thank you so much.

Ms. Andrews, I listened very carefully to your words. We had an opportunity to speak prior to your attendance today. I want to assure you that your voice has been heard very loudly at this committee, that your voice will be heard nationally and that your voice will be shared with the Government of Canada.

I looked at some of the material that we talked about in preparation, and I want to comment briefly on the decision that the judge made in the case in which you were a victim, from just over a year ago. Her closing statement to the offender was directed to you: "I'm sure, going forward, your voice will have great impact." What a foreshadowing of where you are today.

I really want to thank you for the resiliency and the strength that you are showing to advocate in an area that is in such desperate need of reform, and I want to ask you, specifically, a couple of questions. I basically have a minute.

You talk about a lack of trust. You talk about a lack of communication. You talk about a lack of participation in the process. All of these issues are enshrined in the current version of the Victims Bill of Rights, but clearly you did not have that experience.

Can you be more specific as to how we can ensure that victims like you, other victims who come before the courts, victims from marginalized communities and victims whose first language is not English can receive just treatment by all justice participants?

Ms. Morrell Andrews: There are three parts to the Victims Bill of Rights—information, protection and participation—that I look at particularly as a victim. Throughout the process, as I navigated the legal system, I felt that those did not apply to me.

I was not protected, due to either malice or negligence on the part of the Crown, from having a publication ban placed on my identity without any knowledge. I could have lost my job. I am a public servant and I have to maintain a security clearance. If I am charged with a crime, my job is gone.

Regarding information, it was like pulling teeth to try to understand how to navigate the legal process. I tried to go to legal aid. I tried to access sexual assault centres. Nobody could help me. I really felt that I was alone. I had to scour CanLII by myself to try to find case law. There was simply no one to lean on, and the Crown didn't really have the time of day to speak with me. I understand re-sourcing issues, but as a victim at a time of need, there was really no support.

As for participation, I felt that I had a right to be asked whether or not I wanted a publication ban. That seems like a very foundational element of participation that nobody ever involved me in. I didn't even know that I could be involved. That's the case for many victims with whom I have been connected. I hope to share their stories today.

Quite frankly, the entire Victims Bill of Rights has 2,011 words. My victim impact statement, which has a number of critiques and comments on our system, has 2,300 words. It can definitely be expanded.

Mr. Larry Brock: Thank you, Ms. Andrews.

Ms. Bosma, my sincerest condolences for your horrific and tragic loss. Words cannot describe what you and your family have gone through, and my heart goes out to you.

I have a very limited amount of time. I have about a minute and 30 seconds. I want to focus on an aspect that you did not indicate in your opening statement but that I know you experienced. That is the participation of your right to file, and speak directly to the court to make, a victim impact statement.

Can you expand upon that and tell me how you were treated? Was it fair? Were you allowed to use all of your words without any editing, without any sanitization and without any challenges by the defence and/or the accused? Can you share that, please?

• (1610)

Ms. Sharlene Bosma: Sure.

In our particular case, because we had first-degree murder convictions with an automatic 25-year sentence before parole, the Crown attorney actually recommended that we not file victim impact statements. We were able to go immediately to sentencing. Otherwise, they would have delayed the process.

We were given forms to submit to the courts so they could be reviewed. I think it was at three different levels. The accused were going to have an opportunity to review our statements as well and make any recommendations or corrections they so chose before we would be able to read them in court.

In our particular situation, we bypassed the entire thing, so the day we got the conviction, we sent them to prison.

Mr. Larry Brock: I think I'm out of time, Mr. Chair. Thank you.

The Chair: Thank you, Mr. Brock.

We'll go to Ms. Diab for six minutes.

Ms. Lena Metlege Diab (Halifax West, Lib.): Thank you very much, Mr. Chair.

To all of you here today, I want to commend you for appearing before us, for your bravery and for sharing and advocating through the pain and sorrow you have experienced. Whatever we say here won't do justice. This is the justice and human rights committee, but it won't do justice to the pain you've experienced and to the pain that you continue to experience from the fact that you have lost your loved ones—Mr. and Mrs. Ilesic, your son; Sharlene, your husband; and your daughter, her father.

I want to ask Ms. Andrews a question.

Thank you for the conversation we had earlier today regarding publication bans. I want to put this on record. I asked you on the phone if you recognized the name Rehtaeh Parsons and you said you did. In my home province of Nova Scotia, Rehtaeh Parsons was a 17-year-old victim of child pornography. In 2012, she was victimized by four boys. Pictures were taken of her and circulated online. Rehtaeh ended up taking her own life as a 17-year-old high school girl who lived in Dartmouth and was known in her school and in her community.

When I entered public life as a provincial member of Nova Scotia, I was handed the task of being minister of justice and attorney general. The case came to my desk in 2014. A publication ban had been placed on her name under subsection 486.4(3) of the Criminal Code. The ban was in place despite the wishes of her mom, her dad and all the supporters.

I remember that just before Christmas in 2014—it had taken weeks; it was a very challenging time—I issued a ministerial directive to the Public Prosecution Service, one I was told at the time had never been done before, that said that no breach of the publication ban on Rehtaeh's name in any form would be prosecuted. I added that this applied unless her name was used in a derogatory way. This was probably me as a mother, as a woman and as a person who had not really been in politics before.

At the time, that was difficult to do because the prosecution hadn't seen it and, needless to say, neither had the justice department and everyone else, but it was the right thing to do. I am sympathetic to what you're advocating for.

What you told me on the phone and what you shared with me is that through your activism you have encountered many other women with stories. I promised to give you the chance, for the couple of minutes I have left, to tell us their stories and put them on record for the benefit of this committee.

• (1615)

Ms. Morrell Andrews: Thank you.

In January 2020, Matthew McKnight was found guilty of five counts of sexual assault. His 13 victims in Edmonton have not lifted their publication bans, but I want to tell you about N.T. She said that sharing her story was an incredibly important part of healing. She fought for changes to reverse the UCP's Bill 16 and she helps other survivors today. She never consented to having a publication ban.

In Toronto, Maarika Freund applied to have her publication ban removed. She learned of it two years after her trial. She had to ask two lawyers to help her lift her publication ban. The ban on her name was not lifted until October 2021, because the former accused was granted an extra 70 days to come up with a valid argument for why the ban should remain in place. She never consented to having a publication ban.

In Victoria, Kelly Favro, who is in the room today, represented herself in court to have her publication ban removed. She learned of her publication ban four years after court proceedings concluded. She said the process took away her autonomy for a second time and she feels revictimized by the justice system. She never consented to having a publication ban.

In Dartmouth, Carrie Low had to retain her own lawyer to lift the publication ban that she didn't want. She said, "Someone took away my right to have my own name out there without telling me. Then I had to go through another court process to have [the ban] removed. It's very unfair and very unjust". The judge noted that he would not have revoked the ban without the consent of the Crown. She never consented to having a publication ban.

In Barrie, Brandy, who's in the room today, lifted the publication ban on her name in May 2022, after reporting a historic sexual assault that happened 30 years ago. She said, "the Canadian [legal] system has now taken part of my voice and I'm truly disappointed in the...system's inability to support survivors." She never consented to having a publication ban.

S. in Toronto still has a publication ban on her name. She said that the accuracy and transparency of information provided to her in the legal system were a problem. She said the victim services worker told her she needed money and a lawyer to lift her publication ban. This is not true. She said that the publication ban silenced her and protected her abuser. She never consented to having a publication ban.

In August 2022, a victim in Nanaimo named Jade had her publication ban lifted. The application to lift her publication ban was ini-

tially denied. She was told that she should have asked for it to be lifted before the matter was complete. She asked to have her publication ban lifted three times before it was finally granted and the matter was resolved. She never consented to having a publication ban.

The Chair: Thank you, Ms. Andrews and Ms. Diab.

Next we'll go to Monsieur Fortin for six minutes.

[*Translation*]

Mr. Rhéal Fortin (Rivière-du-Nord, BQ): Thank you, Mr. Chair.

I would like to thank the four witnesses who are here today.

I think your participation is important. Like my colleagues around the table, I sympathize with you. The events you have experienced are out of the norm, and no one would want to experience them. I have a lot of..

[*English*]

The Chair: Monsieur Fortin, can you pause? It looks like they're having problems with interpretation.

It's probably the volume. Just put the volume up.

I'll reset your time, Mr. Fortin.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

I was saying that I feel for you. I understand the pain that you have suffered. Like my colleagues around the table, I have a lot of compassion for you.

That said, in order to try to resolve the various issues, as far as possible, I would like to come back to a few things.

I am very interested in the point that Ms. Andrews raised in relation to the publication ban.

Ms. Andrews, I understand from your evidence that you would have preferred that there be no ban, but that it was imposed on you without your asking for it. First of all, why did you not want a publication ban? Did you have consultations with a Crown prosecutor or other lawyers who explained to you the scope of the ban? Were you given explanations as to how it might or might not be helpful to you?

• (1620)

[*English*]

Ms. Morrell Andrews: In terms of consultation with the Crown or any lawyers, I received literally none. The only reason I knew there was a publication ban on my name was that the judge mentioned it in passing during the sentencing hearing. I, as the victim, was on the call completely shocked, because no one had ever told me about a publication ban. I knew immediately that I didn't want it, but nobody seemed to know how to lift it or wanted to help me at all.

There were so many reasons why I wanted to lift the publication ban, and the biggest one was to simply be free. I knew that I wanted to publish my victim impact statement at the conclusion of my case on Instagram and Twitter. I didn't plan on ever being in this position, but when I found out that I was barred from speaking, I knew I had to do something to make sure this didn't happen again.

For the women I speak with who talk about why they want their publication bans lifted, it's anything from advocating for others who have been in the same situation to creating art that they feel is important for their healing. For me, I wanted the words to be put out into the world and to let people do with them what they would.

For some people it's really important to speak out. For others, publication bans are helpful tools, and they feel protected by that. That's extremely important to recognize, but some of us don't want them.

[Translation]

Mr. Rhéal Fortin: Have you been able to speak with the Crown prosecutor in relation to this, to request the ban be lifted?

[English]

Ms. Morrell Andrews: Yes.

[Translation]

Mr. Rhéal Fortin: What were you told?

[English]

Ms. Morrell Andrews: When I asked the Crown to lift it.... In my case, we had a lunch break, and the judge in the first half mentioned the publication ban. When I heard this, I sent an email to my victim services worker and said, "Tell the Crown to lift this. I don't want it." They went back and forth, and the Crown's answer was that they didn't know how to lift it and didn't know what their policy was for lifting it, which felt absurd to me because at the time, I was a 26-year-old woman and this ban was meant to protect my own identity. Who else should weigh in on that question other than me? I should determine what is helpful for my protection and what I want in my own case.

There are different types of publication bans that can apply to cases, none of which I was subject to. This one was meant to protect my own interests, and the Crown felt it was not necessary to proceed and ask that it be lifted that day in court.

[Translation]

Mr. Rhéal Fortin: Did you raise this issue in court and before the judge? Did you tell the judge that the Crown prosecutor didn't know how to lift the ban and that you wanted it lifted?

[English]

Ms. Morrell Andrews: The problem is that at that point I had already delivered my victim impact statement. As a victim, you are a witness to a crime. You don't actually have the right to participate in proceedings, so I couldn't actually say anything. However, being me, I put myself off of mute and asked the judge if we could talk about this publication ban. She simply said that she was no longer *functus* and didn't have jurisdiction on the case, so I wasn't even given the space to explain that I had asked the Crown to lift the ban and the Crown had declined. The judge could have done it. The

judge just said she couldn't do it and that I'd have to go to the Superior Court to do so.

I will add that in a recent case in 2021, *CBC v. Manitoba*, the Supreme Court of Canada clarified that courts of appeal do have the ability to lift publication bans that were initially heard in their level of court. They don't have to go to a higher level of court, so at least that has been clarified. However, my understanding is that Crown attorneys and judges have a limited understanding of how publication bans can be lifted and of the functions for victims who don't want them.

[Translation]

Mr. Rhéal Fortin: At the other stages of the trial, leaving aside the issue of the publication ban for the moment, did you have good communication with the Crown and with the prosecutor? Did you understand the process?

[English]

Ms. Morrell Andrews: I was only able to speak to the Crown attorney in my case once they had decided that they would be doing a joint submission with the defence. My sexual assault case ended up having a plea deal for the lesser charge of assault. When the Crown came to the determination that this is what they would be submitting to the court, they had a call with me to inform me and asked what I thought. However, there was very little explanation by the Crown. There are so many terms that are thrown out in the process. What is a bench warrant? What are submissions? What do all of these things mean? There's no one who really explains it to you.

I only had a very brief interaction with the Crown, and the initial prosecutor who had my file didn't even show up to court that day. It was a different Crown attorney I'd never met in my life. I didn't even know that she was the Crown until she started speaking. In terms of meaningful collaboration or consultation, I wouldn't say there was either of those two words.

• (1625)

The Chair: Thank you, Monsieur Fortin.

Next we'll go to Mr. Garrison for six minutes.

Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP): Thank you very much, Mr. Chair.

I, too, want to start by thanking all four witnesses for being here today. I can't imagine, as I've said before, the trauma and grief that are revisited upon victims in our legal system, but I congratulate all four of you on trying to take this horrible experience you've gone through and turn it into something positive in the legal system. In particular, what I hear consistently from victims, and what I believe I've heard from you today, is that a big motivation is making sure this doesn't happen to anyone else in the future. I thank you for that.

I want to focus my questions on Ms. Andrews today because the question of publication bans is an aspect we haven't actually dealt with before at this committee.

Ms. Andrews, you made reference to very specific recommendations. I know you've submitted a written brief, which will eventually be translated and circulated, but I'd like to give you a chance to walk through those very specific recommendations again.

Ms. Morrell Andrews: I'll give you the long form of my recommendations. Those were the short ones in my opening remarks.

What I'm hoping to see is an ability that allows victim complainants the chance to publish, broadcast and transmit self-identifying information at any point in proceedings without seeking the approval of the court, so long as publication is not likely to identify another victim complainant who does not provide consent to be identified.

I think we should facilitate adult victim complainants with the ability to provide one-time or ongoing consent through a simplified and publicly accessible *ex parte* memo or application to the court so that a third party, such as a family member, or the media can publish, broadcast and transmit identifying information at any point in proceedings, subject to specific limits that are determined by the victim complainant herself without consideration for the views or the notification of the offender or accused, so long as publication is not likely to lead to identifying another victim who has not consented to being publicly identified.

I think we should facilitate the total removal of publication bans at any point during or after proceedings at the request of an adult victim, or in the case of a deceased victim, the request could be made by a spouse, parent, guardian or adult child through a simplified and publicly accessible *ex parte* memo or application to the court without consideration or notification of the offender or accused. This has already been done in other jurisdictions. In 2020, Australia changed their laws to provide these remedies to victims, recognizing that the system they had at the time was extremely paternalistic and removed agency from victims themselves.

I think what would have helped me is an ability to go onto the Department of Justice's website and really understand the scope of my publication ban: what it covered, how to comply with it and how to have it lifted. You don't have to retain a lawyer to lift a publication ban today, but I still don't know how to do it. I asked a million times and nobody helped me. Kelly did it herself, which I think is incredible and amazing. It is possible, but there's no information out there.

I would also say that a small tweak to the victim impact statement form would facilitate the removal of a publication ban during proceedings when a judge on the case could still actually do so.

There's a small box at the bottom of the victim impact statement that asks if you want to deliver it in court. Just add a little box at the bottom—it's a Word document—that asks if you would like the publication ban under section 486.4 to be removed. It's as simple as that.

Mr. Randall Garrison: I think you also have been very clear—and I want to give you a chance to restate this—that you believe for some victims a publication ban can be useful, but the presumptions from the court seems to be that a publication ban is appropriate for all victims.

Ms. Morrell Andrews: Absolutely. Publication bans are really important tools and under no circumstance should people not have access to them. I respect any victim of a sexual offence who chooses to keep her publication ban in place, but for people who don't want them, we need to make sure our processes and procedures do not revictimize victims and complainants.

That's what is currently happening, especially in the case of women—it's disproportionately women—who come through a court case and have no finding of guilt. They're not labelled a victim; they're labelled a complainant, but they still have publication bans that are permanent until a judge lifts them. That needs to be addressed as well, because this is not just about those who have had a finding of guilt. It's about anyone who has come forward and has had a Crown prosecutor put a ban on their name.

• (1630)

Mr. Randall Garrison: Again, would you say that in most cases there seems to be a presumption that a publication ban is the appropriate thing with sexual offences and that it's almost presumed that one would always be in place?

Ms. Morrell Andrews: I think it's definitely assumed by Crown attorneys that everyone will want one, so they put them on without asking.

I would have never wanted one. Many of the women I speak to also wouldn't have wanted one. It should be about consent. It's a foundational element of feminism and I'm a feminist. It should be about choice.

Mr. Randall Garrison: Thanks very much.

Mr. Chair, I can't see you at this point, so I'm not sure how much time I have left.

The Chair: You have about eight seconds.

Mr. Randall Garrison: Okay. Thanks very much.

The Chair: Next we'll go to Mr. Cooper for five minutes.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you very much, Mr. Chair.

First, I want to thank all the witnesses. My heart goes out to you. It is difficult and it is courageous for you to be here sharing what you've gone through as victims.

Mike and Dianne, I've had the privilege of knowing you for about six years. You spoke in your testimony about your frustration with the failure of the Liberal government to respond to the Bissonnette decision by invoking the notwithstanding clause or doing anything else. Indeed, as you noted, the justice minister simply said that he respected the decision.

Mike and Dianne, and Madam Bosma, could you tell the committee what message you think is sent to you as victims when the minister says he respects the decision and chooses to do nothing more?

Ms. Sharlene Bosma: In our case, it says that when you have more than one victim, only the first one that goes to trial counts. Even though you go through the entire process to find guilt or innocence or whatever it may be—you go through the trial and get the conviction—nothing actually changes. They don't serve.... I'm trying to find the right terminology. There's no punishment. You can kill as many people as you want here and you're only going to serve one sentence.

Mr. Michael Cooper: Go ahead, Mike and Dianne.

Ms. Dianne Ilesic: In our case, we originally started with three convictions of first-degree murder. Unfortunately, in plea bargaining, the perpetrator got the sentence reduced to a minimum type of sentence for murder. We were told by the Crown prosecutors at the time that they honour that because murder is murder and they're going to go on that premise.

That's why he got 40 years and not more than 40 years. Personally, we would have liked to see more than 40 years, but the plea bargaining process and the agreement between the perpetrator and the justice system allowed him to plea bargain down more time.

Mr. Mike Ilesic: If I may, when we heard about the decision, our kids.... We have three other sons. Traditionally, we recognize the fact that.... Even though Brian is dead, we still honour him on his birthday and any other celebrations we have. We do that and we don't really discuss what happened.

When we shared with our sons that we might be going to court, we asked them, because we don't know if we're going to live that long, to sign up for victim notifications to pick up the fight on our behalf. They're not willing to do that because they don't have any faith in the way the current justice system is going.

As I said, Dianne and I are getting on in years. In 15 years, if this does happen, I still want to face him regardless of how it goes. I'm adamant that if he thinks he's not going to meet me face to face, we will be having further discussions.

• (1635)

Mr. Michael Cooper: Thank you. I just have a short time, so I'll ask this of both Mike and Dianne, and Madame Bosma.

One of the things the government could be doing, not just in the face of this decision but more broadly, is amend the Corrections and Conditional Release Act for instances of persons convicted of first- or second-degree murder so that when they apply for parole—

after 25 years in the case of first-degree murder—and are turned down, as is almost always the case, they're not applying again in 18 months or two years. They should have to wait longer, perhaps five or seven years.

Is that a measure that you think the government should undertake? Would that be of benefit to you?

Mr. Mike Ilesic: If I may, I feel that it's at least a step in the direction to assist the families, basically. I still don't think our family is going to buy into it because we really don't have any faith in it.

When all this took place, we started a petition to get the government to invoke the notwithstanding clause. We even had difficulty having our children sign it. Once the petition picked up some steam, they signed it. They farmed it out to all their friends and family, and yes, we have a tremendous number of names on this petition we're working on.

The Chair: Answer very quickly, Ms. Bosma.

Ms. Sharlene Bosma: I don't feel it's enough, especially when you have multiple convictions. Eighteen months or two years is not enough. When you're talking three, four or however many victims and however many charges, there needs to be something that acknowledges every other family that has suffered at the hands of those people.

In our case, we just happened to be the first ones who went to trial. Tim was the last one killed, but we went first to trial. We got the first conviction, and that 25 years stands for him. It's not enough. It's an itty-bitty baby step in the right direction, but that will never be enough.

The Chair: Thank you, Ms. Bosma and Mr. Cooper.

Now we'll go to Ms. Dhillon for five minutes.

Ms. Anju Dhillon (Dorval—Lachine—LaSalle, Lib.): Thank you, Mr. Chair.

I am so very sorry, and the committee, I think, feels your sorrow as you speak. It's in your eyes. You're going to live with this grief for the rest of your lives, and you've conveyed that to us. Our heartfelt sympathies are with you.

I'd like to start with Ms. Andrews, please. You spoke about how difficult it was navigating the justice system when it came to victims' rights. What concrete steps can our government take to make sure that victims' rights are better explained to those who are pressing charges, who are going through the court system and who are trying to navigate their way through it? What can be done concretely to help them through this process?

Ms. Morrell Andrews: I think a big piece is information. Everyone approaches navigating the legal system a little differently. I'm very Type A, so I wanted to have every single piece of information I could possibly have. The problem was that it's all very piecemeal. Trying to understand the complexities of what a conditional discharge is versus a conviction, with all the terminology that comes at you, is really challenging. I think starting off with language as a basis could be really helpful. I don't know if a glossary of terms could be provided to victims or victim services workers. Just understanding the language of the legal system is really hard.

English is my first language. I reported in Ontario. If I was a francophone in Ontario, I don't know that I would have had the same access. If I was an immigrant to Canada and English was my third or fourth language, I truly do not know how it would be possible. I had a good experience compared with that of most people, and I thought even that experience would destroy me, but I'm here today.

As to the publication ban, the amendments that could be made for the use of publication bans are just one marginal change. It's one piece that I think I can be helpful on, but there are so many other issues, like paying for court transcripts. It cost me \$500 to get my transcript. Paying for therapy is nearly \$6,000 and counting.

Crown attorneys were too busy to speak with me after the conclusion of my case. They'll speak to you before, but after there's a guilty plea and a sentence, they have other things to do. Advocates who actually know the correct information are critical. My victim services person told me that my publication ban was automatic and it was something that happens to every single case, but that's not true.

Finally, the freedom of information requests with the police resulted in nothing. Everything was redacted.

There are few resources that are easy to navigate. For example, I didn't know there was such a thing as sexual assault and domestic violence leave in Ontario. I found out on Twitter that I could take it to show up to court.

If you are someone who does not have benefits through your employment, who faces systemic burdens or who feels that the police won't take you seriously, these are systemic issues. Victims are not adequately supported.

• (1640)

Ms. Anju Dhillon: In your opinion, who should be tasked with informing victims about publication bans and these types of aid, such as leave from work?

The Chair: Answer very quickly, please.

Ms. Morrell Andrews: Right now, the Criminal Code says:

the presiding judge or justice shall...at the first reasonable opportunity, inform any...victim of the right to make an application for the order

In practice, this doesn't happen. A victim doesn't see a judge until way down the line, and publication bans are normally put in place at the first appearance of the accused in court, so it needs to be either the Crown attorneys or the victim services workers who are doing it.

I am not a member of the system or a legal practitioner, so I don't know the intricacies, but someone has to take responsibility because right now nobody is. We are harming people and putting people at risk. A victim in Kitchener-Waterloo was prosecuted last year for breaching her own publication ban. Someone has to tell us. I don't know exactly who, but somebody needs to.

Ms. Anju Dhillon: Thank you very much.

The Chair: Thank you, Ms. Dhillon.

Thank you to all the witnesses, from the bottom of our hearts. From all committee members, thank you for sharing your stories.

For others in the witness gallery who might have similar stories or are just hearing about this, I want to remind you that if you need any services, please contact the clerk, whose contact information you should all have.

Thank you once again for your testimony.

I'll suspend for a minute while we do audio checks and get our next witness ready.

• (1645) _____ (Pause) _____

• (1650)

The Chair: Welcome to our new witness. Hopefully your headset is okay and you adjusted it to the right channel.

I will repeat this for our witness, who wasn't here earlier. Due to the sensitive nature of our discussion today, if anybody finds it difficult to listen to the testimony presented or experiences discomfort at the nature of the topic being discussed, I remind witnesses on Zoom or otherwise that they have the ability to use House resources. If you feel the need to do so, please contact the clerk.

Doctor, if necessary, take a pause. Don't feel rushed. Even though the time given to witnesses is five minutes, if you need a little extra time, please don't hesitate.

We have before us Dr. Hamed Esmaeilion, president and spokesperson of the Association of Families of Flight PS752 Victims.

We'll go over to you for five minutes.

Dr. Hamed Esmaeilion (President and Spokesperson, Association of Families of Flight PS752 Victims): Good afternoon, Mr. Chair. I thank you and the esteemed members of the committee for having me here this afternoon to testify on the government's obligation to the victims of crime.

More than 1,000 days have passed since the day we saw missile attacks against a civilian airliner over the skies of Tehran. The murdered were 176 human beings and an unborn child. Brides and grooms were murdered. Children were murdered. Many of the passengers were students with promising futures for Canada and for Iran. They all lost their lives senselessly just over 1,000 days ago, a milestone we commemorated here on Parliament Hill just two days ago with a march and rally.

Where do we stand? Where does the world stand? Where is justice in all of the politics, legal wrangling, negotiations and bureaucracy?

The families of the victims were caught up in the aftermath of an atrocity that is unprecedented in the history of aviation. Despite their grief and anguish, the majority of the families have stood together along this unbearably difficult path. They have tried everything within their means to unveil the truth. The real stakeholders in this heinous crime have no power to decide, no rights to information and no place at the negotiation table—not even their legal representatives.

Within five hours after the shooting down of flight PS752, when bulldozers razed the site and destroyed evidence, the gears of justice should have engaged. From the moment it was clear that the IRGC fired the missiles that brought down flight PS752, the absurdity of leaving the investigation to the perpetrators must have been addressed. From the moment witnesses and victims' families were harassed, intimidated and persecuted, an impartial international investigative body should have engaged with the whole affair.

The murdered included 55 Canadian citizens, and another 83 victims had close ties to Canada. However, despite our efforts, the RCMP has refused to date to open a domestic criminal case because the perpetrators of this crime will not co-operate with them.

It is my understanding from numerous conversations with people in the Canadian legal community, including a former minister of justice, that they have the power to do so. It is my hope that this committee can aid in pushing that forward.

The ICAO has yet to condemn the Islamic Republic's breaches of its conventions, with an absurd claim of neutrality. We are pushing for them to do so when this new session opens, to finally right this gross oversight.

We don't want to hear about the complexity and delicacy of the matter. We are the biggest stakeholders, and by now, more than 1,000 days later, we know all too well that the road to justice for us is not an easy, short or simple one.

We demand a clear road map with concrete action. We demand empathy backed up by real turns in the gears of justice. We are not lawyers, diplomats or politicians. We are a collective of grieving families that deserve reparations that include truth, justice and closure, not empty apologies or financial compensation.

Here is what must be done. One, our case must be tabled at the ICAO council without delay and with urgency, and we must prepare our case for the International Court of Justice. Two, Canada must support our submission in the International Criminal Court through a state referral or a support letter. Three, the RCMP must

open a domestic criminal case in Canada. Four, the IRGC must be on the terrorist list without delay.

I call on parliamentarians of all parties and stripes to help us push forward in making these demands a reality. While I am here, let me also thank and commend all parties for working together with us on this to date. We have been grateful for your time and attention on this matter and for your show of support here, at the rally and at anniversaries past and future.

We shall continue our efforts with increasing resolve. Even after 1,000 days, we know that our pain, our shattered lives, our successes and even our failure to get results, unveil the truth and get justice can only pave the way for freedom and justice in Iran. No matter how long it takes, we stand firm for justice and human rights. We shall never forget, nor shall we ever forgive.

Thank you once again, and I welcome your questions on our work and mandate.

• (1655)

The Chair: Thank you for that.

Now we'll go to Mr. Cooper for six minutes.

Mr. Michael Cooper: Thank you, Mr. Chair.

Dr. Esmailion, it's good to see you again. When you appeared before the Subcommittee on International Human Rights in June, I asked you about the failure of the government to designate the IRGC as a terrorist entity. It's now four months later and still there's been no action. As you said, more than 1,000 days after PS752 was shot down and 85 Canadian citizens and permanent residents were murdered—a total of 176 passengers—there's still no action.

Can you speak to your frustration with the inaction? You met at the time with the Minister of Foreign Affairs. Obviously nothing progressed from that meeting.

From a victim's standpoint, can you speak to the fact that designating the IRGC a terrorist entity is not merely a symbolic gesture? From a victim's standpoint, it provides real teeth for victims to get justice, including allowing the Justice for Victims of Terrorism Act to be utilized.

Dr. Hamed Esmailion: When we hear that this legal case takes a long time, we say to the government, "Okay, if you want to wait, give us some good signals, positive signals, that you are serious about the case." Putting the IRGC on the list is one of the signals.

It is a puzzle for us that the IRGC is not on the list. We know that the Quds Force is on the list already, but this is an external branch of the IRGC, and we all know who shot down the plane. The internal branch of the IRGC did it. This is an entity that murdered Zahra Kazemi and murdered Kavous Seyed-Emami, and right now, in the streets of Iran, it is the entity that shoots at innocent people.

If you are serious about justice and about this case, we believe you have to show some teeth on Iran. Putting the IRGC on the list is one of the basic steps that our government can take.

Mr. Michael Cooper: Thank you for that.

In your testimony back in June, you also noted that your organization, on behalf of the victims, has provided or attempted to provide the government with a list of 50 individuals who are known to be involved in the shooting down of PS752. As of June, no action has been taken against them. The government had failed as of then to invoke Magnitsky sanctions. I believe no action has been taken now.

Can you confirm that no action has been taken and perhaps speak to that failure?

Dr. Hamed Esmailion: A few days ago there was a list of organizations or individuals in Iran who were sanctioned by the Canadian government. I'm shocked that I don't see Ali Khamenei on the list. I'm shocked that I don't see the minister of global affairs, Mohammad Javad Zarif, on the list. I'm shocked that I don't see Ebrahim Raisi on the list, the current President of Iran.

We also had on the list the Civil Aviation Organization in Iran—the people who tried to cover up this crime—and the military court in Iran, as well as the military prosecutor of Tehran, the one who said to families that they killed their loved ones and that it was a good thing they did. These people should have been on the sanctions list.

We know the Minister of Foreign Affairs welcomed the new names, but the names were already there. We gave the names more than a year ago, in the summer of 2021, so we hope we will see Ali Khamenei, Mohammad Javad Zarif, Ebrahim Raisi and the rest of these individuals on the list pretty soon.

• (1700)

Mr. Michael Cooper: Back in June, you spoke about the IRGC and said it is active in Canada. I would submit that Canada could be characterized as a safe haven for the IRGC. Would you concur with that?

Dr. Hamed Esmailion: There are reports that they do money laundering in this country, and if you noticed on the news in January of this year, there was a picture of one of the former IRGC commanders, Morteza Talaei. He was a former head of the police department in Tehran at the time of the killing of Zahra Kazemi.

He is the same individual who organizes so-called morality police in Iran, and he was in the GTA running on a treadmill. That was shocking news for Iranians. This is the tip of the iceberg, I think. This is the one we saw on the news and on social media, and I'm sure there are lots of these individuals related to IRGC.

We get a lot of messages from Iranian people right now saying that these people should be expelled from this country—and not on-

ly them but their families—because they are very smart in money laundering. Their assets or properties are probably not under their names. Their family members are involved in these kinds of crimes as well.

Mr. Michael Cooper: Finally, could you just speak to the harassment that the victims' families are experiencing here in Canada by the IRGC?

Dr. Hamed Esmailion: Again, two reports have been published so far by CSIS, and it said that the families of the PS752 victims have been harassed and intimidated on Canadian soil. I can't add anything to that, but we have been threatened, we have been intimidated and this is ongoing.

The Chair: Thank you, Mr. Cooper.

Next we'll go to Mr. Ehsassi.

Welcome to the committee, Mr. Ehsassi. Go ahead, for six minutes.

Mr. Ali Ehsassi (Willowdale, Lib.): Thank you, Mr. Chair. It's a great honour to be back at the justice committee, albeit just for an hour.

Mr. Esmailion, welcome back to Ottawa. We have seen you do an incredible job advocating on behalf of the families, and it has now been well over two and a half years.

As you know, earlier this week our government announced that they were sanctioning high-ranking officials. Some of those names were names that you and the families had submitted for consideration. The minister has indicated that this is only a first step. Are there any Iranian officials on Canadian soil who are of particular interest to you and whom you would like to see sanctioned?

Dr. Hamed Esmailion: Yes. I can mention one name that we have been asking for a long time to be expelled from this country, and that's Farhad Parvaresh, Iran's representative in the ICAO. He lives in Montreal with his family. This is the man who denied attacking PS752 in the first three days. This is the man who insulted our government by saying that they are lying and no attack happened. This is a man who has strong ties with the Quds Force.

There's a recording of Javad Zarif, the former foreign minister of Iran, saying that Farhad Parvaresh, at the time he was the head of Iran Air, co-operated with Qassem Soleimani to smuggle weapons and military personnel into Syria. This person is now in Montreal with his family.

We have asked several times to expel the ambassadors of Iran from European Union countries and from other countries. The Islamic Republic of Iran has an embassy here. The point we can start from is here, with Farhad Parvaresh in Montreal.

Mr. Ali Ehsassi: Thank you for that. That was very helpful. I will make sure that I bring it up with department officials.

As you know, it has been three weeks now that we have seen brave Iranians take to the streets in cities across Iran.

Given that there is discussion about the IRGC—and I know you care deeply about this issue—would you mind sharing with members of this committee what the IRGC is doing to protesters on the streets in various cities in Iran?

• (1705)

Dr. Hamed Esmailion: Before I answer that question, Mr. Ehsassi, I want to bring forward the five names of the brave young women who were killed by the IRGC: Mahsa, Nika, Hadis, Hananeh and Sarina. All of them were between 16 and 22. These are young, brave women. They go to the streets, and they shout for their freedom. They fight back.

We have to show that we stand with them. We see the horrible videos coming from Iran of the IRGC and their operatives, and the plain clothes thugs they have. They are attacking these innocent people, unarmed citizens, and they kill them. It's unbelievable that the free world doesn't react the way they should.

It's good to have the flag of Iran on Parliament Hill; it's good to have the flag of Iran at Niagara Falls, but these are just symbolic. We need some concrete actions to show them that we support them, and putting IRGC on the list is a good step to show to Iranians that we are serious about justice and human rights.

Mr. Ali Ehsassi: Just to reiterate, minister has said that this is a first step, and that's why your testimony is so valuable. Thank you for that.

We have all heard reports of how you and other members of the association have been intimidated on Canadian soil. Could you share some anecdotes with members of this committee?

Dr. Hamed Esmailion: Yes. I remember probably 18 months ago somebody calling me and saying, "Let's talk about the last moments of your wife and your daughter." I reported that to the police.

Most recently, probably four or five months ago, we had a campaign against a friendly soccer game in Canada. I went to the grocery store. When I came back I had two flat tires.

We have had suspicious cars around our houses, and not only me. Other family members have had this experience as well. We have reported every single incident to the police. I know the RCMP has opened an investigation into foreign interference, but I have no idea about the details.

Mr. Ali Ehsassi: You have mentioned that the IRGC should be on that list as well. As you know, there are some legal implications that could ensnare people who are innocent. However, you are saying that the IRGC should still be on that list and that we should proceed with listing them. Is that correct?

Dr. Hamed Esmailion: Yes, and I've heard about the complexities of the case. I've heard from the government that, for people who have gone through military service in Iran, it makes it a little difficult.

As a boy, when you turn 18, you have to go into military service in Iran. The army and the IRGC are the main military parts you go through. Statistically, I think more than two million people have gone through this with the IRGC. I don't know how many of them are in Canada. It's probably 10,000 or 15,000, I assume.

With an exemption letter that exempts them from this.... If you go into military service in Iran, you can't pass first lieutenant; there's a special ranking for you. We can exempt those people. We have talked to several lawyers, and this is a simple solution for putting the IRGC on the list.

The Chair: Thank you, Mr. Ehsassi.

Mr. Ali Ehsassi: Thank you, Dr. Esmailion.

The Chair: Next is Monsieur Fortin for six minutes.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

Good morning, Mr. Esmailion. Earlier, I didn't quite understand the figure. There were 176 victims of this attack. How many Canadians were among those 176 victims?

[*English*]

Dr. Hamed Esmailion: It was 55 Canadian citizens and 30 permanent residents, so in total 138 people had ties to Canada.

[*Translation*]

Mr. Rhéal Fortin: All right.

Of course, our sympathies are with the families of these victims.

How can we help them? I understand that the procedure is important to you. I also share your concern about the listing of terrorist organizations.

Besides this aspect, how can Canada help the families of these victims? Was anything done? Is there anything else that you think should be done?

• (1710)

[*English*]

Dr. Hamed Esmailion: The main goal for the families has been finding the truth and getting justice. There are two main international bodies to take care of these cases. One is the International Court of Justice, and the other is the International Criminal Court.

Canada didn't show any interest in going to the International Criminal Court. On September 14 of this year, the Association of Families submitted their complaint to the International Criminal Court independently, and that's why we asked our government to write a supporting letter for us, and also the governments of Ukraine, Sweden and the U.K.—the four affected countries.

The other way that Canada can pursue this is going to the International Civil Aviation Organization and, down the road, the International Court of Justice. That's what Canada has taken seriously.

So far, after 1,000 days, we have no road map; we have no time frame. When we asked for the IRGC to be put on the list and asked for sanctions on the perpetrators of this crime, we only asked for good signals, for the families, that show that our government is serious about this.

As I said, the families have said no to compensation. They have said no to apologies from the Islamic Republic of Iran. Honestly, you can't even expect an apology from Ali Khamenei. He's not the kind of person who apologizes to Canadian people. He has to be on the sanctions list. This is one of the first steps.

[*Translation*]

Mr. Rhéal Fortin: Thank you.

I understand that listing these people and the organization could provide a way to grieve or ensure that the criminals are punished for their actions. As with any crime, there is indeed a legal process that is or can be initiated against the person committing the crime. In this case, it is understood that members of the Islamic Revolutionary Guard Corps should be on this list, as should Ali Khamenei and a number of leaders. These are mostly procedures to punish these people for the crime they have committed and it is right that this be done.

My question was more about whether these families need care from psychologists. Do they need financial help because they have lost someone who brought income to the family? What do they need besides sanctions? What has been done to help them so far?

[*English*]

Dr. Hamed Esmailion: I can say that in the beginning when this happened, our government financially helped the families of citizens and permanent residents, but the rest of the families that had ties to Canada were not on the list for financial help.

As for psychological help, I've asked several times for psychological help, because the majority of families suffer from PTSD and depression. I can give you an example: MH17, the Malaysian airliner that was downed in 2014. I'm in touch with those families, Air India families and others. I know that after this happened, three universities in the Netherlands came forward and supported the families for five years.

We never had this kind of service here. The RCMP said that we could be on the victim services list. For example, they call me on Father's Day or Christmas Day and just share their sympathy with me.

We have kids who were affected. We have mothers and fathers. Some of them are not in Canada. It's very difficult to help them. That's why our association asked some professionals to come and help these families in the language they speak.

[*Translation*]

Mr. Rhéal Fortin: Let's go back to the issue of sanctions, to finish.

The minister has so far refused to list the Islamic Revolutionary Guard Corps on the grounds that it could cause harm to innocent people.

To your knowledge, are there any other reasons that have been given in your discussions with the minister's office for this still not being done as we speak?

• (1715)

[*English*]

Dr. Hamed Esmailion: That's the only thing I've heard about the military service people and that's it.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Esmailion.

[*English*]

The Chair: Thank you, Monsieur Fortin.

Next is Mr. Garrison for six minutes.

Mr. Randall Garrison: I want to start by thanking Dr. Esmailion for being with the committee today.

The scope of the questions we're dealing with is somewhat broader than what we normally see on the justice committee. I think your testimony today and your very practical suggestions for what we could do to put more pressure on the Iranian government are quite useful in this study of victims.

I want to say at the outset that in addition to the tragedy—not the tragedy but the crime—of bringing down PS752, we have repeated human rights offences being committed by the Islamic Revolutionary Guard Corps. These include what seems to be a ramping up of attacks on women for not adhering to very specific behavioural guidelines that the corps seems to think are essential for Iranian society.

We saw the death of Mahsa Amini and the subsequent protests. The Committee to Protect Journalists estimates that at least 35 reporters have been detained since then. The Associated Press reports more than 1,900 arrests of protesters. The Oslo-based Iran Human Rights group has pointed to the killing of at least 154 protesters.

We see these activities of the Revolutionary Guard also extending to the lesbian, gay, bisexual and transgender community in Iran. Just a week ago, a large group of UN human rights experts called for the staying of the execution of two women, Zahra Sedighi-Hamadani and Elham Choubdar, both of whom are accused of promoting homosexuality and were sentenced to death.

There's a broad-ranging spectrum of human rights violations that we can hold the Iranian Revolutionary Guard Corps responsible for, so my question for you, Dr. Esmailion, is this: Have there been any attempts by the victims' families to work with other human rights advocates to put broader pressure on the Iranian government, which is so clearly a state sponsor of terrorism and a major violator of human rights?

Dr. Hamed Esmailion: What we believe at our association is that we are part of the chain of 43 years of crimes—crimes against humanity and war crimes. We are not an exception. We see ourselves as a part of the victims of these 43 years.

Last week there was a big rally around the world, and our association was involved in that rally. We helped organizers in every single country in the world have a rally for freedom for Iran. When we started to organize that, it was only for eight cities in Canada, the United States and European countries, but the Iranian people welcomed it, and it extended to 155 small and big cities around the world. This was not just for PS752; it was for all victims of the Iranian regime. This is what people can do.

For the last 43 years, the Iranian people have tried to trust the free world to help them, but this time is different. That's why they fight back against the operatives of the regime. Now they act independently and are not relying on the politicians of the free world, in my opinion.

Mr. Randall Garrison: I would like to ask you a question that is perhaps not a fair question to ask. In light of the failure to take more concrete actions in Canada, what do you think is the cause of this? There seems to be broad consensus that more needs to be done, yet the government has failed to take some of the very specific actions that you suggested. Do you have any possible explanation as to why there is hesitancy?

• (1720)

Dr. Hamed Esmailion: I've had a lot of meetings with everyone you can imagine in government who is related to this case, even in the U.K., Sweden and Ukraine. From what I hear, because of the process of legal action against the Islamic Republic of Iran, they had to pass the negotiation phase. On January 5, 2022—this year—they said that negotiation with Iran was futile.

I think the core people in Global Affairs—not elected officials, but mainly the legal teams or the advisers—still believe in negotiation with Iran. They don't see the Iranian regime as a mafia group. If you change your mindset—you are not negotiating with Switzerland or a democratic country—then it would solve the problem.

For example, there was a soccer game planned this spring in Canada, and my simple question to them was, “Do you see North Korea playing hockey in this country?” I heard the answer, “That's North Korea.” I said that was the problem: We don't see the Islamic Republic of Iran in the same way as North Korea and Russia. These rogue states should be treated equally. You should not exempt the Islamic Republic of Iran from the list.

The Chair: Thank you, Mr. Garrison and Dr. Esmailion.

Next is Mr. Genuis for five minutes. Welcome to the justice committee.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you, Mr. Chair.

Thank you so much, Dr. Esmailion, for being here, for being the voice of your family and other families and for being a voice magnifying the experience and suffering of people in Iran, in the region and all over the world who have, as you've said, been suffering for decades under the oppression of this regime.

Of course, the violence of the regime didn't start with the downing of flight PS752 and didn't end with the downing of flight PS752. As you know, about two years before that, we had a motion adopted in Parliament to immediately list the IRGC as a terrorist

organization. The evidence was well sufficient at that time, prior to some of the more recent events. In fact, the government voted for it but then failed to implement it.

The first question I want to ask kind of builds off this discussion of listing the IRGC as a terrorist organization. Do you know what the government's position is on this? I don't, and we've been trying to ask the government about it. They voted for this motion but no action was taken. There are these messages pushed out with excuses. I hope you have regular access to ministers. I hope you are able to ask these questions and hear back.

Is the government planning to list the IRGC, planning not to list the IRGC or thinking about listing the IRGC? It's been four years since the motion and 1,000 days since the downing of the flight. Do you know what the Government of Canada's position is on this?

Dr. Hamed Esmailion: As I said, it's a puzzle for me, and my answer is no, I don't know.

What I said is that every government is responsible for acting against the Islamic regime. If we had done enough when Zahra Kazemi was killed, Dr. Seyed-Emami would be alive today. If we had done enough when Dr. Seyed-Emami was killed, PS752 wouldn't have been shot. If they don't see a resolute, firm reaction from our government, I think the Islamic Republic of Iran will continue to commit crimes.

Mr. Garnett Genuis: It is frustrating and dishonest when you have a political party trying to push a sort of great fog over a position on a critical issue. If they're not going to list the IRGC, they should explain why. I think they should list them, but they should own up to their position.

You presented some names that you would like to see on a sanctions list. I want to mention that Bill C-281, which is a private member's bill from my colleague Philip Lawrence, will be debated tomorrow. It seeks to amend the Sergei Magnitsky Law to create a provision whereby a parliamentary committee can nominate someone for sanctions. That would allow, for instance, the foreign affairs committee to nominate some of the individuals from of your list, or all of them perhaps, to the government. Then it would require the government to provide a response to that nomination.

We're talking about listing the IRGC, but it's also notable that nobody connected with the Iranian regime was ever added to the Sergei Magnitsky Law. It may be that this will change in the coming days. We don't know, but we had the first step taken after so much inaction, apparently.

Are there changes you would like to see to Canada's sanctions regime to strengthen it and give parliamentarians more of a voice in being able to push forward names on the list?

• (1725)

Dr. Hamed Esmailion: Of course we encourage everyone to add names to this list. It's a long list. It's not just IRGC commanders. As I said, there are a lot of people in Iran who commit murders and are a part of this repression in Iran. All of those names should be on the list.

It is a big concern for the Iranian people that Canada has become a safe haven for the criminals of the Islamic Republic of Iran. The deputy president of Iran's son lives in Vancouver right now. They're living lavish lives while my wife, my daughter and some of the victims are buried in this country. This is not acceptable to the Iranian people. This is not acceptable to the Iranian-Canadian community, and I'm sure this is not acceptable to Canadians.

Mr. Garnett Genuis: I have 30 seconds left, so if you don't have time to answer this question verbally, maybe you can send a follow-up to the committee.

I hear from so many different diaspora communities in Canada—perhaps foremost among them the Iranian community—this concern about foreign-state-backed intimidation and violence. I think many Canadians are deeply unaware of how big a problem this is and how threats to family members and individuals here are used to silence people who want to speak out against violence happening in their country of origin.

Could you make some suggestions about how to support those victims of crime?

Dr. Hamed Esmailion: Let's not let operatives of the Islamic Republic of Iran come to this country. I think that's the first step.

Also, it's not only this country; they're everywhere. They are in the media. We see that there are some institutions in this country that have been sponsored by the government, and we can see that there are ties with the Islamic Republic of Iran within those institutions.

The Chair: Thank you, Mr. Genuis.

Next we have Madam Diab for five minutes.

Ms. Lena Metlege Diab: Thank you very much, Mr. Chair.

Dr. Esmailion, thank you for being here today, and thank you for being the voice of the families of the flight PS752 victims.

We are studying victims' rights, and normally it's not as intense as it was this afternoon.

I still remember the shock and pain we felt in my community of Halifax in January when the news reached us. A community memorial was held by the Al Rasoul Islamic Society in Bedford, in my area, but I also joined, on behalf of the Government of Nova Scotia at the time, friends and families of victims, alongside nearly a thousand people, at a community vigil at Dalhousie University that was held by the Dalhousie Iranian Students Society, in partnership with the Iranian Cultural Society of Nova Scotia.

A number of the victims had ties to Nova Scotia, and I want to read their names because it is important that we remember these victims: Dalhousie engineering student Masoumeh Ghavi, known as Masi; Masoumeh's younger sister, Mahdiah Ghavi; a local dentist, Dr. Sharieh Faghghi, whose children came to the memorial and

spoke; Saint Mary's University students Fatemeh Mahmoodi and Maryam Malek; and a former Halifax resident, Dr. Shekoufeh Choupannejad, and her daughters, Sara and Saba Saadat. We remember them.

At the time, the universities held scholarships in their honour for the students and the family of the dentist. It was hard to describe the scale of the loss at the time, and quite frankly it still is.

On Saturday, I marched with the Iranian community and others in Halifax to protest and to be the voice of the women and girls who are being killed in Iran, but also of their families and everybody who is grieving.

Can you speak a bit about your wife and daughter?

• (1730)

Dr. Hamed Esmailion: Thank you very much.

Yes, it was Masoumeh and her little sister, Mahdiah. I just wanted to say their names, because I know that for their mom it is very important to hear their names.

My wife was 42 and a dentist. We married when we were in university 22 years ago. My daughter was nine years, seven months and 16 days old when this happened. We were a happy family here in Canada. We moved up here in 2010; we passed all the exams.

My wife and I grew up together and were the best of friends, so I think it's our everyday job to do advocacy for them, and it's not only me. It's all the family members. I'm not alone. I'm here on behalf of the association, but we have a big team supporting me, and I'm sure they're listening to this testimony. They want to see some action for truth and justice. That's the the most important thing for our families.

Ms. Lena Metlege Diab: Thank you, Doctor.

What would you say to the countries around the world that were not directly touched by this particular tragedy and are reluctant and don't want to do anything? Again, I don't know all the intricacies. I'm a newer member of Parliament. It's been a year and it's not something I've studied here, but I do understand that there are things that need to be done outside of Canada.

Dr. Hamed Esmailion: We haven't seen much from the politicians in the free world.

I think one of the first steps is to cut ties with the Islamic Republic of Iran as a punishment. What we hear from the government here, too, when they say to put sanctions on these individuals is that sanctions are for changing behaviour, not for punishment. However, this mindset is wrong. Sometimes sanctions are for punishment, and cutting ties with the Islamic Republic of Iran is for punishment.

If you show them you're serious, then they don't act like this to the Iranian people. When you close your eyes and sit at the negotiation table with the Islamic Republic of Iran and forget about PS752, Bloody November, the green movement and the 1988 massacres—all of those crimes—it shows that you are not serious and you are not supporting the Iranian people.

People are important for us. People should understand that the ones running that country are not in a normal government. It's a mafia gang.

The Chair: Thank you, Ms. Diab.

Lastly, we have Monsieur Fortin for two and a half minutes.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

Mr. Esmaeilion, I feel like I've covered the broad outlines of your demands. I share them. I think everyone around the table shares your pain. You mentioned your wife and daughter, which is obviously very sad. I understand your request that the Islamic Revolutionary Guard Corps be added to the list of criminal organizations. On the other hand, I understand the minister's hesitation, as he does not want innocent people to suffer significant inconvenience if this organization is listed. That said, I also understand that you have consulted, as you told us earlier, lawyers specializing in the field who explained to you that it was possible to add the organization to the list while protecting individuals who would otherwise be affected by this addition to the list.

I'd like you to tell me more about this. What provisions should be made to prevent further innocent victims being targeted by adding the organization to the list?

[*English*]

Dr. Hamed Esmaeilion: If the lawyers of Global Affairs want to have a meeting with our lawyers, we'd welcome that. This is what we have suggested from the beginning, not only because of the IRGC but for the road map to justice. There have been a few meetings in the past, but usually they're not open to giving any information.

We offered them a solution and we can help. We can help provide the list. We can help on the case, but as far as I know, they want to act independently. The legal representatives of the victims have no role in making decisions.

• (1735)

[*Translation*]

Mr. Rhéal Fortin: Thank you.

In practical terms, how does this protect these innocent victims? Do you have this information? What do your lawyers suggest?

[*English*]

Dr. Hamed Esmaeilion: You know that I'm not a lawyer, so a legal adviser is probably better for answering that question. What I do know is that everybody who passes military service in Iran has a card. That card shows that you have been in the IRGC involuntarily. It shows everybody that you were not part of the organization; you just had to pass those two years. I think that would lead to an easy solution.

The Chair: Thank you.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Esmaeilion. I offer you my condolences, once again.

[*English*]

The Chair: Thank you, Mr. Fortin.

Dr. Esmaeilion, I want to thank you for your testimony. You've obviously been through a very horrific situation—you and all the families of PS752. We thank you for coming and sharing. Hopefully some of the advice you've given us will be taken back and addressed in a timely manner.

That concludes the testimony for the study. We have a bit of committee business.

Mr. Esmaeilion, you are dismissed. You are more than welcome to stay there if you want.

Very quickly, we have the budget for this study to pass. I think you all have it. Are you all okay with it?

[*Translation*]

Mr. Rhéal Fortin: Mr. Chair, I would need some information.

With respect to adding additional expenses, my understanding is that we were talking about two witnesses who came from Vancouver for \$2,000. I am not sure what is included in that amount.

The Clerk of the Committee (Mr. Jean-François Lafleur): Mr. Fortin, it's airfare and an overnight hotel stay in Ottawa for new witnesses. Essentially, that's what's in the supplementary budget.

Mr. Rhéal Fortin: That's airfare and hotel for one night, right.

In the case of Calgary, I understand it's a little bit less. I guess the plane was cheaper. Is that correct?

The Clerk: Exactly.

Mr. Rhéal Fortin: It was \$1,750 per witness rather than \$2,000 for those from Vancouver.

The Clerk: Yes.

Mr. Rhéal Fortin: There really is a \$250 difference.

I've been to Vancouver a few times and from memory the plane cost me about \$700, sometimes less, sometimes a bit more. My prices may not be up to date. I just wanted to understand what it was all about. I'm fine with that.

The Clerk: We add up the ticket prices we find and average them out. We don't want to run a deficit.

Mr. Rhéal Fortin: I understand that this is a budget, not an expense. Thank you, Mr. Clerk.

Thank you, Mr. Chair.

[English]

The Chair: Thank you, Monsieur Fortin, for keeping us on budget. I think we're all in favour of that.

We have one more hour for victims of crime, which will be on October 17, when we return after Thanksgiving. We'll be starting on Bill C-28 right after that, so I ask that you have all witness names in by October 12. That would be Wednesday of next week.

Hon. Rob Moore: Do we have enough witnesses for the final hour?

The Chair: Mr. Clerk, do we have enough witnesses for the final hour?

The Clerk: Yes. I am returning to some of the witnesses who have declined because of time.

The Chair: Go ahead, Mr. Anandasangaree.

Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.): Just so I am clear, Mr. Chair, would the first hour be to finish the study?

The Chair: That's correct.

Mr. Gary Anandasangaree: Would the second hour be for drafting instructions on the study, or would it be for witness testimony? At some point, we need to—

The Chair: It would be for committee business on Bill C-28.

Could the analysts tell us when they'll be able to have a draft report for us?

Ms. Chloé Forget (Committee Researcher): Drafting instructions could be given on that date, if members are ready, although there would be an hour for this in the meeting, which you might not have in mind. It's up to committee members to decide when they would like to give us instructions.

● (1740)

The Chair: All right. If that's it, I'll adjourn.

Go ahead, Mrs. Brière.

Mrs. Élisabeth Brière (Sherbrooke, Lib.): What is the decision for the second hour?

The Chair: I'm sorry, but I missed it all. I thought they gave you a date. I was talking to the clerk.

Ms. Chloé Forget: It can be on the same day.

The Chair: Okay. We'll have it on the 17th. We can start drafting instructions that afternoon, if everyone is okay with that.

Thank you.

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